



DoD INSTRUCTION 1030.02

VICTIM AND WITNESS ASSISTANCE

Originating Component: Office of the Under Secretary of Defense for Personnel and Readiness

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Purpose: In accordance with the authority in DoD Directive (DoDD) 5124.02, this issuance establishes policy, assigns responsibilities, and prescribes procedures to assist victims and witnesses of alleged crimes committed in violation of Chapter 47 of Title 10, United States Code (U.S.C.), also known and referred to in this issuance as the "Uniform Code of Military Justice" (UCMJ).

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

1.2. POLICY.

a. The DoD protects the rights of victims and witnesses of alleged crimes and supports their needs throughout the criminal justice process. The DoD Components will comply with all statutory and policy mandates and will take all additional actions within the limits of available resources to assist victims and witnesses of alleged crimes without infringing on the constitutional or other legal rights of a suspect or an accused.

b. DoD victim assistance services will support and care for the victim from initiation of a report until the victim is no longer eligible for such services or the victim specifies to the local responsible official (LRO) that they no longer require or desire services.

c. Each DoD Component will provide particular attention and support to victims of serious, violent alleged crimes, including child abuse, domestic violence, and sex-related offenses. To ensure the safety of victims and their families, victim assistance personnel will respect the dignity and the privacy of persons receiving services in accordance with Section 552a of Title 5, U.S.C. (also known as the Privacy Act of 1974, as amended), DoD Instruction (DoDI) 5400.11, and DoD 5400.11-R, and carefully observe any safety plans, military and civilian protective orders, or no contact orders in place.

d. Victim assistance services must meet DoD competency, ethical, and foundational standards established in DoDI 6400.07.

e. This instruction does not create any entitlement, cause of action, or defense at law or in equity, in favor of any person or entity arising out of the failure to provide a victim or a witness the assistance outlined in this instruction. No limitations are hereby placed on the lawful prerogatives of the DoD or its officials.

SECTION 2: RESPONSIBILITIES

2.1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)).

The USD(P&R):

- a. Establishes overall policy for victim and witness assistance and monitors compliance with this issuance.
- b. Reviews victim witness assistance program (VWAP) policies and procedures developed by the Secretaries of the Military Departments.
- c. Maintains the DoD Victim Assistance Leadership Council, in accordance with DoDI 6400.07.

2.2. INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.

The Inspector General of the Department of Defense establishes investigative policy and performs appropriate VWAP oversight reviews. This is not intended to substitute for the routine managerial oversight of the program provided by the military criminal investigative organizations (MCIOs), the USD(P&R), the DoD Component heads, the DoD Component responsible officials, or the LROs.

2.3. DOD COMPONENT HEADS.

The DoD Component heads:

- a. Ensure compliance with this issuance and establish policies and procedures to implement the VWAP within their respective DoD Components.
- b. Designate the DoD Component responsible official for the VWAP program, who will report annually to the USD(P&R) using the DD Form 2706, “Annual Report on Victim and Witness Assistance” located at <https://www.esd.whs.mil/DD/>.
- c. Provide for the assignment of sufficient personnel to enable those programs identified in Section 113 of Title 10, U.S.C. to be carried out effectively.
- d. Designate a central repository for prisoner information for each Military Service and establish procedures to ensure victims who so elect are notified of changes in prisoner status.
- e. Maintain a victim and witness assistance council, when practicable, at each military installation to ensure victim and witness service providers follow an interdisciplinary approach. These providers may include chaplains; sexual assault prevention and response (SAPR) personnel; family advocacy personnel; military treatment facility health care providers and

emergency room personnel; family service center personnel; installation counseling services or behavioral health personnel; military equal opportunity personnel; judge advocates; special victims' counsel, victims' legal counsel, or victims' counsel (SVC/VLC/VCS); unit commanding officers; corrections personnel; and other persons designated by the Secretaries of the Military Departments.

f. Maintain training programs to ensure VWAP providers receive instruction to help them comply with this issuance. Training programs will include specialized training for VWAP personnel assigned to the special victim investigation and prosecution (SVIP) capability, in accordance with Paragraph 3.3.d.

g. Designate LROs in writing in accordance with Military Service regulations and Paragraph 3.1.

h. Maintain oversight procedures to ensure establishment of an integrated support system capable of providing the services outlined in Section 3, and meet the competency, ethical, and foundational standards established in DoDI 6400.07. Such oversight may include coverage by DoD Component inspectors general, staff assistance visits, surveys, and status reports.

i. Establish mechanisms for ensuring victims are notified of and afforded the rights specified in the UCMJ, including the rights specified in Article 6b of the UCMJ and Rules for Courts-Martial (R.C.M.) 306 and 1001.

j. Establish mechanisms for documentation of victim right notifications and victim preference elections in an appropriate system of records.

k. Establish mechanisms for the enforcement of the rights specified in the UCMJ which will include, at a minimum, consideration of the use of the appropriate disciplinary process for military and civilian personnel who fail to comply with the requirements relating to such rights.

SECTION 3: PROCEDURES

3.1. LROS.

LROs:

- a. Will coordinate to ensure systems are in place at the installation level to provide information on available victim and witness benefits and services, help obtain those benefits and services, and provide other services required by this section.
- b. May use an interdisciplinary approach involving the various service providers, which may include chaplains, SAPR personnel, family advocacy personnel, military treatment facility health care providers and emergency room personnel, family service center personnel, installation counseling services or behavioral health personnel, military equal opportunity personnel, judge advocates, SVC/VLC/VCS, unit commanding officers, corrections personnel, and other persons designated by the Secretaries of the Military Departments to coordinate the delivery of information and services to be provided to victims and witnesses.
- c. The position or billet of the LRO will be designated in writing by Service regulation.
- d. May delegate their duties as appropriate but retain responsibility to coordinate the delivery of required services.

3.2. INFORMATION AND SERVICES PROVIDED TO VICTIMS AND WITNESSES.

a. Rights of Victims.

Personnel directly engaged in the prevention, detection, investigation, and disposition of offenses, including law enforcement, legal personnel, commanders, trial counsel, and staff judge advocates, will ensure victims are accorded their enumerated rights as set forth in Article 6b of the UCMJ and related policies. A victim has the right to:

- (1) Be reasonably protected from the accused.
- (2) Be provided with reasonable, accurate, and timely notice of:
 - (a) A public hearing concerning the continuation of confinement before the trial of the accused.
 - (b) A preliminary hearing pursuant to Article 32 of the UCMJ relating to the offense.
 - (c) A court-martial relating to the offense.
 - (d) A post-trial motion, filing, or hearing that may address the finding or sentence of a court-martial with respect to the accused, may unseal privileged or private information of the victim, or may result in the accused's release.

(e) A public proceeding of the Military Department Clemency and Parole Board relating to the offense.

(f) The release or escape of the accused, unless such notice may endanger any person's safety.

(3) Be present at, and not be excluded from, any public hearing or proceeding described in Paragraph 3.2.a.(2), unless the military judge or preliminary hearing officer determines, after receiving clear and convincing evidence, that testimony by the victim would be materially altered if the victim observed that hearing or proceeding.

(4) Be reasonably heard, personally or through counsel, at:

(a) A public hearing concerning the continuation of confinement before the court-martial of the accused.

(b) Preliminary hearings conducted pursuant to Article 32 of the 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.

(c) A sentencing hearing relating to the offense.

(d) A public Military Department Clemency and Parole Board hearing relating to the offense. A victim may make a personal appearance before the Military Department Clemency and Parole Board or submit an audio, video, or written statement.

(5) Confer with the attorney for the U.S. Government in the case. This will include the reasonable right to confer with the attorney for the U.S. Government at any proceeding described in Paragraph 3.2.a.(2).

(a) Victims who are eligible for legal assistance may consult with a military legal assistance attorney in accordance with Paragraph 3.4.

(b) Victims of an alleged sex-related offense, who are eligible for legal assistance pursuant to Military Department or National Guard Bureau policies or Sections 1044 or 1044e of Title 10, U.S.C., may consult with an SVC/VLC/VC in accordance with Paragraph 3.5.

(c) All victims may seek the advice of a private attorney at their own expense.

(6) Receive restitution as provided in accordance with State and Federal law.

(7) Proceedings free from unreasonable delay.

(8) Be informed in a timely manner of any plea agreement, separation-in-lieu-of-trial agreement, or non-prosecution agreement relating to the offense, unless providing such information would jeopardize a law enforcement proceeding or violate the privacy concerns of an individual other than the accused.

(9) Be treated with fairness and respect for their dignity and privacy.

(10) Express their views about disposition of the case to the commander or convening authority.

(11) Decline to testify at a preliminary hearing conducted pursuant to Article 32 of the UCMJ.

b. Initial Information and Services.

(1) Immediately after identification of a victim or witness, the LRO (or their designee), law enforcement officer, or criminal investigation officer will provide and explain information to each victim and witness, as appropriate, including:

(a) The DD Form 2701, “Initial Information for Victims and Witnesses of Crime,” located at <https://www.esd.whs.mil/DD/>, or computer-generated equivalent will be used as a handout to convey basic information for victims and witnesses of crimes. The appropriate points of contact will be recorded on the backside of the DD Form 2701 before it is provided to the victim or witness.

(b) Proper completion of DD Form 2701 documents the LRO (or their designee), law enforcement officer, or criminal investigative officer notified the victim or witness of their rights, as described in Paragraph 3.2.a. Personnel directly engaged in the prevention, detection, investigation, and disposition of offenses, including law enforcement and legal personnel, commanders, trial counsel, and staff judge advocates, will ensure victims are afforded their rights in accordance with Article 6b of the UCMJ. The delivering official will record the date they give the form to the victim or witness to document timely notification of their statutory rights.

(2) The LRO or their designee will ensure the DD Form 2701 is explained to all victims and witnesses at the earliest opportunity. This will include:

(a) Information about available military and civilian emergency medical and social services, victim advocacy services for victims of domestic violence or sex-related offenses, and, when necessary, help securing such services.

(b) Information about restitution or other relief a victim may be entitled to and how such relief may be obtained.

(c) Information to victims of alleged intra-familial abuse offenses on the availability of limited transitional compensation benefits and possible entitlement to some 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.

(d) Information about public and private programs available to provide counseling, treatment, and other support, including available compensation through Federal, State, and local agencies.

(e) 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 and from people acting in concert with or under the control of the accused.

(f) Information concerning military and civilian protective orders and no contact orders, as appropriate.

(g) Information about the military criminal justice process, the role of the victim or witness in the process, and how the victim or witness can obtain additional information concerning the process and the case in accordance with Articles 6b, 32, 46, and 60 of the UCMJ. This includes an explanation of:

1. The victim's roles and rights during pretrial interviews with law enforcement, criminal investigators, government counsel, and defense counsel and during preliminary hearings pursuant to Article 32 of the UCMJ.

2. The victim's rights when the convening authority takes action pursuant to Article 60 of the UCMJ, and during the post-trial and clemency phases of the process.

(h) If necessary, how to contact the offices responsible for providing victim and witness services and relief.

(i) If appropriate, how to file a military whistleblower complaint with an inspector general regarding suspected reprisal for making, preparing to make, or being perceived as making or preparing to make a protected communication in accordance with Section 1034 of Title 10, U.S.C. and DoDD 7050.06.

(j) Information about the victim's right to seek the advice of an attorney with respect to their rights as a victim pursuant to Federal law and DoD policy. This includes Service members and their dependents' right to consult a military legal assistance attorney in accordance with Paragraph 3.4. or an SVC/VLC/VC in accordance with Paragraph 3.5.

c. Information Provided During Investigation of a Crime.

(1) If a victim or witness has not already received the DD Form 2701 from the LRO or their designee, a law enforcement officer or a criminal investigator will provide it.

(2) LROs, their designees, or criminal investigators will inform victims and witnesses, as appropriate, of the status of the investigation of the crime, to the extent providing such information does not interfere with the investigation.

d. Information and Services Provided Concerning the Prosecution of a Crime.

(1) The DD Form 2702, "Court-Martial Information for Victims and Witnesses of Crime," located at <https://www.esd.whs.mil/DD/>, conveys basic information about the court-martial process. The delivering official will record the date they give the DD Form 2702 to the

victim or witness. If applicable, the U.S. Government attorney, or their designee, will provide victims and witnesses:

(a) Notification of victim's rights, including the victim's right to express views about disposition of the case to the responsible commander and convening authority.

(b) Notification of the victim's right to seek an attorney's advice with respect to their rights as a victim pursuant to Federal law and DoD policy. This includes the Service members and their dependents' right to consult a military legal assistance attorney in accordance with Paragraph 3.4., or an SVC/VLC/VC in accordance with Paragraph 3.5.

(c) Notification of the victim's right to provide a preference for prosecution jurisdiction (i.e., by court-martial or in a civilian court with jurisdiction over the offense) if they are the victim of an alleged sex-related offense committed in the United States.

(d) Consultation concerning the decisions to prefer or not prefer charges against the accused and the disposition of the offense if other than a trial by court-martial.

(e) Consultation concerning the decision to refer or not to refer the charges against the accused to trial by court-martial and notification of the decision to pursue or not pursue court-martial charges against the accused.

(f) Notification of the initial appearance of the accused before a reviewing officer or military judge at a public pretrial confinement hearing or at a preliminary hearing in accordance with Article 32 of the UCMJ.

(g) Notification of the accused's release from pretrial confinement.

(h) Explanation of the court-martial process.

(i) Before any court proceedings (including preliminary hearings conducted pursuant Article 32 of the UCMJ, pretrial hearings conducted pursuant to Article 39(a) of the UCMJ, trial, and presentencing hearings), help with locating available services (e.g., transportation, parking, childcare, lodging, and courtroom translators or interpreters) that may be necessary to allow the victim or witness to participate in court proceedings.

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

(k) 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 is entitled or required to attend will be made without delay. 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.

(l) Notification of the recommendation of a preliminary hearing officer when a preliminary hearing conducted pursuant to Article 32 of the UCMJ is held.

(m) Consultation concerning any decision to dismiss charges or enter into a pretrial agreement.

(n) Notification of the case's disposition, including the acceptance of a plea of "guilty," the rendering of a verdict, or the withdrawal or dismissal of charges.

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

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

(q) Notification of the opportunity to receive a copy of proceedings.

1. The convening authority or subsequent responsible official must authorize release of a copy of the record of trial without cost to a victim if the victim testified during the proceedings or if a victim named in a specification of which the accused was charged requests, regardless of the findings of the court-martial.

2. Other victims, as well as witnesses, may also receive a copy of the record of trial, without cost, as determined by the Military Departments, which may be on a case-by-case basis, in categories of cases, or on the basis of particular criteria (e.g., when it might lessen the physical, psychological, or financial hardships suffered because of a criminal act).

(2) After court proceedings, the LRO or their designee will ensure a victim or witness's property held as evidence is safeguarded and returned as soon as possible.

(3) Except for information provided by law enforcement officials and U.S. Government attorneys in accordance with Paragraphs 3.2.c. and 3.2.d., requests for information relating to the investigation and prosecution of a crime (e.g., investigative reports and related documents) from a victim or witness will be processed in accordance with DoD Manual 5400.07.

(4) Any consultation or notification required by this section may be limited to avoid endangering a victim or witness's safety, jeopardizing 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 issuance does not limit the responsibility or authority of Military Service or Defense Agency officials to act in the interest of good order and discipline.

e. Information and Services Provided on Conviction.

(1) Trial counsel will explain and provide services to victims and witnesses on the conviction of an offender in a court-martial. The DD Form 2703, “Post-Trial Information for Victims and Witnesses of Crime,” located at <https://www.esd.whs.mil/DD/>, will be used as a handout to convey basic information about the post-trial process.

(2) When appropriate, victims and witnesses will be provided:

(a) General information regarding the convening authority’s action; the appellate process; the corrections process; work release, furlough, probation, parole, mandatory supervised release, or other forms of release from custody; and eligibility for each.

(b) Specific information regarding the election to be notified of further actions in the case, including the convening authority’s action, hearings and decisions on appeal, changes in prisoner status, and consideration for parole. The DD Form 2704, “Victim/Witness Certification and Election Concerning Prisoner Status,” located at <https://www.esd.whs.mil/DD/>, will be explained and used for victims and appropriate witnesses (i.e., witnesses who fear harm by the prisoner) to elect to be notified of these actions, hearings, decisions, and changes in the prisoner’s status in confinement.

1. For all cases resulting in a sentence to confinement, the DD Form 2704 will be completed and forwarded to the Military Service’s central repository, the gaining confinement facility, the LRO, and the victim or witness, if any, with appropriate redactions made by the delivering official.

a. Incomplete DD Forms 2704 received by the Military Service’s central repository 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. Do not allow a prisoner access to DD Forms 2704 or attach a copy of the form to any record to which the prisoner has access. Doing so could endanger the victim or witness.

2. For all cases resulting in a conviction but no sentence to confinement, the DD Form 2704 will be completed by trial counsel or their representative and forwarded to the Military Service’s central repository, the LRO, and the victim or witness, if any.

3. For all convictions with a victim, a DD Form 2704-1, “Victim Election of Post-trial Rights,” located at <https://www.esd.whs.mil/DD/>, will be explained and used for victims to make elections about records of trial, submission of matters in clemency, and notifications of certain appellate proceedings. After completion, each DD Form 2704-1 will be forwarded to the appropriate points of contact, as determined by the Military Department. This form may be included in the record of trial with appropriate redactions. If a victim personally signs and initials a DD Form 2704-1 that includes a declination to submit matters to the convening authority for consideration in the exercise of the convening authority’s powers pursuant to R.C.M. 1109 or 1110, this form may satisfy the requirement for a written waiver in accordance with R.C.M. 1106A(f)(2).

4. The DD Forms 2704, 2704-1, and 2705, “Notification to Victim/Witness of Prisoner Status,” located at <https://www.esd.whs.mil/DD/>, are exempt from release in accordance with DoD Manual 5400.07.

(c) Specific information regarding the deadline and method for submitting a written statement to the convening authority for consideration when taking action on the case in accordance with R.C.M. 1106A.

f. Information and Services Provided on Entry Into Confinement Facilities.

(1) The victim and witness assistance coordinator at the military confinement facility will:

(a) On entry of an offender into post-trial confinement, obtain the DD Form 2704 to determine victim or witness notification requirements. If the form is unavailable, ask the Military Service’s central repository whether any victim or witness has requested notification of changes in prisoner status in the case.

(b) When a victim or witness has requested notification of changes in prisoner status on the DD Form 2704 and one of the events listed in Paragraph 3.2.f.(1)(c) occurs, use the DD Form 2705 to notify the victim or witness.

1. The delivering official will record the date they give the DD Form 2705 to the victim or witness. The date on the DD Form 2705 documents that the official notified the victim or witness of their statutory rights.

2. Do not allow the prisoner access to DD Form 2705 or attach a copy of the forms to any record to which the prisoner has access. Doing so could endanger the victim or witness.

(c) Provide the earliest possible notice of:

1. The scheduling of a clemency or parole hearing for the prisoner.

2. The results of the Service Clemency and Parole Board.

3. The transfer of the prisoner from one facility to another.

4. The escape, immediately on escape, and subsequent return to custody; work release; furlough; or any other form of release from custody of the prisoner.

5. The release of the prisoner to supervision.

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

7. The prisoner’s death, if the prisoner dies while in custody or under supervision.

(d) Make reasonable efforts to notify all victims and witnesses who have requested notification of changes in prisoner status of any emergency or special temporary home release granted to a prisoner.

(e) On transfer of a prisoner to another military confinement facility, forward the DD Form 2704 to the gaining facility and send an information copy to the Military Service's central repository.

(2) The victim and witness assistance coordinator for each military confinement facility will report the status of victim and witness notification requests annually to the Military Service's central repository.

g. Information and Services Provided on Appeal.

(1) When an offender's case is docketed for review before a court of criminal appeals, or is granted review by, is certified to, or is filed for mandatory review by the Court of Appeals for the Armed Forces or by the U.S. Supreme Court, the U.S. Government appellate counsel or appropriate Military Service designee will ensure all victims who have indicated a desire to be notified receive this information, if applicable:

(a) Notification of the scheduling, including changes and delays, of each public court proceeding the victim is entitled to attend.

(b) Notification of the court's decision.

(2) When an offender's case is reviewed by the Office of the Judge Advocate General of the Military Department concerned, pursuant to either Article 69 or Article 73 of the UCMJ, the Judge Advocate General will ensure all victims who have indicated a desire to be notified on DD Form 2704-1 receive notification of the review's outcome.

h. Information and Services Provided on Consideration for Parole or Supervised Release.

(1) Before the parole or supervised release of a prisoner, the military confinement facility staff will review the DD Form 2704 to ensure it was properly completed. If there is a question concerning named persons or contact information, it will be immediately referred to the appropriate staff judge advocate for resolution.

(2) When considering a prisoner for release on supervision, the military confinement facility commander will ensure all victims and witnesses on the DD Form 2704 indicating a desire to be notified were given an opportunity to provide information to the Military Department Clemency and Parole Board in advance of its determination, as documented in the confinement file.

i. Rights, Information, and Services Provided to Victims of Sexual Assault.

(1) For sex-related offenses that occur in the United States, the victim's preference for prosecution of the accused by court-martial or in a civilian court with jurisdiction over the

offense must be solicited by the convening authority and maintained in an appropriate system of records of the Military Department concerned. No exceptions to the consultation or documentation requirements are authorized, except for documented unavailability of the victim.

(a) If a victim expresses a preference for prosecution of the offense in a civilian court, the convening authority will notify the civilian authority with jurisdiction over the offense of the victim's preference for civilian prosecution.

(b) The convening authority will notify the victim of any decision by the civilian authority whether to prosecute the offense in a civilian court, if the convening authority learns of any decision.

(2) In cases where a Service member makes an unrestricted report of sexual assault naming another Service member as the offender, the victim will be notified, and each notification will be documented and maintained in an appropriate system of records of the Military Department concerned.

(a) Notification will be required for:

1. Conclusion of the investigation.
2. The initial disposition decisions.
3. Pre-trial confinement hearings.
4. Preferral of charges.
5. Article 32 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.
12. Clemency submissions.
13. Appellate filings.
14. Appellate hearings.
15. Appellate decisions.

(b) Any notification of the events in Paragraph 3.2.i.(2)(a) may be limited to avoid:

1. Endangering the safety of the individual making the report or another witness;
2. Jeopardizing an ongoing investigation;
3. Disclosing classified or privileged information; or
4. Unduly delaying disposition of an offense.

(c) If notification does not occur for any of the reasons listed in Paragraph 3.2.i.(2)(b), that decision must be documented, including the name of the responsible official making the decision to withhold notification, the specific rationale for the decision, and the support for the decision, all of which must be maintained in an appropriate system of records.

(3) For victims of sexual assault, upon a determination not to refer the case to trial by court-martial, the commander making such determination or their designee will periodically notify the victim of the status of a final determination on further action on such case, whether non-judicial punishment pursuant to Article 15 of the UCMJ, other administrative action, or no further action. Such notifications will continue at least monthly until such final determination.

(4) Additional rights, information, and services provided to victims of sexual assault as part of the SAPR Program can be found in DoDD 6495.01 and Volume 1 of DoDI 6495.02.

3.3. SVIP.

a. SVIP Capability.

In accordance with Section 573 of Public Law 112-239 and DoDI 5505.19, the Military Departments will maintain a distinct, recognizable group of professionals to provide effective, timely, and responsive worldwide victim support, and a capability to support the investigation and prosecution of covered special victim offenses within their respective Military Departments.

b. Covered Offenses.

Covered special victim offenses include:

- (1) Unrestricted reports of adult sexual assault.
- (2) Unrestricted reports of domestic violence involving sexual assault or aggravated assault with grievous bodily harm.
- (3) Child abuse involving sexual abuse or aggravated assault with grievous bodily harm.

c. SVIP Personnel.

Military Department SVIP programs will include, at a minimum, specially trained and selected:

- (1) Criminal investigators from within MCIOs of the Military Departments.
- (2) Judge advocates to serve as prosecutors.
- (3) VWAP personnel.
- (4) Paralegal or administrative legal support personnel.

d. SVIP Training, Selection, and Certification Standards.

Each Military Department will maintain standards for the selection, training, and certification of personnel assigned to provide SVIP capability. At a minimum, SVIP training must:

- (1) Focus on the unique dynamics of sexual assault, aggravated domestic violence, and child abuse cases.
- (2) Promote advanced methods of interacting with and supporting special victims to ensure their rights are understood and respected.
- (3) Focus on building innovative litigation, case management, and technical skills.
- (4) Ensure all SVIP personnel understand the impact of trauma and how this affects an individual's behavior and the memory of a traumatic incident when interacting with a victim.
- (5) Train SVIP personnel to identify any safety concerns and specific needs of special victims.
- (6) Ensure SVIP personnel understand when specially trained pediatric forensic interviewers are required to support the investigation and prosecution of complex child abuse and child sexual abuse cases.

e. SVIP Collaboration Requirements.

(1) Designated SVIP personnel will collaborate with local DoD sexual assault response coordinators (SARCs); SAPR victim advocates (SAPR VA); family advocacy program (FAP) managers; SVC/VLC/VCS, when representing a victim; and domestic abuse victim advocates during all stages of the military justice process to ensure an integrated capability.

(2) To support this capability, active liaisons will be established at the installation level with these organizations and key individuals:

- (a) Local military and civilian law enforcement agencies.
- (b) SARCs.
- (c) Victim advocates.
- (d) FAP managers and clinical providers.

- (e) Chaplains.
- (f) Sexual assault forensic examiners and other medical and mental health care providers.
- (g) Unit commanding officers.
- (h) Other persons designated by the Secretaries of the Military Departments necessary to support special victims.

(3) An SVIP prosecutor or their designated representative from the responsible legal office and other appropriate individuals will meet or consult with MCIO SVIP personnel within 48 hours of the notification by MCIO SVIP personnel of an investigation meeting SVIP requirements.

(4) An SVIP prosecutor or their designated representative from the responsible legal office will meet or consult with MCIO SVIP personnel at least monthly to assess progress in the investigation or prosecution of a covered offense.

(a) The consultation must address all matters raised by the victim or a person designated to assist or represent the victim.

(b) The consultation requirement may be met by routine participation in monthly case management group meetings, in accordance with DoDD 6495.01 for adult sexual assault cases or meetings with FAP case managers in accordance with DoDI 6400.06 for cases involving domestic violence, spouse or intimate partner sexual assault, and child abuse cases.

f. SVIP Evaluation of Effectiveness.

(1) Each Military Department will maintain and periodically review measures of performance and effectiveness to objectively assess SVIP programs, policies, training, and services. At a minimum, the Secretaries of the Military Departments will collect, evaluate and report data pertaining to effectiveness of the SVIP program to USD(P&R) in accordance with Paragraph 3.7.

(2) The Military Departments will also consider victim feedback on effectiveness of SVIP prosecution and legal support services and recommendations for possible improvements, as provided in DoD survivor experience surveys or other available feedback mechanisms. The Military Departments will use this information to gain a greater understanding of the reasons why a victim elected to participate or declined to participate at trial, and whether SVIP, VWAP, and other legal support services had any impact on this decision.

3.4. LEGAL ASSISTANCE FOR VICTIMS.

a. Eligibility.

Active and retired Service members, their dependents, and certain Reserve Component Service members and civilian DoD employees are eligible to receive legal assistance pursuant to Sections 1044, 1044e, and 1565b of Title 10, U.S.C.

b. Information and Services.

Legal assistance services for eligible victims will include confidential advice and assistance for victims including, but not limited to:

- (1) Rights and benefits afforded to the victim under law and DoD policy.
- (2) Role of the VWAP coordinator or liaison.
- (3) Role of the victim advocate.
- (4) Privileges existing between the victim and victim advocate.
- (5) Differences between restricted and unrestricted reporting, if applicable.
- (6) Overview of the military justice system.
- (7) Services available from appropriate agencies for emotional and mental health counseling and other medical services.
- (8) The right to apply for an expedited transfer, early return of dependent(s), or safety move, if applicable.
- (9) Availability of, and protections offered by, civilian and military protective orders.

3.5. SVC/VLC/VC LEGAL COUNSEL PROGRAMS.

a. Eligibility.

(1) The Military Services provide SVC/VLC/VC to represent victims of alleged sex-related offenses pursuant to Section 1044e of Title 10, U.S.C., and as further prescribed by the Military Departments and National Guard Bureau policies.

(2) Victims of these covered alleged sex-related offenses will be informed by a SARC, victim advocate, victim witness liaison, military criminal investigator, trial counsel, or other LRO that they have the right to consult with an SVC/VLC/VC as soon as they seek assistance from the individual in accordance with Section 1565b of Title 10, U.S.C., and as otherwise authorized by Military Department and National Guard Bureau policy.

b. Attorney-Client Information and Services.

The types of legal services provided by SVC/VLC/VC programs in each Military Service will include:

(1) Legal representation or consultation regarding the potential criminal liability of the victim stemming from or in relation to the circumstances surrounding the alleged sex-related offense (i.e., collateral misconduct). Victims will also be advised of their right to seek military defense services, if applicable, and may be referred to the appropriate defense services organization for consultation on the potential criminal implications of collateral misconduct.

(2) Legal consultation regarding the VWAP, including:

(a) The rights and benefits afforded to the victim.

(b) The role of the VWAP liaison and what privileges do or do not exist between the victim and liaison.

(c) The nature of communication made to the VWAP liaison in comparison to communication made to an SVC/VLC/VC or a legal assistance attorney pursuant to Section 1044 of Title 10, U.S.C.

(3) Legal consultation regarding the responsibilities and support provided to the victim by the SARC, a unit or installation SAPR VA, or domestic abuse advocate, including any privileges that may exist regarding communications between those persons and the victim.

(4) Legal consultation regarding the potential for civil litigation against other parties (other than the United States).

(5) Legal consultation regarding the military justice system, including, but not limited to:

(a) The roles and responsibilities of the military judge, trial counsel, the defense counsel, and criminal investigators.

(b) Any proceedings of the military justice process in which the victim may observe or participate in person or through their SVC/VLC/VC.

(c) The government's authority to compel cooperation and testimony.

(d) The victim's responsibility to testify and other duties to the court.

(6) Accompanying or representing the victim at any proceedings in connection with the reporting, military investigation, and military prosecution of the alleged sex-related offense.

(7) Legal consultation regarding eligibility and requirements for services available from appropriate agencies or offices for emotional and mental health counseling and other medical services.

(8) Legal representation or consultation and assistance:

- (a) In personal civil legal matters in accordance with Section 1044 of Title 10, U.S.C.
 - (b) In any proceedings of the military justice process in which a victim can participate as a witness or other party.
 - (c) In understanding the availability of, and obtaining any protections offered by, civilian and military protecting or restraining orders.
 - (d) In understanding the eligibility and requirements for, and obtaining, any available military and veteran benefits, such as transitional compensation benefits found in Sections 1059 and 1408(h) of Title 10, U.S.C.; DoDI 1342.24; and other State and Federal victims' compensation programs.
- (9) Legal consultation and assistance in connection with:
- (a) Any complaint against the government, including allegations under review by an inspector general and complaints regarding equal employment opportunities.
 - (b) Any request to the government for information, including a request pursuant to Section 552 of Title 5, U.S.C. (also known as a "Freedom of Information Act request").
 - (c) Any correspondence or other communications with Congress.
- (10) Legal consultation and assistance in connection with an incident of retaliation, whether such incident occurs before, during, or after the conclusion of any criminal proceedings, including:
- (a) In understanding the rights and protections afforded to victims of retaliation.
 - (b) In the filing of complaints.
 - (c) In any resulting military justice proceedings.
- (11) Other legal assistance as authorized by the Secretary of Defense or the Secretaries of the Military Departments.

3.6. VICTIM REPRESENTATION.

a. Appointment of a Representative.

(1) In the case of a victim who is under 18 years old and not a Service member, or who is incompetent, incapacitated, or deceased, the legal guardians of the victim or the representatives of the victim's estate, family members, or any other person designated as suitable by proper authority, may assume the victim's legal rights. Under no circumstances will an individual designated as representative have been accused of any crime against the victim.

(2) The Secretaries of the Military Departments may publish additional guidance or regulations regarding who, before referral, may designate an appropriate representative (e.g., the convening authority or other qualified LRO).

(3) In deciding to appoint a representative, the designating authority should consider:

- (a) The representative's age, maturity, and relationship to the victim.
- (b) The representative's physical proximity to the victim's location.
- (c) The costs incurred in effecting the appointment.
- (d) The proposed designee's willingness to serve in such a role.
- (e) The previous appointment of a guardian by a court of competent jurisdiction or appropriate designating authority.
- (f) The victim's preference, if known.
- (g) Any potential delay in any proceeding that may be caused by a specific appointment.
- (h) Any other relevant information.

(4) The representative, legal guardian, or equivalent of a victim who is eligible, or in the case of a deceased victim, was eligible at the time of death for legal assistance provided by SVC/VLC/VC, may elect legal representation by an SVC/VLC/VC on the victim's behalf.

(5) A military judge's responsibilities for designating a representative are listed in R.C.M. 801(a)(6).

b. Self-Representation.

In the absence of an appointment of a legal representative, the victim may exercise their own legal and regulatory rights, as described in this issuance. Where an appointment is required or discretionary, nothing in this issuance precludes a victim from being appointed as their own legal representative, as appropriate.

3.7. VWAP AND SVIP DATA COLLECTION AND REQUIRED REPORTS.

a. To ensure the highest standards for the provision of victim and witness assistance within the DoD, each DoD Component's responsible official will provide an annual report addressing the assistance provided to victims and witnesses, their Component's compliance with the policy requirements contained in this issuance, and any suggested changes to the VWAP or SVIP programs.

b. The annual compliance and data reporting will be accomplished by electronic submission of DD Form 2706 to the Office of Legal Policy, Office of USD(P&R).

c. The DD Form 2706 will be submitted by each Military Department's responsible official no later than March 15, addressing VWAP and SVIP data for the preceding calendar year.

d. The DD Form 2706 report will include:

(1) The number of victims and witnesses who received a DD Form 2701 from law enforcement or criminal investigations personnel.

(2) The number of victims and witnesses who received a DD Form 2702 from U.S. Government counsel or designee.

(3) The number of victims and witnesses who received a DD Form 2703 from U.S. Government counsel or designee.

(4) The number of victims and witnesses who elected via the DD Form 2704 to be notified of changes in prisoner status.

(5) The number of victims who received a DD Form 2704-1 from U.S. Government counsel or designee.

(6) The number of victims and witnesses who were notified of changes in prisoner status by the confinement facility victim witness assistance coordinators via the DD Form 2705 or a computer-generated equivalent.

(7) The cumulative number of prisoners in each Military Service for whom victim witness notifications must be made by each Military Service's confinement facilities. These numbers are derived by totaling the number of prisoners with victim or witness notification requirements at the beginning of the year, adding new prisoners with the requirement, and then subtracting those prisoners who were released, died, or transferred to another facility (e.g., Federal, State, or other Military Service) during the year.

(8) Certification of compliance for specifically identified policy requirements contained in this issuance.

(9) SVIP-specific effectiveness data, including:

(a) The number of SVIP cases initiated in the preceding calendar year.

(b) The number of SVIP personnel (e.g., criminal investigators, judge advocates, victim witness assistance personnel, and administrative paralegal support personnel) within each Military Service.

(c) The number of SVIP personnel that received additional and advanced training in SVIP topical areas in the preceding calendar year.

(d) Any SVIP victim feedback on effectiveness of SVIP prosecution and legal support services and recommendations for possible improvements.

1. Participation by all victims will be voluntary and provide for confidentiality.
2. Any feedback mechanisms developed by the Military Services will be used to gain a greater understanding of the reasons why a victim elected to participate or declined to participate at trial and whether SVIP services or personnel had any positive impact upon this decision.
3. Any SVIP feedback mechanisms will be coordinated and standardized within each Military Service so victims do not have to unnecessarily complete multiple questionnaires.

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
DoDD	DoD directive
DoDI	DoD instruction
FAP	family advocacy program
LRO	local responsible official
MCIO	military criminal investigative organization
R.C.M.	Rules for Courts-Martial
SAPR	sexual assault prevention and response
SAPR VA	sexual assault prevention and response victim advocate
SARC	sexual assault response coordinator
SVC/VLC/VC	special victims' counsel, victims' legal counsel, or victims' counsel
SVIP	special victim investigation and prosecution
UCMJ	Uniform Code of Military Justice
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness
VWAP	victim witness assistance program

G.2. DEFINITIONS.

Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
central repository	A headquarters office, designated by Military Department or Service regulation, to serve as a clearinghouse of information on a prisoner's status and to collect and report data on the delivery of victim and witness assistance, including notification of confinement status changes.

TERM	DEFINITION
confinement facility victim witness assistance coordinator	A staff member at a military confinement facility responsible for notifying victims and witnesses of changes in a prisoner's status and reports those notifications to the central repository.
court proceeding	A preliminary hearing held pursuant to Article 32 of the UCMJ; a hearing pursuant to Article 39(a) of the UCMJ; a court-martial; a military presentencing hearing; or a military appellate hearing. Conferences (e.g., those between attorneys and the military judge pursuant to R.C.M. 802 or between attorneys and preliminary hearing officers pursuant to Article 32 of the UCMJ) are not court proceedings for purpose of this issuance.
DoD Component responsible official	Person designated by each DoD Component head to be primarily responsible in the DoD Component for coordinating, implementing, and managing the VWAP established by this issuance.
domestic violence	Defined in DoDI 6400.06.
equal opportunity	Defined in DoDI 1350.02.
LRO	Person designated by the DoD Component responsible official who has primary responsibility for identifying victims and witnesses of crime and for coordinating the delivery of victim and witness services through a multidisciplinary approach.
protected communication	Defined in DoDD 7050.06.
reprisal	Defined in DoDD 7050.06.
restricted reporting	Defined in DoDD 6495.01 for sexual assault offenses and in DoDI 6400.06 for domestic violence offenses.
SAPR VA	Defined in DoDD 6495.01.
SARC	Defined in DoDD 6495.01.
sex-related offense	Defined in Section 1044e of Title 10, U.S.C.

TERM	DEFINITION
sexual assault	Defined in Section 1565b of Title 10, U.S.C.
special victim offenses	The designated criminal offenses of sexual assault, domestic violence involving sexual assault or aggravated assault with grievous bodily harm, and child abuse involving sexual assault or aggravated assault with grievous bodily harm, in violation of the UCMJ. Sexual assault includes offenses in Articles 120 (rape and sexual assault in general), 120b (rape and sexual assault of a child), and 120c (other sexual misconduct), or forcible sodomy pursuant to Article 125 (before January 1, 2019) of the UCMJ or attempts to commit such offenses pursuant to Article 80 of the UCMJ. Aggravated assault with grievous bodily harm, in relation to domestic violence and child abuse cases, includes an offense as specified pursuant to Article 128 of the UCMJ (assault). The Military Services and National Guard Bureau may deem other UCMJ offenses appropriate for SVIP support based on the facts and circumstances of specific cases and the needs of victims.
SVC/VLC/VC	Legal counsel provided to assist eligible victims of alleged sex-related offenses in violation of Articles 120, 120a, 120b, 120c, and 125 (before January 1, 2019) of the UCMJ and attempts to commit any of these offenses pursuant to Article 80 of the UCMJ (or other offenses as defined by the Military Services), in accordance with Sections 1044, 1044e, and 1565b of Title 10, U.S.C.

TERM

DEFINITION

SVIP capability

In accordance with Section 573 of Public Law 112-239 and DoDI 5505.19, a distinct, recognizable group of appropriately skilled professionals, consisting of specially trained and selected MCIO criminal investigators, judge advocates, victim witness assistance personnel, and administrative paralegal support personnel who work collaboratively to:

Investigate and prosecute allegations of adult sexual assault, domestic violence involving sexual assault or aggravated assault with grievous bodily harm, and child abuse involving sexual assault or aggravated assault with grievous bodily harm.

Provide support for the victims of such covered offenses.

unrestricted reporting

Defined in DoDD 6495.01 for sexual assault offenses and defined in DoDI 6400.06 for domestic violence offenses.

victim

A person who has suffered direct physical, emotional, or financial harm due to a crime committed in violation of the UCMJ. Victim assistance is limited to individuals eligible for military legal assistance pursuant to Sections 1044 and 1044e of Title 10, U.S.C., and as further prescribed by the Military Departments' and National Guard Bureau's policies. Federal Departments and State and local agencies, as entities, are not eligible for services available to individual victims.

victim and witness assistance council

A regular forum held at the DoD installation, or regional command level, 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 issuance, DoDI 6400.07, and any applicable Service guidance.

TERM	DEFINITION
victim assistance personnel	Personnel who are available to provide support and assistance to victims of alleged crimes consistent with their assigned responsibilities and in accordance with this issuance. They include part-time, full-time, collateral duty, and other authorized individuals, and may be domestic violence coordinators (including unit and uniformed victim advocates), SARCs, SAPR VAs, victim-witness assistance personnel, or military equal opportunity personnel.
victim assistance-related programs	Defined in DoDI 6400.07.
witness	A person who has information or evidence about a criminal offense within the investigative jurisdiction of a DoD Component and who provides that knowledge to a DoD Component. When the witness is a minor, that term includes a parent, legal guardian, or other person responsible for the child. The term does not include an individual involved in the crime as an alleged perpetrator or accomplice.

REFERENCES

- DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007
- DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
- DoD Directive 6495.01, “Sexual Assault Prevention and Response (SAPR) Program,” January 23, 2012, as amended
- DoD Directive 7050.06, “Military Whistleblower Protection,” April 17, 2015, as amended
- DoD Instruction 1342.24, “Transitional Compensation (TC) for Abused Dependents,” September 23, 2019
- DoD Instruction 1350.02, “DoD Military Equal Opportunity Program,” September 4, 2020, as amended
- DoD Instruction 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019, as amended
- DoD Instruction 5505.19, “Establishment of Special Victim Investigation and Prosecution (SVIP) Capability Within the Military Criminal Investigative Organizations (MCIOs),” February 3, 2015, as amended
- DoD Instruction 6400.06, “DoD Coordinated Community Response to Domestic Abuse Involving DoD Military and Certain Affiliated Personnel,” December 15, 2021, as amended
- DoD Instruction 6400.07, “Standards for Victim Assistance Services in the Military Community,” November 25, 2013, as amended
- DoD Instruction 6495.02, Volume 1, “Sexual Assault Prevention and Response: Program Procedures,” March 28, 2013, as amended
- DoD Manual 5400.07, “DoD Freedom of Information Act (FOIA) Program,” January 25, 2017
- Manual for Courts-Martial, United States, 2019, Military Rules of Evidence, Rules 412, 513, and 514
- Public Law 112-239, Section 573, “National Defense Authorization Act for Fiscal Year 2013,” January 2, 2013
- United States Code, Title 5
- United States Code, Title 10