



DEPARTMENT OF THE NAVY
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SECNAVINST 5800.11B
PERS 00J
JAN - 5 2006

SECNAV INSTRUCTION 5800.11B

From: Secretary of the Navy

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) 10 U.S.C. 47
(d) Manual for Courts-Martial, 2000
(e) OPNAVINST 5800.7
(f) MCO 5800.15A (LEGADMINMAN)
(g) SECNAVINST 5040.3A

Encl: (1) Definitions

1. Purpose. To establish the Victim and Witness Assistance Program (VWAP) and designate the persons responsible for identifying the victims of crime and performing the services required by references (a) and (b). This instruction is a complete revision and should be read in its entirety.

2. Cancellation. SECNAVINST 5800.11A.

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

4. Background. Without the cooperation of victims and witnesses, criminal justice systems would cease to function. Yet, the needs of victims and witnesses have not always been adequately addressed. Seeking to correct this imbalance Congress enacted a series of laws designed to inform victims and witnesses of their rights and responsibilities in the criminal justice system; in references (a) and (b), the Department of Defense (DOD) has established policy in this area and directed implementation of relevant provisions of law. The Department of the Navy (DON) is committed to doing all that is possible within limits of available resources to assist victims and witnesses of crime and ensure that the military criminal justice system accords crime victims and witnesses their rights, without infringing on the constitutional rights of an accused.

5. Applicability. This instruction applies throughout the DON. It pertains to victims of offenses under reference (c) and to witnesses in proceedings under reference (d). The provisions of this instruction are not limited to offenses prosecuted at courts-martial. Crime victims and witnesses do not forfeit their status when offenses are referred for non-judicial punishment or administrative separation processing. In overseas locations, this program is limited to victims and witnesses who are military members and their families, and DOD civilian employees and contractors and their family members.

6. Policy. The DON will treat all victims and witnesses with respect. All service members and DON employees will make their best effort to ensure that victims and witnesses of crimes are informed of their rights and provided assistance as appropriate. Particular attention should be paid victims of serious, violent crime, including child abuse, domestic violence, and sexual misconduct.

7. Limitation. This instruction is not intended to, and does not create any entitlement, cause of action, or defense in favor of any person arising out of the failure to accord to a victim or witness the assistance outlined in this instruction. No limitations are placed on the lawful prerogatives of the DON or its officials.

8. Responsibility

a. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)) is responsible for overall policy and execution of the VWAP. Additionally, ASN (M&RA) shall:

(1) Submit annual consolidated Navy and Marine Corps reports using DD 2706, Annual Report on Victim and Witness Assistance, to the Under Secretary of Defense for Personnel and Readiness, Attention: Legal Policy Office, 400 Defense Pentagon, Washington, DC 20302-4000. Reports shall be submitted by 15 March for the preceding calendar year. Guidance for form submission is provided in reference (b).

(2) Establish and chair an interdisciplinary Victim and Witness Assistance council per reference (b). This Navy and Marine Corps council will coordinate the development of policy recommendations and the implementation of the VWAP.

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b. The Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC) are designated the "Component Responsible Official", as required by references (a) and (b), in references (e) and (f) respectively. References (e) and (f) establish procedures to ensure that local installation responsible officials provide the victim and witness services required by reference (b). Additionally, CNO and CMC shall:

(1) Develop and implement a VWAP using a multi-disciplinary approach by victim and witness service providers, including law enforcement personnel, criminal investigators, chaplains, family advocacy personnel, medical personnel, Fleet and Family Service Center personnel, judge advocates, corrections personnel, and unit commanding officers (COs). All affected Navy and Marine Corps activities must comply with references (a) and (b).

(2) Ensure, to the extent practical, that each military installation establishes a Victim and Witness Assistance Council, and that an interdisciplinary approach is followed by the victim and witness service providers.

(3) Establish a training program to ensure the service providers listed in paragraph 8b(1) receive instruction to assist them in fulfilling their obligations under the DON VWAP.

(4) Appoint local responsible officials, as required under reference (b), who shall be responsible for ensuring that systems are in place at the installation level to provide victims and witnesses information on available benefits and services, assistance in obtaining those benefits, and other services as required by reference (b).

(5) Establish oversight procedures to ensure establishment of an integrated support system capable of providing services outlined in reference (b).

(6) Provide for the assignment of personnel in sufficient numbers to enable this program, and other programs designed to assist victims and witnesses, to be carried out effectively.

(7) Ensure that the assistance provided to crime victims and witnesses is tracked and recorded to assist in preparing the annual reports described in paragraph 8(a)(1).

c. Commander, Navy Personnel Command (COMNAVPERSCOM), Corrections and Programs Division (PERS 68), and the Commandant of the Marine Corps (CMC (PSL)), are designated the central repositories for the purpose of tracking notice of the status of Navy and Marine Corps offenders, respectively, confined in military correctional facilities, per references (a) and (b). COMNAVPERSCOM (PERS 68) and CMC (PSL) shall ensure that a Confinement Facility Victim and Witness Assistance Coordinator is appointed at each confinement facility who is responsible for victim and witness notification of changes in confinee status.

d. The Secretary of the Navy Council of Review Boards (SECNAVCORB), shall ensure that the Naval Clemency and Parole Board (NC&PB):

(1) Provides the appropriate confinement facility with sufficient notice of the scheduling of clemency and parole hearings. The confinement facility will inform victims who have requested notification of the scheduled hearings to allow them an opportunity to submit statements (written or taped) on the impact the crime has had on their lives or any other information they request the board to consider.

(2) Considers all available documentary evidence and correspondence submitted by a victim when reviewing a case. NC&PB will permit a personal appearance by the victim if it determines that such appearance would be useful or would provide information not otherwise available.

(3) Designates, as necessary, a victim witness assistance coordinator to implement the requirements of this program.

e. The Judge Advocate General of the Navy and Judge Advocate of the Marine Corps shall provide advice, instruction, guidance, and assistance regarding the legal aspects of the VWAP.

f. The Naval Inspector General (NAVINSGEN) and Inspector General of the Marine Corps shall give favorable consideration, upon request, to the inclusion of the VWAP in the Naval Command Inspection Program (reference (g)). NAVINSGEN shall also:

(1) Provide indoctrination and training in the VWAP to all NAVINSGEN investigative personnel.

(2) Ensure all field elements comply with the requirements of references (a) and (b).

(3) Coordinate through field elements with other agencies in support of victim and witness assistance for investigations conducted jointly with or in support of those agencies.

g. The Director, Naval Criminal Investigative Service (NAVCRIMINVSVC), shall ensure that all law enforcement and criminal investigative personnel:

(1) Comply with requirements of references (a) and (b).

(2) Provide annual reports to COMNAVPERSCOM (PERS 00J) and the CMC (JAM) on the delivery of services to victims and witnesses by field offices.

(3) Receive indoctrination and training in the VWAP.

(4) Coordinate with other agencies in support of victim and witness assistance for investigations conducted jointly with or in support of those agencies.

(5) Appoint victim witness assistance coordinators in field offices.

9. Forms and Reports

a. DD 2706 (DEC 94), Annual Report on Victim and Witness Assistance is available online at <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>

b. Report Control Symbol DD-P&R(A)1952 is assigned to the report contained in paragraph 8a(1).



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<http://neds.daps.dla.mil/>

DEFINITIONS

1. Central Repository. A headquarters office, designated by the Secretary of the Navy to serve as a clearing-house 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. Person designated by the CNO and the CMC primarily responsible for coordinating, implementing, and managing the VWAP within their respective Service branch.

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

4. Local Responsible Official. Person designated by the CNO and the CMC who has primary responsibility for identifying victims and witnesses of crime and for coordinating the delivery of services through an interdisciplinary approach as described in reference (b).

5. 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 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 members and their family members.

b. When stationed outside the continental United States, 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.

c. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following: a legal guardian, spouse, parent, child, sibling,

another family member, or another person designated by the court or local responsible official, 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.

6. Witness. A person who has information or evidence concerning a crime, and provides that knowledge to a DON representative about an offense in the investigative jurisdiction of the DON. When the 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.