Department of Defense
DIRECTIVE

NUMBER 1030.01
April 13, 2004
Certified Current as of April 23, 2007

USD(P&R)

SUBJECT: Victim and Witness Assistance

References: (a) DoD Directive 1030.1, Victim and Witness Assistance, November 23, 1994 (hereby canceled)
(b) Chapter 47 of title 10, United States Code, "Uniform Code of Military Justice"
(c) Sections 10606 and 10607 of title 42, United States Code
(d) Sections 1512-1514 of title 18, United States Code
(e) DoD Instruction 1030.2, "Victim and Witness Assistance Procedures," *June 4, 2004*

1. REISSUANCE AND PURPOSE

This Directive:

1.1. Reissues reference (a) to update Department of Defense (DoD) policies and responsibilities for providing assistance to victims and witnesses of crimes committed in violation of reference (b).

1.2. Implements references (c) and (d) by providing guidance for assisting victims and witnesses of crime from initial contact through investigation, prosecution, and confinement.

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of Inspector General of the DoD (IG, DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

3. DEFINITIONS

Terms used in this Directive are defined in enclosure 1.

4. POLICY

It is DoD policy that:

4.1. The necessary role of crime victims and witnesses in the criminal justice process should be protected.

4.2. The DoD Components shall do all that is possible within limits of available resources to assist victims and witnesses of crime, in accordance with the requirements listed in DoD Instruction 1030.2 (reference (e)) without infringing on the constitutional rights of an accused. Particular attention should be paid to victims of serious, violent crime, including child abuse, domestic violence, and sexual misconduct.

4.3. This Directive 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 a witness the assistance outlined in this Directive. No limitations are hereby placed on the lawful prerogatives of the Department of Defense or its officials.

4.4. Law enforcement and legal personnel directly engaged in the detection, investigation, or prosecution of crimes, shall ensure that victims are accorded their rights. As provided for in references (c) and (d), a crime victim has the right to:

4.4.1. Be treated with fairness and respect for the victim's dignity and privacy.

4.4.2. Be reasonably protected from the accused offender.

4.4.3. Be notified of court proceedings.

4.4.4. 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.

4.4.5. Confer with the attorney for the Government in the case.

4.4.6. Receive available restitution.

4.4.7. Be provided information about the conviction, sentencing, imprisonment, and release of the offender.

4.5. Court-martial convening authorities and clemency and parole boards shall consider making restitution to the victim a condition of pretrial agreements, sentence reduction, clemency, and parole. They may consider victim statements on the impact of crime.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) shall:

5.1.1. Develop overall policy for victim and witness assistance and monitor compliance with this Directive and reference (e).

5.1.2. Approve procedures developed by the Secretaries of the Military Departments that implement this Directive and are consistent with reference (e).

5.1.3. Maintain a Victim and Witness Assistance Council to provide a forum for the exchange of information and the consideration of victim and witness policies, and provide a liaison with the Department of Justice Office for Victims of Crime.

5.1.4. Ensure the Defense Manpower Data Center assists in formulating a data collection mechanism to track and report victim notifications from initial contact through investigation, prosecution, confinement, and release.

5.1.5. Change, reissue, or amend reference (e), as required.

5.2. The IG, DoD shall oversee the development of investigative policy and perform appropriate oversight reviews of the management of the victim and witness assistance program by the DoD criminal investigative organizations. This is not intended to substitute for the routine managerial oversight of the program provided by the DoD criminal investigative organizations, the USD(P&R), the Heads of the DoD Components, the Component responsible officials, or the local responsible officials.

5.3. The Secretaries of the Military Departments and the Heads of the Other DoD Components shall:

5.3.1. Ensure compliance with this Directive and establish policies and procedures to implement this program within their Component.

5.3.2. Designate the "Component Responsible Official," as defined in item E1.1.2. of enclosure 1.

5.3.3. Maintain a central repository, as defined in item E1.1.1. of enclosure 1, for each Military Service, to ensure that victims shall be notified of changes in a confinee's status.

5.3.4. Ensure that a multi-disciplinary approach is followed by victim and witness service providers, including law enforcement personnel, criminal investigators, chaplains, family advocacy personnel, emergency room personnel, family service center personnel, judge advocates, unit commanding officers, corrections personnel, and other persons designated by the Secretaries of the Military Departments; and ensure that those providers receive training to assist them in complying with this Directive.

5.3.5. Establish procedures to ensure that local installation responsible officials provide victim and witness services as required in reference (e) at the installation level through coordination with the representatives identified in paragraph 5.3.4., above.

5.3.6. Establish oversight procedures to ensure establishment of an integrated support system capable of providing the services outlined in reference (e). Such oversight could include coverage by Military Service or organizational Inspectors General, staff assistance visits, surveys, and status reports.

5.3.7. Report annually to the OUSD(P&R) in the format prescribed in reference (e) for the preceding calendar year.

6. INFORMATION REQUIREMENTS

The annual reporting requirements in subparagraph 5.3.7., above, have been assigned Report Control Symbol DD-P&R(A)1952.

7. EFFECTIVE DATE

This Directive is effective immediately.

Paul Wolfowitz
Deputy Secretary of Defense

Enclosures - 1
E1. Definitions

E1. ENCLOSURE 1

DEFINITIONS

E1.1.1. Central Repository. A headquarters office, designated by Service regulation, to serve as a clearinghouse of information on a confinee's status and to collect and report data on the delivery of victim and witness assistance, including notification of confinee status changes.

E1.1.2. Component Responsible Official. Person designated by the Head of each DoD Component to be primarily responsible in the Component for coordinating, implementing, and managing the victim and witness assistance program established by this Directive.

E1.1.3. 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.

E1.1.4. Local Responsible Official. Person designated by the Component Responsible Official who has primary responsibility for identifying victims and witnesses of crime and for coordinating the delivery of services described in this Directive through a multi-disciplinary approach. The position or billet of the local responsible official shall be designated in writing by Service regulation. The local responsible official may delegate responsibilities under this Directive as provided in reference (e).

E1.1.5. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime committed in violation of the Uniform Code of Military Justice) (Chapter 47 of 10 U.S.C., reference (b) or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by the DoD Components). Such individuals shall include, but are not limited to, the following:

E1.1.5.1. Military members and their family members.

E1.1.5.2. When stationed outside the continental United States, DoD civilian employees and contractors, and their family members. This 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.

E1.1.5.3. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following (in order of precedence): a spouse,

legal guardian, parent, child, sibling, another family member, or another person designated by the court or the Component responsible official, or designee.

E1.1.5.4. 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.

E1.1.6. 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 family member or legal guardian. The term does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.