

## **Chapter 17**

### **Victim and Witness Assistance**

#### **Section I**

##### **General Description**

##### **17-1. Purpose**

This chapter implements DODD 1030.1 and DODI 1030.2. It also establishes policy, designates responsibility, and provides guidance for the assistance and treatment of those persons who are victims of crime and those persons who may be witnesses in criminal justice proceedings.

##### **17-2. Policy**

*a.* The military justice system is designed to ensure good order and discipline within the Army and also to protect the lives and property of members of the military community and the general public consistent with the fundamental rights of the accused. Without the cooperation of victims and witnesses, the system would cease to function effectively. Accordingly, all persons working within and in support of the system—that is, commanders, JAs, law enforcement and investigative agencies, corrections officials, and other personnel of Army multidisciplinary agencies—must ensure that victims and witnesses of crime are treated courteously and with respect for their privacy. Interference with personal privacy and property rights will be kept to an absolute minimum.

*b.* In those cases in which a victim has been subjected to attempted or actual violence, every reasonable effort will be made to minimize further traumatization. Victims will be treated with care and compassion, particularly in circumstances involving children, domestic violence, or sexual misconduct.

*c.* Effective victim and witness programs are multidisciplinary and utilize all related military and civilian agencies.

Each victim/witness liaison (VWL) must be familiar with all such agencies and programs to ensure that necessary

services are provided. Multidisciplinary participants include, but are not limited to, investigative and law enforcement personnel, chaplains, health care personnel, Family advocacy/services personnel, JAs and other legal personnel, unit commanding officers and noncommissioned officers, and corrections/confinement facility personnel. In most instances, installations are expected to provide required services without referral to outside agencies. In death cases, the VWL will coordinate with the installation/community casualty working group (AR 600-8-1, chap 7) and the U.S. Army Criminal Investigation Command. The USACIDC points of contact are listed at [http://www.cid.army.mil/unit\\_directory.html](http://www.cid.army.mil/unit_directory.html).

*d.* A person's status as a victim or witness does not preclude and should not discourage a DA official's appropriate recognition of conduct of the victim or witness during or following the perpetration or attempted perpetration of a crime, that clearly demonstrates personal courage under dangerous circumstances. Examples of such conduct include saving of human life under hazardous conditions or extraordinary sacrifice that aids or supports military law, order, or discipline, and that would otherwise merit official recognition (see AR 672-20 and AR 600-8-22). Such recognition normally should be delayed until after local disposition of the incident.

*e.* The provisions of this chapter are intended to provide internal DA guidance for the protection and assistance of victims and witnesses, and for the enhancement of their roles in the military criminal justice process, without infringing on the constitutional and statutory rights of the accused. These provisions are not intended to and do not create any entitlements, causes of actions, or defenses, substantive or procedural, enforceable at law, by any victim, witness, or other person in any matter, civilian or criminal, arising out of the failure to accord a victim or witness the services enumerated in this chapter. No limitations are hereby placed on the lawful prerogatives of DA or its officials.

### **17-3. Application**

*a.* This chapter applies to those DA components engaged in the detection, investigation, or prosecution of crimes under the UCMJ or Federal statutes, and in the detention and incarceration of military accused. This chapter is intended to apply to all victims and witnesses in UCMJ or Federal court proceedings or investigations. While special attention will be paid to victims of serious or violent crime, all victims and witnesses of crime will receive the assistance and protection to which they are entitled.

*b.* Provisions of this chapter may also apply to victims or witnesses of crimes under the jurisdiction of State, other Federal, or foreign authorities during any portion of the criminal investigation or military justice proceedings conducted primarily by the Army or other DOD components.

### **17-4. Objectives**

The objectives of the policies and procedures set forth in this chapter are—

*a.* To mitigate, within the means of available resources and under applicable law, the physical, psychological, and financial hardships suffered by victims and witnesses of offenses investigated by DA authorities.

*b.* To foster the full cooperation of victims and witnesses within the military criminal justice system.

*c.* To ensure that victims of crime and witnesses are advised of and accorded the rights described in this chapter, subject to available resources, operational commitments, and military exigencies.

### **17-5. Definitions**

For purposes of this chapter, the following definitions apply:

*a. 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 UCMJ, or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by the DOD components. Such individuals will include, but are not limited to, the following:

(1) Military members and their Family members.

(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.

(3) 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 spouse; legal guardian; parent; child; sibling; another family member; or another person designated by a court or the component responsible official, or designee.

(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.

*b. Witness.* A person who has information or evidence about a crime and provides that knowledge to a DOD component concerning an offense within the component's investigative jurisdiction. When the witness is a minor, this term includes a family member or legal guardian. The term "witness" does not include a defense witness or any individual involved in the crime as a perpetrator or accomplice.

## Section II Victim/Witness Assistance Program

### 17-6. General

a. The Victim/Witness Assistance Program is designed to accomplish the objectives set forth in paragraph 17-4, above, through—

- (1) Encouraging the development and strengthening of victim and witness services.
- (2) Consolidating information pertaining to victim and witness services.
- (3) Coordinating multidisciplinary victim/witness services by and through victim and witness liaisons.

b. The Judge Advocate General is the component-responsible official in the DA for victim and witness assistance. As such, TJAG exercises oversight of the program to ensure integrated support is provided to victims and witnesses.

c. Staff judge advocates are the local responsible officials for victim and witness assistance within their GCM jurisdictions. Accordingly, they will—

- (1) Establish and provide overall supervision for the Victim/Witness Assistance Program within their GCM jurisdictions.
- (2) Ensure coordination, as required, with other GCM jurisdictions, or State or Federal victim and witness assistance programs.
- (3) Establish a Victim and Witness Assistance Council, to the extent practicable, at each significant military installation to ensure interdisciplinary cooperation among victim and witness service providers. Existing installation councils, such as The Family Advocacy Case Management Team, may be used as appropriate.
- (4) Ensure development of appropriate local management controls to ensure compliance with this chapter.

d. Department of the Army and installation inspectors general will provide additional oversight and review of the management of the Victim/Witness Assistance Program during staff assistance visits and inspections.

### 17-7. Victim/witness liaison

a. *Designation.* Staff judge advocates will designate, in writing, one or more VWLs they have certified as qualified to administer the Victim/Witness Assistance Program for their jurisdictions. This requirement continues in the event of deployment such that at least one officer or, if not practicable, an E-6 or above, accompanying a GCMCA is appointed as a VWL. Staff judge advocates will provide a copy of such designation to the Office of The Judge Advocate General, Criminal Law Division, 2200 Army Pentagon, Room 3B548, Washington, DC 20310-2200 including the name, duty address, duty phone number (including DSN prefix), facsimile number, and duty e-mail address of the new VWL.

b. *Criteria and certification.* The designated VWL should, when practicable, be a commissioned officer, or civilian in the grade of GS-11 or above. When necessary, an enlisted person in the grade of E-6 or above, or civilian in the grade of GS-6 or above, may be designated as a VWL if a commissioned officer is not reasonably available. A VWL is certified to perform VWL duties upon completion of the Judge Advocate General's Officer Basic Course, or Graduate Course; or attendance at a DOD or HQDA-sponsored VWL regional training event; or after completing training designated by HQDA or the certifying SJA. When for geographic or operational reasons, it is necessary to designate more than one VWL within a GCM jurisdiction, the SJA will ensure that the responsibilities for cases or areas of each VWL are clearly defined. The VWL responsibilities should be outside the military justice section to the extent permitted by resources. To be most effective, VWLs must be perceived as impartial actors in the prosecution process. To the extent permitted by resources, SJAs should refrain from appointing attorneys as VWLs. Attorneys assigned as VWLs must ensure that victims and witnesses understand the attorney's role as a VWL. The attorney must clearly explain that no attorney-client relationship is formed as a result of VWL services provided by the attorney.

c. *Role.* The role of the VWL is one of facilitator and coordinator. The VWL will act as a primary point of contact through which victims and witnesses may obtain information and assistance in securing available victim/witness services. The VWL will act in conjunction with the unit victim advocate who is responsible for providing crisis intervention, referral, and ongoing nonclinical support to a sexual assault victim (see AR 600-20, chap 8).

### 17-8. Identification of victims and witnesses

At the earliest opportunity after the detection of a crime, and where it may be done without interfering with an investigation, the law enforcement official or commander responsible for the investigation or other individual with victim/witness assistance responsibilities under this chapter will—

a. Identify the victims or witnesses of the crime in accordance with the definitions in paragraph 17-5.

b. Inform the victims and witnesses of their right to receive the services described in this regulation, and the name, title, official address, and telephone number of the VWL and how to request assistance from the VWL in obtaining the services described in this regulation. The DD Form 2701 (Initial Information for Victims and Witnesses of Crime) will be used for this purpose. This notification is required in all cases, regardless of maximum punishment under the UCMJ or other statutory authority, or intended disposition of the offense. In cases where the victim is no longer located at the military installation where the alleged crime occurred, the victim should be referred to the nearest available VWL, who

may not necessarily be the VWL where the alleged crime occurred. To determine where the nearest VWL is located, consult appendix E, below, or consult OTJAG (DAJA-CL).

*c.* Report victim and witness notification in accordance with DODI 1030.2 and this regulation.

*d.* Ensure that victims receive assistance under the guidelines set forth in this chapter for victims identified as a result of investigations of potential UCMJ violations conducted in accordance with AR 15-6.

### **17-9. Initiation of liaison service**

*a.* Staff judge advocates or their designees will coordinate with military law enforcement, criminal investigative, and other military and civilian multidisciplinary agencies to ensure that victims and witnesses of crime are provided the name, location, and telephone number of a VWL. Procedures should be established to ensure timely notification, however, notification by law enforcement and criminal investigative personnel should not interfere with ongoing investigations. Staff judge advocates are encouraged to establish memoranda of agreement to ensure a cooperative relationship with local civilian agencies to identify, report, investigate, and provide services and treatment to victims.

*b.* At the earliest opportunity, but no later than appointment of a UCMJ, Art. 32 investigative officer or referral of charges to court-martial, the VWL, trial counsel, or other Government representative will ensure that victims are informed of the services described in this chapter (sections III and V) and are provided a Victim/Witness Information Packet. They also will ensure that witnesses are informed of the services described in this chapter (sections IV and V) and provided a Victim/Witness Information Packet. The DD Form 2701 will be used for this purpose, if available. The victim/witness checklist, in appendix D, below, should be used by the VWL to ensure that victims and witnesses are notified of the services described in this chapter.

### **17-10. Rights of crime victims**

*a.* As provided for in 42 USC 10601 and the sections that follow, and in DODI 1030.2, a crime victim has the following rights:

(1) The right to be treated with fairness, dignity, and a respect for 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, or for other good cause.

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

(6) The right to restitution, if appropriate.

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

*b.* Staff judge advocates will ensure that local policies and procedures are established to give crime victims the rights described above.

### **17-11. Training and publicity**

*a.* Staff judge advocates will ensure that annual Victim/Witness Assistance Program training is provided to representatives of all agencies performing victim/witness assistance functions (JAs and legal, investigative and law enforcement personnel; chaplains; health care personnel; Family advocacy/services personnel; unit commanding officers and noncommissioned officers; and corrections/confinement facility personnel) within their GCM jurisdictions. At a minimum, training will cover victims' rights; available compensation through Federal, State, and local agencies; providers' responsibilities under the Victim/Witness Assistance Program; and requirements and procedures established by this chapter.

*b.* Staff judge advocates also will ensure that the provisions of this chapter are publicized to all military and civilian agencies providing victim/witness services and to commands within their jurisdictions. Staff judge advocates will ensure that the DOD Victim and Witness Bill of Rights is displayed in the offices of commanders and Army multidisciplinary agencies that provide victim/witness assistance and that victim/witness brochures and pamphlets are available at appropriate locations throughout their jurisdictions. Installation public affairs resources should be used to obtain maximum publicity within the military community. Use of command policy letters endorsing the Victim/Witness Assistance Program is encouraged.

## **Section III**

### **Victim Services**

### **17-12. Medical, financial, legal, and social services**

*a.* Investigative or law enforcement personnel, the VWL, trial counsel, or other individuals with victim/witness assistance responsibilities under this chapter will inform the victim of a crime of the place where the victim may

receive emergency medical care and social service support. When necessary, these personnel will provide appropriate

assistance in securing such care. Victims suffering from or indicating injury or trauma will be referred to the nearest available medical facility for emergency treatment. When required for completion of criminal investigations, examination and treatment of civilian victims of assaults committed on Army installations may be provided without charge at the discretion of medical treatment facility (MTF) commanders (see AR 40–400). The MTF commanders will construe liberally their authority to waive charges unless inappropriate in view of the unique circumstances. Abused dependents of Soldiers who receive a dishonorable or bad conduct discharge or dismissal, for an offense involving abuse of the dependent, may receive medical and dental care in uniformed services facilities for injuries resulting from that abuse (see 10 USC 1076(e)).

b. The VWL or other Government representative will assist victims of crime in obtaining appropriate financial, legal, and other social service support by informing them of public and private programs that are available to provide counseling, treatment, and other support to the victim, including available compensation through Federal, State, and local agencies. The VWL will assist the victim in contacting agencies or individuals responsible for providing necessary services and relief. Examples of assistance and services that may be available to victims, in addition to those available through MTFs, include the following:

- (1) Army Community Services Program (under AR 608–1).
- (2) Army Emergency Relief (under AR 930–4).
- (3) Legal Assistance (under AR 27–3).
- (4) The American Red Cross (under AR 930–5).
- (5) Chaplain Services (under AR 165–1).
- (6) Civilian community-based victim treatment, assistance, and compensation programs.
- (7) For dependents of Soldiers who are victims of abuse by a military spouse or parent, payment of a portion of the disposable retired pay of the Soldier under 10 USC 1408 or payment of transitional compensation benefits under 10 USC 1059.
- (8) For families of Soldiers, transportation and shipment of household goods may be available even if the Soldier receives a punitive or other than honorable discharge, under Volume 1, Joint Federal Travel Regulations, Chapter 5, available at [http://www.defensetravel.dod.mil/Docs/perdiem/JFTR\(Ch1-10\).pdf](http://www.defensetravel.dod.mil/Docs/perdiem/JFTR(Ch1-10).pdf).

c. Judge advocates will serve on the Sexual Assault Review Board (see AR 600–20).

d. When victims are not eligible for military services, or in those cases in which military services are not available, the VWL will provide liaison assistance in seeking any available nonmilitary services within the civilian community.

### **17–13. Stages and role in military criminal justice process**

Victims should be advised of stages in the military criminal justice system, the role that they can be expected to play in the process, and how they can obtain additional information concerning the process and the case. This information will be set forth in a Victim Information Packet (DD Form 2701 and DD Form 2702 (Court-Martial Information for Victims and Witnesses of Crime)), and should be further amplified, as required, by the VWL or trial counsel. For example, some offenses may be tried in U.S. Magistrate or U.S. District Court.

### **17–14. Notification and description of services provided to victims of crime**

a. During the investigation and prosecution of a crime, the VWL, trial counsel, or other Government representative will provide a victim the earliest possible notice of significant events in the case, to include—

- (1) The status of the investigation of the crime, to the extent that it will not interfere with the conduct of the investigation, the rights of the accused, or the rights of other victims or witnesses.
- (2) The apprehension of the suspected offender.
- (3) The decision on whether to prefer (or file in a civilian court) or dismiss the charges against a suspected offender.
- (4) The initial appearance of the suspected offender before a judicial officer at a pretrial confinement hearing or at an investigation under UCMJ, Art. 32.
- (5) The scheduling (date, time, and place) of each court proceeding that the victim is either required or entitled to attend and of any scheduling changes.
- (6) The detention or release from detention of an offender or suspected offender.
- (7) The acceptance of a plea of guilty or the rendering of a verdict after trial.
- (8) The opportunity to consult with trial counsel about providing evidence in aggravation concerning financial, social, psychological, and physical harm done to, or loss suffered by, the victim.
- (9) The result of trial or other disposition.
- (10) If the sentence includes confinement, the probable date by regulation on which the offender will be eligible for parole.
- (11) General information regarding the corrections process, including information about work release, furlough, probation, parole and other forms of release from custody, and the offender's eligibility for each.
- (12) The right to request, through the VWL, trial counsel, or designee of the commander of the corrections facility

to which the offender is assigned, notice of the matters set forth in subparagraph *b*, below.

(13) How to submit a victim impact statement to the Army Clemency and Parole Board for inclusion in parole and clemency considerations (under AR 15–130).

*b.* Upon a sentence to confinement, the trial counsel or a representative for the Government will—

(1) Formally inform the victim regarding post-trial procedures, and the right to be notified if the offender’s confinement or parole status changes, and when the offender will be considered for parole or clemency by providing the victim with DD Form 2703 (Post-Trial Information for Victims and Witnesses of Crime).

(2) Ensure the victim’s election regarding notification is recorded on DD Form 2704 (Victim/Witness Certification and Election Concerning Inmate Status), in every case, regardless of election. One copy of DD Form 2704 will be given to the victim. One copy of the form will be forwarded to the commander of the gaining confinement facility. One copy of the form will be forwarded to the Army Corrections Command (DAPM–ACC), 150 Army Pentagon, Washington, DC 20310-0150.

(3) Ensure that a copy of DD Form 2704 is not attached to any portion of a record to which the offender has access.

#### **17–15. Consultation with victims**

*a.* When appropriate, the trial counsel, VWL, or other Government representative will consult with victims of crime concerning—

(1) Decisions not to prefer charges.

(2) Decisions concerning pretrial restraint of the alleged offender or his or her release.

(3) Pretrial dismissal of charges.

(4) Negotiations of pretrial agreements and their potential terms.

*b.* Consultation may be limited when justified by the circumstances, such as to avoid endangering the safety of a victim or a witness, 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, nothing in this regulation limits the responsibility and authority of appropriate officials to take such action as they deem appropriate in the interest of good order and discipline and to prevent service-discrediting conduct.

#### **17–16. Property return and restitution**

*a.* In coordination with criminal investigative agents and Government Appellate Division, SJAs or their designees will ensure that all noncontraband property that has been seized or acquired as evidence for use in the prosecution of an offense is safeguarded and returned to the appropriate person, organization, or entity as expeditiously as possible per AR 195–5, or AR 190–30, as applicable. The VWL or other Government representative will ensure that victims are informed of applicable procedures for requesting return of their property. Status of forces agreements or other international agreements may apply overseas. Staff judge advocates should review provisions of applicable agreements.

*b.* Victims who suffer personal injury or property loss or damage as a result of an offense should be informed of the various means available to seek restitution. The provisions of UCMJ, Art. 139 may provide some relief if the property loss or damage is the result of a wrongful taking or willful damage by a member of the Armed Forces (care must be taken to ensure that UCMJ, Art. 139 investigations are conducted in a manner that does not interfere with any ongoing criminal investigations or courts-martial proceedings). Victims should also be informed of the possibility of pursuing other remedies, such as claims, private lawsuits, or any crime victim compensation available from Federal (for example, the Transitional Compensation Program for abused family members under 10 USC 1059) or civilian sources, and of appropriate and authorized points of contact to assist them. Examples include a local claims office, legal assistance or lawyer referral services, and State victim assistance or compensation programs.

*c.* Court-martial convening authorities will consider the appropriateness of requiring restitution as a term and condition in pretrial agreements, and will consider whether the offender has made restitution to the victim when taking action under RCM 1107. The Army Clemency and Parole Board will also consider the appropriateness of restitution in clemency and parole actions.

### **Section IV**

#### **Witness Services**

#### **17–17. Notification and description of services provided to witnesses**

*a.* The trial counsel, VWL, or other Government representative will make reasonable efforts to notify witnesses and representatives of witnesses who are minors (to include legal guardians, foster parents, or other persons in lawful custody of minors or incompetent individuals), when applicable, and at the earliest opportunity, of significant events in the case, to include—

(1) The status of the investigation of the crime, to the extent that it will not interfere with the conduct of the investigation, the rights of the accused, or the rights of other victims or witnesses.

(2) The apprehension of the suspected offender.

(3) The preferral (or the filing in a civilian court) or dismissal of charges against a suspected offender.

(4) The initial appearance of the suspected offender before a judicial officer at a pretrial confinement hearing or at a UCMJ, Art. 32 investigation.

(5) The scheduling (date, time, and place) of each court proceeding that the witness is either required or entitled to attend and of any scheduling changes.

(6) The detention or release from detention of an offender or suspected offender.

(7) The acceptance of a plea of guilty or the rendering of a verdict after trial.

(8) The result of trial or other disposition.

(9) If the sentence includes confinement, the probable date by regulation on which the offender will be eligible for parole.

(10) General information regarding the corrections process, including information about work release, furlough, probation, the offender's eligibility for each, and the witnesses' right to be informed of changes in custody status.

b. Witnesses should be advised of the stages in the military criminal justice system, the role that they can be expected to play in the process, and how to obtain additional information concerning the process and the case. This information will be set forth in a Victim and Witness Information Packet (DD Forms 2701, 2702, and 2703) and should be further amplified, as required, by the trial counsel, VWL, or designee.

c. Upon a sentence to confinement, the trial counsel or other representative of the Government will—

(1) Formally inform those witnesses adversely affected by the offender regarding post-trial procedures and the right to be notified if the offender's confinement or parole status changes, and when the offender will be considered for parole or clemency by providing DD Form 2703. Appropriate cases include, but are not limited to, cases where the life, well-being, or safety of the witness has been, is, or in the future reasonably may be, jeopardized by participation in the criminal investigative or prosecution process.

(2) Ensure the witness' election regarding notification is recorded on DD Form 2704 in every case, regardless of election. One copy of DD Form 2704 will be given to the witness. One copy of the form will be forwarded to the commander of the gaining confinement facility. One copy of the form will be forwarded to the Army Corrections Command (DAPM-ACC), 150 Army Pentagon, Washington, DC 20310-0150.

(3) Ensure that a copy of DD Form 2704 is not attached to any portion of a record to which the offender has access.

## **17-18. Limitations**

The trial counsel, VWL, or other Government representative will determine, on a case-by-case basis, the extent to which witnesses are provided the services set forth in sections IV and V of this chapter. For example, it may be unnecessary to provide some or all of these services to active duty military witnesses or to expert or character witnesses. Trial counsel or designee will apprise a witness' chain of command of the necessity for the witness' testimony (and the inevitable interference with and absence from duty). Ordinarily, however, doubt about whether to provide the foregoing information or services should be resolved in favor of providing them, especially when services have been requested by the witness.

## **Section V**

### **Victim and Witness Services**

#### **17-19. Protection of victims and witnesses**

a. *Victim/witness intimidation.* The SJA will ensure that victims and witnesses are advised that their interests are protected by administrative and criminal sanctions. In the criminal context, for example, 18 USC 1512 and 1513 make tampering with or retaliation against a victim or witness punishable under Federal law; intimidation and threats to victims or witnesses are punishable under UCMJ, Art. 134. Obstruction or attempted obstruction of justice and subornation of perjury are also offenses under the UCMJ. Victims and witnesses should be further advised that any attempted intimidation, harassment, or other tampering should be promptly reported to military authorities (for example, a commander, a SJA, the CID, a program manager, a trial counsel or a VWL), that their complaints will be promptly investigated, and that appropriate action will be taken. In the administrative context, the commander may provide victim protection by issuing a written order to the suspect not to contact the victim except when supervised by a member of the chain of command, or by revoking the suspect's pass privileges. Commanders should normally use DD Form 2873, Military Protective Order, when issuing a written no-contact order. Commanders should consult with their servicing judge advocate before taking administrative measures to protect a victim.

b. *Victim/witness protection.* In cases where the life, well-being, or safety of a victim or witness is jeopardized by his or her participation in the criminal investigation or prosecution process, the SJA will ensure that appropriate law enforcement agencies are immediately notified. Commanders, in conjunction with the law enforcement agency concerned, will promptly take, in appropriate circumstances, those measures necessary to provide reasonable protection for the victim or witness. These measures may include temporary attachment or assignment, or permanent reassignment, of military personnel, or in some cases the provision of State, other Federal, or foreign protective assistance. The trial counsel, VWL, or other Government representative will immediately notify the SJA whenever a victim or witness

expresses genuine concern for his or her safety. The SJA should contact USACIDC for all victim and witness requests to be in the Federal Witness Protection program, and for fear of life transfers.

*c. Separate waiting area.* At courts-martial and investigative proceedings, victims and Government witnesses should, to the greatest extent possible, be afforded the opportunity to wait in an area separate from the accused or defense witnesses to avoid embarrassment, coercion, or similar emotional distress. In a deployed environment, victims and Government witnesses should be afforded a separate waiting area to the greatest extent practicable.

*d. Arranging witness interviews.* Within the guidelines of RCM 701(e) and at the request of the victim or other witness, a VWL or designee may act as an intermediary between a witness and representatives of the Government and the defense for the purpose of arranging witness interviews in preparation for trial. The VWL's role in arranging witness interviews is to ensure that witnesses are treated with courtesy and respect and that interference with their lives and privacy is kept to a minimum. This paragraph is not intended to prevent the defense or the Government from contacting potential witnesses not previously identified or who have not requested a VWL to act as an intermediary.

#### **17-20. Notification to employers and creditors**

On request of a victim or witness, the trial counsel, VWL, or other Government representative will inform an employer that the victim's or witness' innocent involvement in a crime or in the subsequent prosecution may cause or require his or her absence from work. In addition, if a victim or witness, as a direct result of an offense or of cooperation in the investigation or prosecution of an offense, suffers serious financial hardship, a Government representative will assist the victim or witness in explaining to creditors the reason for such hardship, as well as ensuring that legal assistance is available to Soldiers, retirees, and their Family members for this purpose.

#### **17-21. Witness fees and costs**

Witnesses requested or ordered to appear at investigations or courts-martial under UCMJ, Art. 32 may be entitled to reimbursement for their expenses under UCMJ, Arts. 46 and 47; the RCM 405(g); and chapter 5, above. The VWL must be familiar with the provisions of these directives and appropriately advise and assist witnesses. Victims and witnesses should be provided assistance in obtaining timely payment of witnesses fees and related costs. In this regard, coordination should be made with local finance officers for establishing procedures for payment after normal duty hours if necessary.

#### **17-22. Civilian witness travel to proceedings overseas**

*a.* When a civilian witness, other than a DOD employee, is located in the continental United States (CONUS) and is scheduled to testify in courts-martial or other legal proceedings overseas, a representative of the convening authority may request that the Clerk of Court, U.S. Army Judiciary issue invitational travel orders and arrange for transportation. The witness request should be faxed as follows: Overseas Witness Liaison, Office of the Clerk of Court, U.S. Army Judiciary, (facsimile (703) 696-8777; DSN 426-8777).

*b.* Requests should be timely submitted to ensure receipt by the Clerk of Court at least 10 days before the desired arrival date, particularly if passports must be obtained for the witness. Otherwise, the request must be accompanied by a brief explanation of the delay. Each request will include the following information numbered according to the subparagraphs below—

- (1) Name and date of birth of the witness.
- (2) Name of the case or other proceedings (include grade and complete name of the accused).
- (3) Type of court, investigation, or board, including general nature of the charges.
- (4) Date proceedings are to begin.
- (5) Desired arrival date of witness, destination or city, and estimated duration of stay.
- (6) Address of witness, including name of occupant if different from that of witness.
- (7) Witness' day and evening telephone numbers, if known.
- (8) Whether witness already has been contacted concerning attendance, by whom, and with what result.
- (9) Whether witness is known to possess a current U.S. passport.
- (10) Relationship of the witness to the proceedings (for example, victim, prosecution witness other than victim, relative of the accused, defense witness not related to the accused).
- (11) If the witness is a minor or disabled, the information required by subparagraphs (6) through (9), above, as to the witness' parent, guardian, or other escort.
- (12) Name, title, and telephone number of counsel requesting the witness and name, location, and telephone number of the VWL.
- (13) Fund citation to be used in invitational travel orders and any limitation as to the amount available. (Early citation of funds is essential to issuing invitational travel orders, so that prepaid tickets can be placed at the departure air terminal.)
- (14) Lodging information should include the name, address, and telephone number of the facility where the command has made reservations for the witness.

c. When the Office of the Clerk of Court is arranging a witness' travel, any proposed change by local authorities in the travel arrangements or itinerary must be coordinated first with that office.

d. If the requirement is cancelled after the witness has been contacted and agreed to proceed overseas, an explanation to be given the witness will be provided to the Clerk of Court.

### **17-23. Local services**

The trial counsel, VWL, or designee will ensure that victims and witnesses are informed of, and provided appropriate assistance to obtain, available services such as transportation, parking, child care, lodging, and court-martial translators or interpreters.

### **17-24. Transitional compensation**

The Transitional Compensation Program provides financial support, dependent upon the Soldier's ETS, for Family members of Soldiers who are discharged or sentenced to total forfeitures by court-martial or administrative separation proceedings for charges that include dependant abuse offenses. Victim/witness liaisons and all judge advocates will be familiar with transitional compensation procedures and benefits for victims as described in AR 608-1, DODI 1342.24, and 10 USC 1059. The VWLs and judge advocates will inform victims of their potential eligibility for this program and refer them to Army Community Services when appropriate. Judge advocates will advise transitional compensation approving officials on the standards for certifying transitional compensation applications (block 22 of DD Form 2698 (Application for Transitional Compensation)). Judge advocates will not conduct an independent legal review of the underlying basis for the transitional compensation.

### **17-25. Requests for investigative reports or other documents**

The SJA will ensure that victims' and witnesses' requests for investigative reports or other documents are processed under applicable Freedom of Information Act or Privacy Act procedures. In appropriate cases, the SJA may authorize release of a record of trial to a victim when necessary to ameliorate the physical, psychological, or financial hardships suffered as a result of the criminal act.

## **Section VI**

### **Confinement Facilities and Central Repository**

#### **17-26. Confinement facilities**

a. On entry of an offender into confinement, the commander of the confinement facility to which the offender is assigned will ensure receipt of DD Form 2704 and determine whether the victim and/or witness requested notification of changes in confinement status in the offender's case. If the DD Form 2704 is not available, the commander will make inquiry of the trial counsel or central repository to obtain the form.

b. If the victim and/or witness requested notification on DD Form 2704, the commander of the confinement facility will—

(1) Advise the victim and/or witness of the offender's place of confinement and the offender's projected minimum release date.

(2) Provide the victim and/or witness with the earliest possible notice of the following:

(a) The escape, work release, furlough, emergency or special temporary home parole, or any other form of release from custody of the offender;

(b) The transfer of the offender from one facility to another—this includes temporary custody by State or Federal officials for the purpose of answering additional criminal charges;

(c) The scheduling of a clemency or parole hearing for the offender;

(d) The release of the offender from supervised parole;

(e) The death of the offender, if the offender dies while in confinement.

(3) In cases involving escape of a confinee, emergency leave, or temporary home release, confinement facilities will make immediate efforts to notify victims and witnesses. The following will constitute reasonable effort:

(a) Attempted telephonic notification;

(b) Faxed notification, if possible;

(c) Written notification by overnight mail.

c. Methods used and attempts made will be recorded (including date, time and person notified). The DD Form 2705 (Victim/Witness Notification of Inmate Status) may be used for this purpose.

d. On transfer of the offender, the commander of the confinement facility will notify the gaining confinement facility of the victim's and/or witness' request by forwarding the completed DD Form 2704 with an information copy to the central repository.

e. Annually, no later than 31 January, the commander of the confinement facility will report to the DA central

repository the number of victims and witnesses who were notified of changes in confinement status during the reporting period, and the total number of confinees on whom notification is required.

#### **17–27. Reporting requirements and responsibilities**

*a.* The Army Corrections Command (DAPM–ACC), Victim/Witness Central Repository Manager, 150 Army Pentagon, Washington, DC 20310-0150 is the Army’s central repository for tracking notice of the status of offenders confined in Army confinement facilities and for tracking the following information:

(1) Number of victims and witnesses who received DD Form 2701 or DD Form 2702 from law enforcement or criminal investigative personnel;

(2) The number of victims and witnesses who were informed (as recorded on DD Form 2704 or otherwise) of their right to be notified of changes in confinee status;

(3) The number of victims and witnesses who were notified by confinement victim and witness assistance officials, using DD Form 2705, of changes in confinee status;

(4) The number of confinees, by Service, in Army confinement facilities as of 31 December of each year, about whom victim and witness notifications must be made.

*b.* Annually, no later than 15 February, the central repository will report to the Office of The Judge Advocate General, Criminal Law Division, 2200 Army Pentagon, Room 3B548, Washington, DC 20310-2200, cumulative figures for the previous calendar year on the notification and reporting requirements in subparagraph *a*, above. The DD Form 2706 (Annual Report on Victim and Witness Assistance) will be used for this purpose.

*c.* Annually, not later than 15 February, the SJA of each command having GCM jurisdiction will report, through major Army command channels, to the Office of The Judge Advocate General, Criminal Law Division, 2200 Army Pentagon, Room 3B548, Washington, DC 20310-2200, cumulative information on the following:

(1) The number of victims and witnesses who received DD Form 2701 or 2702 from trial counsel, VWL or designee;

(2) The number of victims and witnesses who received DD Form 2703 from trial counsel, VWL or designee.

*d.* Staff judge advocates will obtain data for their reports from subordinate commands attached or assigned to their GCM jurisdiction for military justice purposes, including supported RC units. Negative reports are required. The DD Form 2706 will be used for this purpose. The Criminal Law Division, OTJAG, will prepare a consolidated report on DD Form 2706 for submission to the Department of Defense (Under Secretary for Personnel and Readiness, Legal Policy Office).

#### **17–28. Evaluation of Victim/Witness Liaison Program services**

*a.* Staff judge advocates will ensure that each victim and witness in an incident that is prosecuted at a GCM or SPCM, or investigated pursuant to UCMJ, Art. 32, in those cases not disposed of by GCM or SPCM, receives a victim/witness evaluation form. These forms may also be provided to other victims and witnesses.

*b.* Staff judge advocates will use DA Form 7568 (Army Victim/Witness Liaison Program Evaluation).

*c.* Evaluation forms will be reviewed locally by the SJA and copies forwarded quarterly to the Victim/Witness Coordinator, Office of The Judge Advocate General, Criminal Law Division, 2200 Army Pentagon, Room 3B548, Washington, DC 20310-2200, by postal mail or electronically.

*d.* The evaluation form may be provided to victims and witnesses by hand, by mail or otherwise, but must be returned in an anonymous manner, for example, by providing a drop box away from the military justice section, or by providing a pre-addressed envelope or other anonymous means of return. The recipients of the evaluation form must be advised that the form will be returned in an anonymous manner and cannot be accepted in any other manner. The evaluation form will be accompanied by a cover letter under the signature of the SJA. The cover letter will thank the victim/witness for assisting in the prosecution, and emphasize the need for a response and the anonymous nature of the response.