



## DoD INSTRUCTION 1030.02

### VICTIM AND WITNESS ASSISTANCE

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<b>Originating Component:</b>	Office of the Under Secretary of Defense for Personnel and Readiness
<b>Effective:</b>	September 2, 2020
<b>Releasability:</b>	Cleared for public release. Available on the Directives Division Website at <a href="https://www.esd.whs.mil/DD/">https://www.esd.whs.mil/DD/</a> .
<b>Incorporates and Cancels:</b>	DoD Instruction 1030.01, "Victim and Witness Assistance," April 13, 2004 DoD Instruction 1030.2, "Victim and Witness Assistance Procedures," June 4, 2004
<b>Cancels:</b>	Directive-type Memorandum 14-003, "DoD Implementation of Special Victim Capability (SVC) Prosecution and Legal Support," February 12, 2014
<b>Approved by:</b>	Matthew P. Donovan, 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 instruction as the "Uniform Code of Military Justice" (UCMJ).
- Establishes policy, assigns responsibilities, and prescribes procedures for:
  - The rights of crime victims under the UCMJ and required mechanisms for enforcement, in accordance with Section 1701 of Public Law 113-66 and in accordance with DoD standards for victim witness assistance services in the military community established in DoD Instruction (DoDI) 6400.07.
  - Providing timely notification of information and assistance available to victims and witnesses of crime from initial contact through investigation, prosecution, and confinement in accordance with Sections 1512 through 1514 of Title 18, U.S.C.; Parts 286 and 111 of Title 32, Code of Federal Regulations; DoDI 1325.07; DoDD 7050.06; Sections 113, 1034, 1059, and 1408 of Title 10, U.S.C.; and Section 1706 of Public Law 113-66.

- Annual reporting requirements on assistance provided across the DoD to victims and witnesses of alleged crimes.
- Provides for legal assistance for crime victims entitled to such services pursuant to Sections 1044 and 1044e of Title 10, U.S.C., and in accordance with the October 17, 2011 Under Secretary of Defense for Personnel and Readiness (USD(P&R)) Memorandum and Section 1565b of Title 10, U.S.C., and as further prescribed by the Military Departments and National Guard Bureau policies.
- Incorporates Section 573 of Public Law 112-239, requiring each Military Service to establish a special victim capability comprised of specially trained criminal investigators, judge advocates, paralegals, and victim and witness assistance personnel to support victims of covered special victim offenses. To de-conflict with victims' counsel programs, this distinct group of recognizable professionals will be referred to, at the DoD level, as the Special Victim Investigation and Prosecution (SVIP) capability.
- Incorporates the victim and witness portion of the special victim capability in accordance with DoDI 5505.19.
- Incorporates Section 1716 of Public Law 113-66 and Section 533 of Public Law 113-291, requiring the Military Services to provide legal counsel, known as Special Victims' Counsel or Victims' Legal Counsel (SVC/VLC), to assist victims of alleged sex-related offenses in violation of Articles 120, 120a, 120b, 120c, 125 (before January 1, 2019) of the UCMJ, and attempts to commit any of these offenses under Article 80 of the UCMJ, who are eligible for legal assistance in accordance with Sections 1044 and 1044e of Title 10, U.S.C., and as further prescribed by the Military Departments' and National Guard Bureau policies.

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## **SECTION 1: GENERAL ISSUANCE INFORMATION**

### **1.1. APPLICABILITY.**

This issuance applies to:

- a. 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 the 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”).
- b. Any military or civilian victims or witnesses of alleged offenses under the UCMJ.

### **1.2. POLICY.**

a. The DoD is committed to protecting the rights of victims and witnesses of alleged crimes and supporting their needs in 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 focus on the victim and will respond, protect, and care for the victim from initiation of a report through alleged offense disposition, if applicable, and will continue such support until the victim is no longer eligible for such services or the victim specifies to the local responsible official that he or she no longer requires or desires services.

c. Each DoD Component will provide particular attention and support to victims of serious, violent alleged crimes, including child abuse, domestic violence, and sexual assault. In order to ensure the safety of victims, and their families, victim assistance personnel shall respect the dignity and the privacy of persons receiving services, and carefully observe any safety plans and military or civilian protective orders in place.

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

e. Making or preparing to make or being perceived as making or preparing to make a protected communication, to include reporting a violation of law or regulation, including a law or regulation prohibiting rape, sexual assault, or other sexual misconduct, in violation of Sections 920 through 920c of Title 10, U.S.C., sexual harassment; or unlawful discrimination, in accordance with Section 1034 of Title 10, U.S.C., Section 1709 of Public Law 113-66, and DoDD 7050.06, shall not result in reprisal activity from management officials.

f. This instruction is not intended to, and 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 accord to

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. USD(P&R).**

The USD(P&R):

- a. Establishes overall policy for victim and witness assistance and monitors compliance with this instruction.
- b. Approves procedures developed by the Secretaries of the Military Departments that implement and are consistent with this instruction.
- c. Maintains the DoD Victim Assistance Leadership Council, in accordance with DoDI 6400.07, which advises the Secretary of Defense on policies and practices related to the provision of victim assistance and provides a forum that promotes efficiencies, coordinates victim assistance-related policies, and assesses the implementation of victim assistance standards across the DoD's victim assistance-related programs.
- d. Submits an annual report to the Office for Victims of Crime, Department of Justice, identifying the number of specified notifications made to victims and witnesses of alleged crimes.

### **2.2. DIRECTOR, DOD HUMAN RESOURCES ACTIVITY.**

Under the authority, direction, and control of the USD(P&R), the Director, DoD Human Resources Activity, through the Defense Manpower Data Center, assists in formulating a data collection mechanism to track and report victim notifications from initial contact through investigation to disposition, to include prosecution, confinement, and release.

### **2.3. INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.**

The Inspector General of the Department of Defense:

- a. Establishes investigative policy and performs appropriate oversight reviews of the management of the Victim Witness Assistance Program (VWAP) by the DoD military criminal investigative organizations (MCIOs). This is not intended to substitute for the routine managerial oversight of the program provided by the MCIOs, the USD(P&R), the DoD Component heads, the DoD Component responsible officials, or the local responsible officials.
- b. Investigates and oversees DoD Component Inspector General investigations of allegations or reprisal for making or 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.

## 2.4. DOD COMPONENT HEADS.

The DoD Component heads:

- a. Ensure compliance with this instruction, and establish policies and procedures to implement the VWAP within their DoD Components.
- b. Designate the DoD Component responsible official for the VWAP, who will report annually to the USD(P&R) using the DD Form 2706.
- c. Provide for the assignment of personnel in sufficient numbers 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 confinee information for each Military Service, and establish procedures to ensure victims who so elect are notified of changes in inmate 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 personnel, family advocacy personnel, military treatment facility health care providers and emergency room personnel, family service center personnel, military equal opportunity personnel, judge advocates, SVC/VLCs, 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 assist them in complying with this instruction. Training programs will include specialized training for VWAP personnel assigned to the SVIP capability, in accordance with Paragraph 2.4.e. of this instruction.
- g. Designate local responsible officials in writing in accordance with Military Service regulations and Paragraph 3.1. of this instruction.
- h. Maintain oversight procedures to ensure establishment of an integrated support system capable of providing the services outlined in Section 3 of this instruction, 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 that victims are notified of and afforded the rights specified in the UCMJ, including the rights specified in Article 6b of the UCMJ (Section 806b of Title 10, U.S.C.) and Rules for Courts-Martial (R.C.M.) 306.
- j. Establish mechanisms for the enforcement of the rights specified in the UCMJ, including mechanisms for the application for such rights and for consideration and disposition of applications for such rights. At a minimum, such enforcement mechanisms will include the designation of an authority within each Military Service to receive and investigate complaints relating to the provision or violation of such rights and the establishment of disciplinary

sanctions for responsible military and civilian personnel who wantonly fail to comply with the requirements relating to such rights.

## SECTION 3: PROCEDURES

### 3.1. LOCAL RESPONSIBLE OFFICIALS.

Local responsible officials:

- a. Will coordinate to ensure that systems are in place at the installation level to provide information on available benefits and services, assist in obtaining those benefits and services, and provide other services required by this section.
- b. May delegate their duties as appropriate, but retain responsibility to coordinate the delivery of required services.
- c. May use an interdisciplinary approach involving the various service providers, which may include chaplains, sexual assault prevention and response personnel, family advocacy personnel, military treatment facility health care providers and emergency room personnel, family service center personnel, military equal opportunity personnel, judge advocates, SVC/VLCs, 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.

### 3.2. COMPREHENSIVE INFORMATION AND SERVICES TO BE PROVIDED TO VICTIMS AND WITNESSES.

#### a. Rights of Crime Victims.

Personnel directly engaged in the prevention, detection, investigation, and disposition of offenses, to include courts-martial, including law enforcement and legal personnel, commanders, trial counsel, and staff judge advocates, will ensure that victims are accorded their rights in accordance with Article 6b of the UCMJ. A crime victim has the right to:

- (1) Be reasonably protected from the accused offender.
- (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 public proceeding of the Military Department Clemency and Parole Board relating to the offense.

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

(3) Be present at, and not be excluded from, any public hearing or proceeding described in this section, unless the military judge or preliminary hearing officer of a hearing conducted pursuant to Article 32 of the UCMJ 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 public 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) Crime 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 offense under Articles 120, 120a, 120b, or 120c or forcible sodomy under the UCMJ or attempts to commit such offenses under Article 80 of the UCMJ, who are eligible for legal assistance per Military Department or National Guard Bureau policies or in accordance with Sections 1044 or 1044e of Title 10, U.S.C., may consult with a SVC/VLC in accordance with Paragraph 3.5. Victims of these covered alleged offenses will be informed by a sexual assault response coordinator (SARC), victim advocate, victim witness liaison, military criminal investigator, trial counsel, or other local responsible official that they have the right to consult with a SVC/VLC 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.

(c) All victims may also elect to 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 treated with fairness and respect for his or her dignity and privacy.
- (9) Express his or her views to the commander or convening authority as to disposition of the case.
- (10) Not be prevented from, or charged for, receiving a medical forensic examination.
- (11) Have a sexual assault evidence collection kit or its probative contents preserved, without charge.
- (12) Be informed of any result of a sexual assault evidence collection kit, including a deoxyribonucleic acid (DNA) profile match, toxicology report, or other information collected as part of a medical forensic examination, if such disclosure would not impede or compromise an ongoing investigation.
- (13) Be informed in writing of policies governing the collection and preservation of a sexual assault evidence collection kit.
- (14) Upon written request, receive written notification from the appropriate official with custody not later than 60 days before the date of the intended destruction or disposal of a sexual assault evidence collection kit.
- (15) Upon written request, be granted further preservation of the kit or its probative contents.
- (16) Express a preference regarding whether the offense should be prosecuted by court-martial or in a civilian court with jurisdiction over the offense (for a victim of an alleged sex-related offense that occurs in the United States).
  - (a) Victims expressing a preference for prosecution of the offense in a civilian court shall have the civilian authority with jurisdiction over the offense notified of the victim's preference for civilian prosecution by the convening authority.
  - (b) The convening authority shall notify the victim of any decision by the civilian authority to prosecute or not prosecute the offense in a civilian court, if the convening authority learns of any decision.

**b. Initial Information and Services.**

- (1) Immediately after identification of a crime victim or witness, the local responsible official, law enforcement officer, or criminal investigation officer will explain and provide information to each victim and witness, as appropriate, including:
  - (a) The DD Form 2701, "Initial Information for Victims and Witnesses of Crime," or computer-generated equivalent will be used as a handout to convey basic information. Specific points of contact will be recorded on the appropriate form authorized for use by the particular Military Service.

(b) Proper completion of this form serves as evidence that the local responsible official or designee, law enforcement officer, or criminal investigative officer notified the victim or witness of his or her rights, as described in Paragraph 3.2.a. Personnel directly engaged in the prevention, detection, investigation, and disposition of offenses, to include courts-martial, including law enforcement and legal personnel, commanders, trial counsel, and staff judge advocates, will ensure that victims are afforded their rights in accordance with Article 6b of the UCMJ and Section 1701 of Public Law 113-66. The date the form is given to the victim or witness shall be recorded by the delivering official. This serves as evidence the victim or witness was timely notified of his or her statutory rights.

(2) The local responsible official will explain the form to 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 sexual assault, and, when necessary, assistance in securing such services.

(b) Information about restitution or other relief a victim may be entitled to, and the manner in which such relief may be obtained.

(c) Information to victims of intra-familial abuse alleged 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 offender and from people acting in concert with or under the control of the accused offender.

(f) Information concerning military and civilian protective 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 Section 1704 of Public Law 113-66. This includes an explanation of:

1. Victim's roles and rights during pretrial interviews with law enforcement, investigators, government counsel, and defense counsel and during preliminary hearings pursuant to Article 32 of the UCMJ and Section 1702 of Public Law 113-66.

2. Victim's rights when action is taken by the convening authority pursuant to Article 60 of the UCMJ, and during the post-trial/clemency phase of the process.

(h) If necessary, assistance in contacting the people 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 his or her rights as a crime victim pursuant to federal law and DoD policy. This includes the right of Service members and their dependents to consult a military legal assistance attorney in accordance with Paragraph 3.4, or a SVC/VLC in accordance with Paragraph 3.5. In accordance with Section 573 of Public Law 112-239 and DoDI 5505.19, the Military Services 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 special victim offenses within the respective Military Departments. Active and retired Service members and their dependents are eligible to receive legal assistance pursuant to Sections 1044 and 1565 of Title 10, U.S.C., and the October 17, 2011 USD(P&R) Memorandum.

**c. Information to be Provided During Investigation of a Crime.**

(1) If a victim or witness has not already received the DD Form 2701 from the local responsible official or designee, it will be provided by law enforcement officer or investigator.

(2) Local responsible officials or law enforcement investigators and 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 to be Provided Concerning the Prosecution of a Crime.**

(1) The DD Form 2702, "Court-Martial Information for Victims and Witnesses of Crime," will be used as a handout to convey basic information about the court-martial process. The date it is given to the victim or witness shall be recorded by the delivering official. If applicable, the following will be explained or provided by the U.S. Government attorney, or designee, to victims and witnesses:

(a) Notification of crime victims' rights, to include the victim's right to express views as to disposition of case to the responsible commander and convening authority.

(b) Notification of the victim's right to seek the advice of an attorney with respect to his or her rights as a crime victim pursuant to federal law and DoD policy. This includes the right of service members and their dependents to consult a military legal assistance attorney in accordance with Paragraph 3.4, or a SVC/VLC in accordance with Paragraph 3.5. In accordance with Section 573 of Public Law 112-239 and DoDI 5505.19, the Military Services 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 special victim offenses within the respective Military Departments. Active and retired Service

members and their dependents are eligible to receive legal assistance pursuant to Sections 1044 and 1565 of Title 10, U.S.C., and the October 17, 2011 USD(P&R) Memorandum.

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

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

(e) Notification of the initial appearance of the accused offender 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.

(f) Notification of the release of the suspected offender from pretrial confinement.

(g) Explanation of the court-martial process.

(h) Before any court proceedings (as defined to include 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 such as transportation, parking, child care, lodging, and courtroom translators or interpreters that may be necessary to allow the victim or witness to participate in court proceedings.

(i) 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 ship or in a deployed environment, provide a private waiting area to the greatest extent practicable.

(j) 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 to 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.

(k) Notification of the recommendation of a preliminary hearing officer when an Article 32 preliminary hearing is held.

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

(m) Notification of the disposition of the case, to include the acceptance of a plea of "guilty," the rendering of a verdict, the withdrawal or dismissal of charges, or disposition other than court-martial, to specifically include non-judicial punishment under Article 15 of the UCMJ, administrative processing or separation, or other administrative actions.

(n) Notification to victims of the opportunity to present to the court at sentencing, in compliance with applicable law and regulations, a statement of the impact of the crime 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 (guilty plea) inquiry before findings.

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

(p) Notification of the opportunity to receive a copy of proceedings. 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, without regard to the findings of the court-martial. 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, for example, when it might lessen the physical, psychological, or financial hardships suffered as a result of a criminal act.

(2) After court proceedings, the local responsible official will take appropriate action to ensure that property of a victim or witness held as evidence is safeguarded and returned as expeditiously as possible.

(3) Except for information that is provided by law enforcement officials and U.S. Government counsel in accordance with Paragraphs 3.2.c. and 3.2.d. of this instruction, 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 the safety of a victim or 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, this instruction is not intended to limit the responsibility or authority of the Military Service or the Defense Agency officials to act in the interest of good order and discipline.

#### **e. Information and Services to be 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," will be used as a handout to convey basic information about the post-trial process.

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

(a) General information regarding the convening authority's action, the appellate process, the corrections process, information about 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, to include the convening authority's action, hearings and decisions on appeal, changes in inmate status, and consideration for parole. The DD Form 2704, "Victim/Witness Certification and Election Concerning Prisoner Status," will be explained and used for victims and appropriate witnesses to elect to be notified of these actions, hearings, decisions, and changes in the offender's status in confinement. The DD Form 2704-1, "Victim Election of Post-trial Rights," 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.

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

a. Incomplete DD Forms 2704 received by the 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 an inmate access to DD Forms 2704 or attach a copy of the forms to any record to which the inmate 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 and forwarded to the Service's central repository, the local responsible official, and the victim or witness, if any.

3. For all convictions with a qualifying victim, a DD Form 2704-1 will be completed for each victim and 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 qualifying victim personally signs and initials a declination to receive the record of trial or to submit matters in clemency, this form may satisfy the requirement for a written waiver. (See R.C.M. 1103(g)(3)(C) and 1105A(f)(3).)

4. The DD Forms 2704, 2704-1, and 2705, "Notification to Victim/Witness of Prisoner Status," 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 Article 60 of the UCMJ and R.C.M. 1105A.

#### **f. Information and Services to be 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 Service

central repository whether any victim or witness has requested notification of changes in inmate status in the case.

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

1. The date the DD Form 2705 is given to the victim or witness shall be recorded by the delivering official. This serves as evidence that the officer notified the victim or witness of his or her statutory rights.

2. Do not allow the inmate access to DD Form 2705 or attach a copy of the forms to any record to which the inmate 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 inmate.

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

3. The transfer of the inmate 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 inmate.

5. The release of the inmate to supervision.

6. The death of the inmate, if the inmate dies while in custody or under supervision.

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

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

(e) On transfer of an inmate to another military confinement facility, forward the DD Form 2704 to the gaining facility, with an information copy to the Service central repository.

(2) The status of victim and witness notification requests will be reported annually to the Service central repository.

#### **g. Information and Services to be 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 (C.A.A.F.) or by the U.S. Supreme Court, the U.S. Government appellate

counsel or appropriate Military Service designee will ensure that 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 that the victim is entitled to attend.

(b) Notification of the decision of the court.

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

(3) The Military Services may use the sample appellate notification letter found at Figure 1 in this instruction, or develop their own templates to keep victims informed of appellate court proceedings and decisions.

#### **h. Information and Services to be 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 has been 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 that 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. Reporting Procedures.**

(1) The DoD Component responsible official will submit an annual report using the DD Form 2706 to:

Office of the Under Secretary of Defense for Personnel and Readiness  
Attention: Legal Policy Office  
4000 Defense Pentagon  
Washington, DC 20301-4000

(2) The report will be submitted by March 15 for the preceding calendar year and will address the assistance provided to victims and witnesses of crime.

**Figure 1: Sample Appellate Notification Letter**

[Victim Name]

[Address]

Dear [Mr.][Mrs.][Ms.] [Victim Name]:

The United States [Military Department] believes it is important to keep victims of crimes under the Uniform Code of Military Justice informed of court proceedings and decisions. Based on your election, and in accordance with Department of Defense Instruction 1030.02, "Victim and Witness Assistance," we are providing you with information about the military appellate process. An appeal is a legal proceeding by which a case is brought before a higher court for review of a decision made by a lower court. Convicted military members are generally entitled to appellate review even if they do not specifically allege any errors in the trial process.

[Name of Accused]'s case was submitted for appellate review on [Date] at the [Military Department] Court of Criminal Appeals. The Court of Criminal Appeals may consider briefs about the case or ask for briefs on specific issues in the case. The Court may also decide to hold a public courtroom proceeding to hear arguments about the case. If the Court determines a courtroom proceeding is warranted, you will be notified of the date and location so that you may attend. If the Court declines to hold a courtroom proceeding and decides the issue on the basis of briefs (or in the absence of any briefs), you will be notified of the ultimate decision.

A decision by the [Military Department] Court of Criminal Appeals is not necessarily the final resolution of this case. There are two superior courts from which the Appellant or the Government could also seek review. The [Military Department] Court of Criminal Appeals' decision may be appealed to the Court of Appeals for the Armed Forces (C.A.A.F.). If C.A.A.F. declines to review the appeal, the case becomes final and you will be informed. If C.A.A.F. decides to consider the appeal, you will be informed of the review taking place, of any courtroom proceedings, and of the final decision. If C.A.A.F. renders a decision on the case, that decision may be appealed to the Supreme Court of the United States. If this were to occur, you will be notified. Cases are also sometimes returned to the [Military Department] Court of Criminal Appeals for further proceedings. In addition, the Appellants may also petition the [Military Department Judge Advocate General] for a new trial based on newly discovered evidence or fraud upon the court. If that were to occur, you will be notified.

Right now, the case is before the [Military Department] Court of Criminal Appeals. Nothing is required of you but if you have questions or desire additional information, please contact [DESIGNATED REPRESENTATIVE/OFFICE] at [CONTACT INFORMATION].

Sincerely,  
(Military Department designee)

(3) The report will include:

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

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

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

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

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

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

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

(4) The Office of the USD(P&R) will consolidate all reports submitted by each Military Service, and submit an annual report to the Bureau of Justice Statistics, and Office for Victims of Crime, Department of Justice.

### **3.3. SVIP CAPABILITY.**

a. In accordance with Section 573 of Public Law 112-239 and DoDI 5505.19, the Military Services 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 special victim offenses within the respective Military Departments.

b. Covered special victim offenses include:

(1) Unrestricted reports of adult sexual assault.

(2) Unrestricted reports of domestic violence involving sexual assault and/or aggravated assault with grievous bodily harm.

(3) Child abuse involving child sexual abuse and/or aggravated assault with grievous bodily harm.

c. Military Service SVIP programs will include, at a minimum, specially trained and selected:

- (1) 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. Each Military Service will maintain standards for the selection, training, and certification of personnel assigned to provide this 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 methods of interacting with and supporting special victims to ensure their rights are understood and respected.
- (3) Focus on building advanced litigation, case management, and technical skills.
- (4) Ensure that all SVIP legal 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 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. Each Military Service will maintain and periodically review measures of performance and effectiveness to objectively assess Service programs, policies, training, and services. At a minimum, these Service-level review measures will include:

- (1) Percentage of all preferred court-martial cases that involve special victim offenses in each fiscal year.
- (2) Percentage of special victim offense courts-martial tried by, or with the direct advice and assistance of, a specially trained prosecutor.
- (3) Compliance with DoD VWAP informational, notification, and reporting requirements specified in Paragraphs 3.2.a. through 3.2.i. of this section, to ensure victims are consulted with and regularly updated by special victim capability legal personnel.

(4) Percentage of specially trained prosecutors and other legal support personnel having received additional and advanced training in topical areas.

f. The Military Services will also consider victim feedback on effectiveness of special victim prosecution and legal support services and recommendations for possible improvements, as provided in DoD survivor experience surveys or other available feedback mechanisms. This information will be used by the Military Services 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 positive impact on this decision.

g. Designated SVIP capability personnel will collaborate with local DoD SARCs, sexual assault prevention and response victim advocates (SAPR VA), Family Advocacy Program (FAP) managers, and domestic abuse victim advocates during all stages of the military justice process to ensure an integrated capability.

h. To support this capability, active liaisons shall be established at the installation level with these organizations and key individuals:

- (1) Local military and civilian law enforcement agencies.
- (2) SARCs.
- (3) Victim advocates.
- (4) FAP managers.
- (5) Chaplains.
- (6) Sexual assault forensic examiners and other medical and mental health care providers.
- (7) Unit commanding officers.
- (8) Other persons designated by the Secretaries of the Military Departments necessary to support special victims.

i. In cases of adult sexual assault, the staff judge advocate or designated representative of the responsible legal office will participate in case management group meetings, in accordance with DoDD 6495.01, on a monthly basis to review individual cases. Cases involving victims who are assaulted by a spouse or intimate partner will be reviewed by FAP.

j. The staff judge advocate or designated representative of the responsible legal office will participate in FAP case review or incident determination meetings of domestic violence, spouse or intimate partner sexual assault, and child abuse cases in accordance with DoDI 6400.06.

k. In the case of a victim who is under 18 years of age and not a member of the Military Services, 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.

(1) The Secretaries of the Military Departments may publish additional guidance or regulations regarding who, before referral, may designate an appropriate representative, such as the convening authority or other qualified local responsible official.

(2) In making a decision to appoint a representative, the designating authority should consider:

- (a) The representative's age and maturity and relationship to the victim.
- (b) The physical proximity to the victim.
- (c) The costs incurred in effecting the appointment.
- (d) The willingness of the proposed designee 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 preference of the victim, if known.
- (g) Any potential delay in any proceeding that may be caused by a specific appointment.
- (h) Any other relevant information.

(3) 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, may elect legal representation for a SVC/VLC on behalf of the victim.

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

(5) In the absence of an appointment of a legal representative, the victim may exercise his/her own legal and regulatory rights, as described herein. Where an appointment is required or discretionary, nothing in this policy precludes a victim from being appointed as his/her own legal representative, as appropriate.

### **3.4. LEGAL ASSISTANCE FOR CRIME VICTIMS.**

#### **a. Eligibility.**

Active and retired Service members and their dependents are eligible to receive legal assistance pursuant to Sections 1044 and 1565b of Title 10, U.S.C., and the October 17, 2011 USD(P&R) Memorandum.

**b. Information and Services.**

Legal assistance services for crime victims will include confidential advice and assistance for crime victims to address:

- (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 an expedited transfer, if applicable.
- (9) Availability of and protections offered by civilian and military protective orders.

**3.5. SVC/VLC LEGAL COUNSEL PROGRAMS.**

**a. Eligibility.**

In accordance with Sections 1044, 1044e, and 1565b of Title 10, U.S.C.; Section 1716 of Public Law 113-66; and Section 533 of Public Law 113-291, the Military Services provide legal counsel, known as SVC/VLC, to assist victims of alleged sex-related offenses, including Articles 120, 120a, 120b, and 120c; forcible sodomy under Article 125 (before January 1, 2019) of the UCMJ; attempts to commit such offenses under Article 80 of the UCMJ; or other crimes under the UCMJ as authorized by the Service, who are eligible for legal assistance pursuant to Section 1044e of Title 10, U.S.C., and as further prescribed by the Military Departments and National Guard Bureau policies. Individuals eligible for SVC/VLC representation include any of the following:

- (1) Individuals entitled to military legal assistance under Sections 1044 and 1044e of Title 10, U.S.C., and as further prescribed by the Military Departments and National Guard Bureau policies.
- (2) Members of a reserve component of the armed forces, in accordance with Section 533 of Public Law 113-291, and as further prescribed by the Military Departments and National Guard Bureau policies.
- (3) Civilian employees of the Department of Defense not otherwise entitled to legal assistance, as provided for in Section 532 of Public Law 114-92.

**b. Attorney-Client Information and Services.**

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

- (1) Legal consultation regarding the VWAP, including:
  - (a) The rights and benefits afforded the victim.
  - (b) The role of the VWAP liaison.
  - (c) The nature of communication made to the VWAP liaison in comparison to communication made to a SVC/VLC or a legal assistance attorney pursuant to Section 1044 of Title 10, U.S.C.
- (2) Legal consultation regarding the responsibilities and support provided to the victim by the SARC, a unit or installation sexual assault victim advocate, or domestic abuse advocate, to include any privileges that may exist regarding communications between those persons and the victim.
- (3) Legal consultation regarding the potential for civil litigation against other parties (other than the DoD).
- (4) 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 military criminal investigators.
  - (b) Any proceedings of the military justice process in which the victim may observe or participate in person or through his or her SVC/VLC.
- (5) Accompanying or representing the victim at any proceedings when necessary and appropriate, including interviews, in connection with the reporting, investigation, and prosecution of the alleged sex-related offense.
- (6) Legal consultation regarding eligibility and requirements for services available from appropriate agencies or offices for emotional and mental health counseling and other medical services.
- (7) 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 Section 1059 of Title 10, U.S.C.; DoDI 1342.24; and other State and federal victims' compensation programs.

(e) The victim's rights and options at trial, to include the option to state a preference to decline participation or withdraw cooperation as a witness and the potential consequences of doing so.

(8) 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 (collateral misconduct), regardless of whether the report of that offense is restricted or unrestricted in accordance with DoDI 6495.02. Victims may also be referred to the appropriate defense services organization for consultation on the potential criminal implications of collateral misconduct.

(9) Other legal assistance as the Secretary of Defense or the Secretaries of the Military Departments may authorize.

## GLOSSARY

### G.1. ACRONYMS.

C.A.A.F.	Court of Appeals for the Armed Forces
DNA	deoxyribonucleic acid
DoDD	DoD directive
DoDI	DoD instruction
FAP	Family Advocacy Program
MCIO	military criminal investigative organization
R.C.M.	Rules for Courts-Martial
SAPR VA	Sexual Assault Prevention and Response Victim Advocate
SARC	sexual assault response coordinator
SVC	Special Victims' Counsel
SVIP	Special Victim Investigation and Prosecution
TJAG	The Judge Advocate General
UCMJ	Uniform Code of Military Justice
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness
VLC	Victims' Legal Counsel
VWAP	Victim Witness Assistance Program

### G.2. DEFINITIONS.

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

<b>TERM</b>	<b>DEFINITION</b>
<b>central repository</b>	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.

<b>TERM</b>	<b>DEFINITION</b>
<b>confinement facility victim witness assistance coordinator</b>	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.
<b>court proceeding</b>	A preliminary hearing held pursuant to Article 32 of the UCMJ; a hearing under Article 39(a) of the UCMJ; a court-martial; a military presentencing hearing; or a military appellate hearing. Conferences, such as those between attorneys and the military judge pursuant to R.C.M. 802 or between attorneys and preliminary hearing officers pursuant to Article 32, are not court proceedings for purposes of this instruction.
<b>DoD Component responsible official</b>	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 instruction.
<b>equal opportunity</b>	The right of all persons to participate in, and benefit from, programs and activities for which they are qualified. These programs and activities will be free from social, personal, or institutional barriers that prevent people from rising to the highest level of responsibility possible. Persons will be evaluated on individual merit, fitness, and capability, regardless of race, color, sex, national origin, or religion.
<b>local responsible official</b>	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 services described in this instruction through a multidisciplinary approach. The position or billet of the local responsible official will be designated in writing by Service regulation. The local responsible official may delegate responsibilities in accordance with this instruction.
<b>local Victim and Witness Assistance Council</b>	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 instruction, DoDI 6400.07, and any other applicable Service guidance.
<b>Military Department Clemency and Parole Board</b>	As defined in DoDI 1325.07, a board which assists the Military Department Secretary as the primary authority for administration and execution of clemency, parole, and mandatory supervised release policy and programs.

<b>TERM</b>	<b>DEFINITION</b>
<b>Military Services</b>	Refers to the Army, the Navy, the Air Force, the Marine Corps, the Space Force, the Coast Guard, and the Reserve Components, which include the Army and Air National Guards of the United States.
<b>protected communication</b>	Defined in DoDD 7050.06.
<b>reprisal</b>	Defined in DoDD 7050.66.
<b>restricted reporting</b>	As defined in DoDD 6495.01, this reporting option allows sexual assault victims to confidentially disclose the assault to specified individuals (i.e., SARC, SAPR VA, or healthcare personnel), in accordance with DoDI 1325.07, and receive medical treatment, including emergency care, counseling, and assignment of a SARC and SAPR VA, without triggering an official investigation.
<b>SAPR VA</b>	A person who, as a victim advocate, shall provide non-clinical crisis intervention, referral, and ongoing non-clinical support to adult sexual assault victims. Support will include providing information on available options and resources to victims. The SAPR VA, on behalf of the sexual assault victim, provides liaison assistance with other organizations and agencies on victim care matters and reports directly to the SARC when performing victim advocacy duties. Personnel who are interested in serving as a SAPR VA are encouraged to volunteer for this duty assignment.
<b>SARC</b>	The single point of contact at an installation or within a geographic area who oversees sexual assault awareness, prevention, and response training; coordinates medical treatment, including emergency care, for victims of sexual assault; and tracks the services provided to a victim of sexual assault from the initial report through final disposition and resolution.

<b>TERM</b>	<b>DEFINITION</b>
<b>special victim offenses</b>	The designated criminal offenses of sexual assault, domestic violence involving sexual assault, and/or aggravated assault with grievous bodily harm, and child abuse involving sexual assault and/or aggravated assault with grievous bodily harm, in violation of the UCMJ. Sexual assault includes offenses under Articles 120 (rape and sexual assault in general), 120b (rape and sexual assault of a child), and 120c (other sexual misconduct), or forcible sodomy under Article 125 (before January 1, 2019) of the UCMJ or attempts to commit such offenses under 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 under 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.
<b>specially trained prosecutors</b>	Experienced judge advocates detailed by Military Department TJAGs, the Staff Judge Advocate to the Commandant of the Marine Corps, or other appropriate authority to litigate or assist with the prosecution of special victim cases and provide advisory support to MCIO investigators and responsible legal offices. Before specially trained prosecutors are detailed, their Military Department's TJAG, the Staff Judge Advocate to the Commandant of the Marine Corps, or other appropriate authority has determined they have the necessary training, maturity, and advocacy and leadership skills to carry out those duties.
<b>SVC/VLC</b>	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 under 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.; Section 1716 of Public Law 113-66; and Section 533 of Public Law 113-291.

<b>TERM</b>	<b>DEFINITION</b>
<b>SVIP capability</b>	<p>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 investigators, judge advocates, victim witness assistance personnel, and administrative paralegal support personnel who work collaboratively to:</p> <p>Investigate and prosecute allegations of adult sexual assault, domestic violence involving sexual assault and/or aggravated assault with grievous bodily harm, and child abuse involving sexual assault and/or aggravated assault with grievous bodily harm.</p> <p>Provide support for the victims of such covered offenses.</p>
<b>unrestricted reporting</b>	<p>As defined in DoDD 6495.01, a process that an individual covered by this policy uses to disclose, without requesting confidentiality or Restricted Reporting, that he or she is the victim of a sexual assault. Under these circumstances, the victim's report provided to healthcare personnel, the SARC, a SAPR VA, command authorities, or other persons is reported to law enforcement and may be used to initiate the official investigative process.</p>
<b>victim</b>	<p>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. Victim assistance is limited to individuals eligible for military legal assistance under 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.</p>
<b>victim assistance personnel</b>	<p>As defined in Title 10, U.S.C., personnel who are available to provide support and assistance to victims of alleged crimes consistent with their assigned responsibilities and in accordance with this instruction. They include part-time, full-time, collateral duty, and other authorized individuals, and may be domestic violence or sexual assault prevention and response coordinators (to include unit and uniformed victim advocates), SARCs, victim-witness assistance personnel, or military equal opportunity advisors.</p>

**TERM**

**DEFINITION**

**victim assistance-related programs**

As defined in DoDI 6400.07, the SAPR Program, FAP, and the VWAP. A complainant under the DoD Military Equal Opportunity Program may be referred by the military equal opportunity office to one of the victim assistance-related programs for additional assistance.

**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 or 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 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
- DoD Instruction 1325.07, “Administration of Military Correctional Facilities and Clemency and Parole Authority,” March 11, 2013, as amended
- DoD Instruction 1342.24, “Transitional Compensation (TC) for Abused Dependents,” September 23, 2019
- 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, “Domestic Abuse Involving DoD Military and Certain Affiliated Personnel,” August 21, 2007, as amended
- DoD Instruction 6400.07, “Standards for Victim Assistance Services in the Military Community,” November 25, 2013, as amended
- DoD Instruction 6495.02, “Sexual Assault Prevention and Response (SAPR) Program Procedures,” March 28, 2013, as amended
- DoD Manual 5400.07, “DoD Freedom of Information Act (FOIA) Program,” January 25, 2017
- Public Law 112-239, Section 573, “National Defense Authorization Act for Fiscal Year 2013,” January 2, 2013
- Public Law 113-66, “National Defense Authorization Act for Fiscal Year 2014,” December 26, 2013
- Public Law 113-291, Section 533, “Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015,” December 19, 2014
- Public Law 114-92, Section 532, “National Defense Authorization Act for Fiscal Year 2016,” November 25, 2015
- United States Code, Title 10
- United States Code, Title 18
- Under Secretary for Defense for Personnel and Readiness Memorandum, “Legal Assistance for Sexual Assault Victims,” October 17, 2011