



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
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MILLINGTON, TN 38055-0000

BUPERSINST 5800.3B
BUPERS-00D
16 Sep 2021

BUPERS INSTRUCTION 5800.3B

From: Chief of Naval Personnel

Subj: VICTIM AND WITNESS ASSISTANCE PROGRAM

Ref: (a) Public Law 97-291, Victim and Witness Protection Act of 1982
(b) Public Law 101-647, Title V, Victims' Rights and Restitution Act of 1990
(c) DoD Instruction 1030.02 of 2 September 2020
(d) SECNAVINST 5800.11B
(e) OPNAVINST 5800.7A
(f) SECNAV M-1640.1

Encl: (1) Acknowledgement of Request to Participate Letter

1. Purpose. This instruction issues Navy policy on notifying victims and witnesses of the release of prisoners incarcerated in Navy military correctional facilities (MCFs) per references (a) through (f). This revision updates the procedures and adds the Acknowledgement of Request to Participate Letter (enclosure 1). This instruction is a complete revision and should be reviewed in its entirety.

2. Cancellation. BUPERSINST 5800.3A.

3. Scope and Applicability. This instruction applies to all Navy MCFs.

4. Policy. Each MCF must establish a Victim and Witness Assistance Program (VWAP), as outlined herein, for persons entered into the program through receipt of a DD 2704 Victim/Witness Certification and Election Concerning Prisoner Status. To implement this program, the MCF commanding officer (CO), officer in charge (OIC), or chief petty officer in charge (CPOIC) will appoint a victim and witness coordinator (VWC) in writing. The VWC must be a mature individual who understands the importance of the program, is sensitive to the needs of victims and witnesses, and rigorously ensures their confidentiality since the VWC deals with sensitive and personal information pertaining to victims and witnesses. Before assuming the duties of VWC, the individual must fully understand the responsibilities detailed in this instruction, references (c) through (f), and any other relevant instructions issued by the higher authority. The identity or location of a victim or witness must not be disclosed to the prisoner or any third party at any time. These procedures apply to prisoners of all Military Services confined in Navy MCFs. Navy policy is to enhance the role of victims and witnesses in the military criminal justice system and to ensure all victims and witness are treated with sensitivity, fairness, and respect. Information in Corrections Management Information System (CORMIS) will be used by the VWC as the Central Repository in managing the VWAP and generating

reports. The VWC will ensure information on victim-witness screens in CORMIS is accurate, up-to-date, and complete.

5. Definitions

a. Central Repository. Per reference (d), the Deputy Chief of Naval Personnel, as administered by the Bureau of Naval Personnel (BUPERS) Corrections and Programs Office (BUPERS-00D), is the central repository for the purpose of tracking notices of the status of post-trial prisoners confined in Navy MCFs. BUPERS-00D manages the CORMIS as the Navy's central data repository.

b. Release-related Activities. Any action, hearing or review that releases or changes the scheduled release date of a prisoner.

c. Victim. Defined in reference (c).

d. VWC. An individual appointed at each MCF responsible for keeping victims and witnesses notified of changes in a prisoner's status (i.e., release or release-related activities, transfer, escape, or death).

e. Witness. Defined in reference (c).

6. Discussion. Reference (a) was enacted to "enhance and protect the necessary role of victims and witnesses in the criminal justice process." Reference (b) expanded victim's interests and requires Federal agencies to make their "best effort" to ensure that victims receive appropriate consideration. Department of Defense (DoD) issued reference (c) to ensure the military Services' compliance with Federal law. Department of the Navy issued references (d) and (e) to implement DoD guidance. As required by references (d) and (f), when an accused is sentenced to confinement by a court-martial, the trial counsel must inform the victims and witnesses of their notification rights by using DD 2704. The trial counsel is required to promptly forward the DD 2704 to the confining MCF in all cases where confinement is adjudged. Victims and witnesses are responsible for notifying the MCF of any subsequent change in their address or phone number.

7. Procedures

a. Request for Notification. The initial requirement for notification will be sent to the MCF via DD 2704 by the trial counsel. Receipt of a DD 2704 will be documented and uploaded into CORMIS by the VWC. Initial verification of the receipt of a DD 2704 is to be made at the time of confinement of an adjudged prisoner. If a DD 2704 does not accompany an adjudged prisoner at the time of confinement, the MCF will notify the confining command and appropriate legal department immediately. Follow-up contact with trial counsel concerning a delinquent DD 2704 will be made by the VWC no later than the next working day. Attempts to obtain a delinquent

DD 2704 must be fully documented in CORMIS. If a DD 2704 remains delinquent more than 2 working days, the MCF CO, OIC, or CPOIC will attempt to resolve the deficiency using the chain of command. BUPERS-00D will utilize reports derived from CORMIS to monitor and track non-receipt of a DD 2704 for adjudged prisoners and closely coordinate with major claimants to ensure expedient resolution of identified issues.

Note: If a request for notification is received by a MCF directly from a victim or witness, by means other than a DD 2704, the VWC will determine if the individual is a victim or witness via the trial counsel or trial service office (TSO). If determined to be a victim or witness, a corrected DD 2704 should be prepared by the TSO, certifying the individual as a victim or witness and indicating their election to be notified. The TSO will promptly provide the corrected DD 2704 to the MCF.

b. Prisoner Files. Files of prisoners who have a victim and witness in the VWAP will be identified per reference (f).

c. Victim and Witness Notification Record. The VWC will maintain a separate adjunct file per reference (f). All contacts with a victim or witness, including telephonic and unsuccessful contact attempts, must be documented in the victim and witness notification record and CORMIS showing date, time, type of contact, phone number or address used, staff name, and reason(s) for contact and outcome. Neither the prisoner's name nor resident control number should be placed on certified mail receipts to avoid associating the prisoner information with contact information of victims and witnesses; however, an internal tracking system is authorized and will aid in distribution of mail receipts to the proper file. All victim and witness documents must be uploaded into CORMIS in the victim and witness module; do not upload documents in the administrative module as it will breach security of information.

d. Victim-Witness Log. The VWC at each MCF must keep a secure victim and witness log per reference (f). At a minimum, the log will include: resident control number of the prisoner; name of victim or witness; status (victim or witness); type of contact made (i.e.; initial, release, and transfer); date action taken; and successful or unsuccessful contact. Only the VWC and authorized alternates may have access to this log, and it must be secured with the adjunct file when not in use.

e. Types of Notification and Time-Frames. References (d) through (f) require notification of victims and witnesses by using DD 2705 Notification to Victim/Witness of Prisoner Status. This form is used to advise victims and witnesses of all release and release-related activities, transfers, and escapes. Notifications can serve multiple purposes, provided the appropriate boxes are checked on the DD 2705, and those same selections are annotated in CORMIS to reflect the types of notifications the DD 2705 covers. Unless a shorter period is prescribed below, notification should be made at least 45 days prior to the specific action; the exception would be release notifications, which should be sent as soon as the actual release date is known; normally within the last 30 days. All correspondence will be sent certified mail (return receipt requested);

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regular mail for PO Box or out of country addresses or secure e-mail using processes that require a return receipt upon acceptance (such as DoD SAFE (Safe Access File Exchange at: safe.apps.mil)). The receipt must be filed in the victim and witness notification record and uploaded into CORMIS. If any certified mail is returned or not accepted, the VWC will attempt to telephone the individual. All notifications, regardless of communication method, will be recorded in both CORMIS and the victim-witness log.

(1) Mail Notifications. Certified mail (return receipt requested) must be used when possible; however, overseas addresses and shipboard address are exceptions where certified mail cannot be delivered. In these cases, regular mail will be used along with telephonic notifications. A photocopy of the envelope will be placed in the adjunct file. The word “overseas” will be placed in the CORMIS field normally used for the certified receipt number.

(2) Telephonic Notification. All notifications should be preceded by telephonic notification. When victims or witnesses have elected notification, VWCs will make telephonic contact with the victim or witness to make initial notification, and verify accuracy of addresses and validate the phone number. If the telephone number is incorrect, the VWC will coordinate with the trial counsel to obtain the correct phone number. The VWC may line out the incorrect number and enter the correct information on the DD 2704. When the victim or witness is a minor, telephonic communication will be with the identified parent or guardian. During this initial telephone contact, VWCs may also ask if the victim or witness would like to provide an e-mail address for notification purposes. When e-mail addresses are provided, they will be entered on the DD 2704; privacy of victim and witness e-mail addresses must be kept in the same manner as all other information on the DD 2704. All telephonic notifications must be followed by a formal written notification using the DD 2705.

(3) E-Mail Contact

(a) Government e-mail contact with victims and witnesses must be for the purpose of executing required notifications and official business regarding VWAP. Communication via e-mail that does not contain PII, but facilitates official communication, is encouraged. When the victim or witness is a minor, e-mail communication must be with the identified parent or guardian; e-mail addresses of minors must not be recorded on the DD 2704.

(b) Security of Communication. Electronic accomplishment of victim-witness communication containing personally identifiable information (PII) must be encrypted. Electronic delivery of an encrypted DD 2705 is permitted if delivery is verified; such verification negates the necessity to send notifications via certified mail. Delivery to “.mil” e-mail addresses may allow encryption. When e-mailing PII to e-mail addresses outside of the DoD, or when encryption is not possible, “.pdf” documents may be password protected and transmitted. When “.pdf” documents are password protected, the password must meet DoD requirements and transmission of the password must be made via separate communication.

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(4) Initial Contact. An acknowledgement of request to participate in the program, enclosure (1), will be sent to victims and witnesses within 10-working days of receipt of DD 2704. A completed DD 2705 (section 1; section 2, blocks 3, 4, 5 and 10; section 3, block 12; and section 5 will be included with the initial enrollment letter. For sentences to confinement of 90 days or less, section 4, block 19b should be completed to make release notification; all changes in release date will require telephonic notification followed by written notification.

(5) Clemency, Parole, Mandatory Supervised Release (MSR) Hearing. Notify victims and witnesses at least 45 days in advance (or as soon as known) of clemency, parole, or MSR hearings held by the appropriate Military Service Clemency and Parole Board (C&PB). Advise victims and witnesses of their right to submit statements (written or taped) to the Service C&PB on the impact this crime has had on their lives. Refer requests from victims and witnesses to appear before a C&PB hearing to the appropriate Service C&PB. Personal appearances before the MCF Disposition Board are not authorized.

(6) Release. Notify victims and witnesses when a prisoner is to be released. Using a DD 2705, provide the date, reason for release and destination (city and state). In parole and MSR cases, include location, phone number, and name of the parole officer. Notification should be made as soon as release is scheduled, but no later than 30 days prior to release. Telephone contact must be made when the prisoner is unexpectedly released and a DD 2705 will not be received by the victim or witness prior to the prisoner's release.

(7) Escape. Notify victims and witnesses telephonically as soon as possible after discovery of an escape. Victims and witnesses must also be notified telephonically of the prisoner's apprehension and return to confinement. This information will be entered into CORMIS or provided to the other Military Service central repositories concerned by the most expeditious means available (e-mail, telephone etc.). See paragraph 7e(15) for procedures if a pretrial prisoner escapes. Written follow-up notification must also be made.

(8) Transfer

(a) Notify victims and witnesses of all planned transfers and include the address of the receiving MCF.

(b) The CO, OIC or CPOIC of the receiving MCF must ensure that the VWC notifies victims and witnesses of the prisoner's new location and enrollment in the MCF's victim and witness notification program within 14 days of arrival of the prisoner.

(c) A copy of the adjunct file will remain at the original MCF. All documents in the original file, to include the DD 2704, will be sealed with clear instructions to be opened only by VWC at the gaining MCF. The envelope will be marked "Controlled Unclassified Information" (CUI) with the address of the gaining MCF, "Attention Victim Witness Coordinator." The

envelope will be given to the prisoner escorts for hand delivery to the gaining MCF. The prisoner is prohibited from carrying this envelope.

(9) Leave. Notify victims and witnesses prior to the prisoner's release and upon return from leave; this will normally be by telephone. Written follow-up notification must also be mailed.

(10) Death. Notify the victim or witness within 10 days following the death of a prisoner.

(11) Canceling the Notification Request

(a) A victim or witness may request removal from the notification program only by writing to the MCF where the prisoner is currently confined. The VWC coordinator must verify this correspondence with the victim or witness.

(b) After three unsuccessful attempts to contact a victim or witness, at least once by certified mail, a MCF may request cancellation of a victim's or witness' participation in the notification requirement of the program from BUPERS-00D. Such requests must be submitted in writing, providing full justification and description of what efforts have been made to contact the victim or witness.

(12) Contact or Communication with Victims or Witnesses. Prisoners will be advised that they are not to initiate contact with any victim or witness either directly or through a third party. This prohibition includes contact via telephone, visits, writing letters, e-mail, and social media. The MCF CO, OIC or CPOIC may authorize approval of communication when victims or witnesses express desire to communicate with the prisoner. The MCF CO, OIC, or CPOIC will make a multi-disciplinary review of such requests prior to approval including clinical, family advocacy, and legal consultation (as relevant). This applies whether or not the victim or witness has elected to participate in the notification part of the program.

(13) Training. All MCF personnel will be provided information about the VWAP and staff responsibilities at least annually.

(14) Repository Reports. VWCs must ensure all VWAP information is current and entered into CORMIS. Per reference (e), BUPERS-00D will compile and submit a consolidated report to BUPERS Office of Legal Counsel (BUPERS-00J) for inclusion into the annual report submitted to the Under Secretary of Defense (Personnel and Readiness).

(15) Pretrial Prisoners. Responsibility for notifying a victim or witness regarding the status of a pretrial prisoner rests primarily with the pretrial prisoner's command and trial counsel. The VWC should be prepared to advise remote or small commands, including duty officers in the absence of the primary command contact, of the appropriate action when events dictate (e.g.; escape).

(16) Records Disposition

(a) MCFs

1. Transferred Prisoners. The victim and witness information will be hand-delivered at the time of transfer or forwarded via certified mail to the CO, OIC, or CPOIC of the receiving MCF. If CORMIS is utilized by both MCFs involved, data will be available to the gaining MCF upon prisoner arrival. A copy of the adjunct file will be maintained at the losing MCF for 2 years from the date of transfer. The victim and witness records will be delivered or forwarded separately from the prisoner's record upon transfer. All victim and witness documents in the adjunct file will be placed in a sealed envelope marked "ATTENTION VICTIM AND WITNESS COORDINATOR."

2. Released Prisoners. All documents pertaining to victims and witnesses must be maintained separately in a secure manner from the prisoner records for 2 years after the prisoner's full-term release date. After the second year anniversary of release, all victim and witness information will be destroyed by burning or fine shredding. Under no circumstances will victim and witness documents be forwarded to the archives for storage.

(b) Central Repository. BUPERS-00D will retain all victim and witness data contained in CORMIS indefinitely.

8. Action. MCF COs, OICs, and CPOICs are responsible for establishing internal controls to ensure all information held on victims and witnesses is kept strictly confidential and that no unauthorized person(s) or any prisoner(s) will have access to victim and witness files. MCF operating procedures must include the VWAP. All victim and witness information is exempt from release under the Freedom of Information Act. Only BUPERS-00D may authorize release of victim and witness information after consultation with BUPERS-00J.

9. Records Management

a. Records created as a result of this instruction, regardless of media and format, must be maintained and dispositioned for the standard subject identification codes (SSIC) 1000 through 13000 series per the records disposition schedules located on the Department of the Navy/Assistant for Administration (DON/AA), Directives and Records Management Division (DRMD) portal page at <https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx>.

b. For questions concerning the management of records related to this instruction or records disposition schedules, please contact your local records manager or the DON/AA DRMD program office.

10. Review and Effective Date. Per OPNAVINST 5215.17A, BUPERS-00D will review this instruction annually around the anniversary of its issuance date to ensure applicability, currency and consistency with Federal, Department of Defense, Secretary of the Navy, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 10 years, unless revised or cancelled in the interim, and will be reissued by the 10-year anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the cancellation is known following guidance in OPNAV Manual 5215.1 of May 2016.

11. Forms and Information Management Control. The following forms are available on the DoD Web site at: https://www.esd.whs.mil/Directives/forms/dd2500_2999/.

- a. DD 2704, Victim/Witness Certification and Election Concerning Prisoner Status;
- b. DD 2705, Notification to Victim/Witness of Prisoner Status; and
- c. DD 2706, Annual Report on Victim and Witness Assistance
- d. Reference (c) requires all Services to report on their VWAP annually. Report Control Symbol, DD-P&R(A)1952, is assigned to the report contained in DD 2706.



A. HOLSEY
Deputy Chief of Naval Personnel

Releasability and distribution:

This instruction is cleared for public release and is available electronically only via BUPERS Web site, <https://www.mynavyhr.navy.mil/References/Instructions/BUPERS-Instructions/>.

ACKNOWLEDGEMENT OF REQUEST TO PARTICIPATE LETTER

Dear _____:

We have received your request for enrollment into the Victim and Witness Assistance Program in the case of prisoner (insert prisoner's name). I want to take this opportunity to outline the notification process and procedures involved. Your primary point of contact here at this facility is (insert name, phone number, and address of the military confinement facility victim and witness coordinator).

We recognize that the impact of crime is devastating to innocent victims, witnesses, and their families and we will make every effort to be responsive and sensitive to any concerns you may have. It is our intent to ensure that your status as a (victim or witness) and all information concerning your whereabouts and phone numbers are kept strictly confidential. Should you receive any threats made by or on behalf of (insert prisoner's name) or attempts to intimidate you in any manner, please inform us of the circumstances so we may take appropriate action.

We will notify you, using the attached DD 2705 Victim/Witness Notification of Prisoner Status for, of the pending release or release-related activity of the above-named individual. This includes notification of the prisoner's initial parole and clemency eligibility dates, clemency, parole, and mandatory supervised release hearing dates (if appropriate), transfer to another institution, temporary release (i.e., leave, hospitalization, work release program, etc.), escape or death. Please recognize it is Navy policy that prisoners may earn a portion off their sentence for good behavior. This is referred to as "earned good conduct time" and (if earned) will be reflected in the release date we provide to you.

The date a prisoner is eligible for a clemency, parole, or mandatory supervised release-hearing is mandated by Department of Defense (DoD) policy and indicates only that a hearing will be held. You will be advised prior to the prisoner's scheduled appearance before the Military Service Clemency and Parole Board so you may personally appear or submit an impact statement to the board (if you desire). To continue to receive notification of these events, it is important that you keep us informed of any changes in your address and telephone number. After three unsuccessful attempts to locate you, we will close the case.

Again, should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

(Victim-Witness Coordinator)