

Beale Air Force Base

Victim and Witness Assistance Handbook



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OPR: 9 RW/JA
17801 Warren Shingle Road
Beale AFB, CA 95903
530-634-2928

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PREAMBLE

The Victim and Witness Protection Act of 1982 (Public Law 97-291) was passed into law for the protection and assistance of crime victims and witnesses. Without the cooperation of victims and witnesses, the military justice system would cease to function effectively. People who work in and support the system at Beale Air Force Base will ensure that victims and witnesses receive due consideration, are extended authorized assistance, are treated with dignity and courtesy, and are subjected to minimum interference with personal privacy and property rights. Subject to available resources, operational commitments, and military exigencies, Air Force personnel involved in the military justice process will work to mitigate the physical, psychological, and financial hardships suffered by victims of crimes investigated by the Air Force.

This handbook is intended to provide information concerning the protection of and assistance to victims and witnesses, to inform them about the availability of emergency medical care and human services programs, and to inform them of the steps in the military justice process and their roles therein, without infringing on the Constitutional and statutory rights of the accused.

Commanders, first sergeants, law enforcement personnel, OSI agents, and supervisors who believe a military member, dependent, or Air Force employee is a victim of or a witness to a crime should refer the individual to the Base Legal Office, 9 RW/JA, 17801 Warren Shingle Road, (530) 634-2928, for a briefing from an attorney or a victim/witness advocate, and a copy of this handbook.

For victims or witnesses who have no military connection (someone not authorized our military services) Commanders, first sergeants, law enforcement personnel, OSI agents, and supervisors should refer the individual to the Victim/Witness Advocate at the Base Legal Office, 9 RW/JA, 17801 Warren Shingle Road, (530) 634-2928, for information regarding services available to them within the local community. Please do not turn these individuals away. It is our responsibility to refer them to the appropriate agency, whether it be on base or within our local community.

INTRODUCTION

1. The Legal Office at Beale Air Force Base has taken several steps to make the participation by victims and witnesses of crimes more effective and meaningful. One of those steps is the preparation of this handbook. Hopefully, it will provide the answers to many of your questions and will give you sufficient general information to understand your rights and responsibilities. Thank you for your cooperation and your service as a witness. The sacrifice of time and effort associated with being a witness is greatly appreciated. If you have any questions, please ask the Air Force attorney or the Victim/Witness Liaison or Advocate assigned to your case. They can be reached at (530) 634-2928.

2. The purpose of this handbook is twofold: (1) to describe the Victim and Witness Assistance Program at Beale Air Force Base, California, including the services available in this area and (2) to outline for victims and witnesses the military criminal justice system and their role in it.

3. Some quick definitions may be helpful to start:

a. VICTIM: A person that has suffered direct, or threatened, physical, emotional, or financial harm as a result of the commission of a crime.

b. WITNESS: A person who has information or evidence concerning a crime, and provides testimony regarding his/her knowledge to a law enforcement agency.

c. SERIOUS OFFENSE: A criminal offense that involves personal violence, attempted or threatened personal violence, or significant property loss.

d. TRIAL COUNSEL/PROSECUTOR: The Air Force attorney (judge advocate) assigned to the case that represents the government during any judicial proceeding.

e. DEFENSE COUNSEL: The Air Force attorney or civilian lawyer who represents the accused.

SECTION I

STATUTORY/REGULATORY BASIS

1. In 1982 the Victims and Witnesses Act (Public Law 97-291) was enacted to help ensure victims and witnesses were not “forgotten” in the criminal justice system. The Department of Defense responded by publishing DoD Directive 1030.1 (23 Nov 94) and DoD Instruction 1030.2 (23 Dec 94), which established responsibilities for the protection and assistance of crime victims and witnesses. You, as a victim or witness, are entitled to this assistance.

2. Air Force Instruction 51-201, Chapter 7, implements the Victims and Witnesses Protection Act in the Air Force. **Section C sets forth the following as Victim’s Rights:**

- a. To be treated with fairness and respect for the victim’s dignity and privacy.**
- b. To reasonable protection from a suspect or the accused.**
- c. To notification of all court-martial proceedings.**
- d. To be present at all public court-martial proceedings, unless the military judge determines the victim’s testimony would be materially affected if the victim heard other testimony.**
- e. To confer with trial counsel in the case.**
- f. To appropriate restitution, when available.**
- g. To information about an accused’s conviction, sentencing, confinement, and release.**

3. The Air Force’s program is meant only to provide guidance. No substantive rights are created. If the Air Force fails to comply with some aspect of the program, you do not have the right to sue the Air Force for any additional hardship incurred. The best way to ensure your rights are afforded is to make sure your needs are known. Please do not be embarrassed to say you need some assistance. Contact the Base Victim/Witness Liaison at (530) 634-2928.

4. There are two obvious limits to the program. First, there may not be as many services available in some areas as compared to others. For example, if you need specialized medical attention and it is not locally available, you may be required to travel. Second, the accused still has constitutional rights. The accused is presumed innocent until proven guilty. We cannot keep the accused in pretrial confinement merely because you want him or her locked up. However, there are things that can be done if you are in some danger. This will be discussed later.

SECTION II

GENERAL INFORMATION

1. The Legal Office at Beale Air Force Base prosecutes Air Force members who have committed a crime punishable under the Uniform Code of Military Justice (UCMJ). This handbook is designed to help you understand our system and your role in the process. One of the responsibilities of being a citizen or an Air Force member is to serve as a witness at a criminal trial or hearing held in connection with a criminal prosecution if you have knowledge about the commission of the crime. In the military justice system, criminal trials are called courts-martial. The military justice system cannot function without the participation of witnesses. The complete cooperation and truthful testimony of witnesses are essential to the proper determination of guilt or innocence in a criminal case. The people of the United States, and the Air Force in particular, are depending on you and others who know something about the crime. Only with your help can the Air Force have a fair and effective system to bring the criminal to justice.

2. **PROTECTION:** It is a federal offense to threaten, intimidate, harass, or mislead a witness in a criminal proceeding or investigation. When appropriate, steps will be taken to protect you from intimidation or similar threats. If anyone threatens you, or you feel that you are being harassed because of your contribution to the case, immediately notify the judge advocate in charge of the case in the Base Legal Office or the Air Force agency investigating the offense. After duty hours you may contact either the Security Forces or the Office of Special Investigation (OSI).

<u>AGENCY</u>	<u>COMMERCIAL TELEPHONE</u>	<u>DSN TELEPHONE</u>
Beale Legal Office	(530) 634-2928	368-2928
Security Police Investigations	(530) 634-2131	368-2131
Office of Special Investigations	(530) 634-2383	368-2383

3. The following two pages are services that are available on Beale Air Force Base and within our local community. If you have any questions about any of these organizations or need assistance with referrals, please contact the Base Victim/Witness Liaison at the Base Legal Office at (530) 634-2928.

VICTIM AND WITNESS SERVICES

ON-BASE SERVICES:

<p>Office of the Staff Judge Advocate (Bldg 2419) 17801 Warren Shingle Road Beale AFB, CA 95903-1520</p>	<p>Duty Hours</p>	<p>634-2928</p>
<p>Beale Victim Witness Assistance Coordinator</p>		<p>634-2928</p>
<p>Law Enforcement Desk (Bldg 25470) 17798 24th Street Beale AFB, CA 28005</p>	<p>Emergency Non-emergency Investigations</p>	<p>911 634-2131 634-2322</p>
<p>Air Force Office of Special Investigations (Bldg 25479) 17798 24th Street Beale AFB, CA 95903-1520</p>		<p>634-2382</p>
<p>Family Support Center (Bldg 2179) 17800 13th Street Suite 400 Beale AFB, CA 95903-1520</p>		<p>634-2863</p>
<p>Military Medical Treatment Facilities (Bldg 5700) 15301 Warren Shingle Road Beale AFB, CA 95903-1520</p>		
<p>Tri-Care Service Center</p>		<p>1-800-242-6788</p>
<p>Family Practice Clinic</p>		<p>634-4750</p>
<p>Emergency</p>		<p>911</p>
<p>Life Skills Clinic (Bldg 5709) 115301 Warren Shingle Road Beale AFB, WY 28005</p>		<p>634-3420</p>
<p>Family Advocacy Clinic (Bldg 5709) 15301 Warren Shingle Road Beale AFB, CA 95903-1520</p>		<p>634-3423</p>
<p>Foothills Chapel (Bldg 2435) 6199 C Street Beale AFB, CA 95903-1520</p>	<p>Duty Hours Off-Duty Hours</p>	<p>634-4701 755-7988</p>

OFF-BASE SERVICES:

Yuba City Police Department
1544 Poole Ave
Yuba City, CA

Emergency	911
General Information	822-4660
Detective Bureau	822-4675

**Yuba County Victim/Witness Assistance Center
Coordinator**
4240 Dan Ave
Marysville, CA 95901

Susan Williams	741-6275
Sandy Fonley, <i>Project Coordinator</i>	

**Victim Compensation and Government Claims
Board**

800-777-9229

<http://www.boc.ca.gov/Victims.htm>

US Dept of Justice Victims & Family Assistance
<http://www.ojp.usdoj.gov/ovc/vfa/>

800-331-0175

American Red Cross
Three Rivers Red Cross Headquarters
2125 East Onstott Road
Yuba City, CA 95991

Duty Hours	673-1460
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NOTE: For a complete listing of services available please see the Resource Listing at the back of this handbook.

SECTION III

THE MILITARY SYSTEM AND WHAT YOU CAN EXPECT FROM IT

As a **victim** of an offense, which will be handled within the military justice system, you are entitled to courteous and compassionate consideration by military law enforcement, legal personnel, and all other military and/or civilian personnel responsible for providing victim services to you. You are also entitled, unless otherwise stated, to the following services:

Medical and Social Services: These military services are available for military members and their dependents. Generally, civilians who are not family members of military personnel are not legally entitled to military medical and social services. An exception to the limitation of medical services does allow a military medical treatment facility (MTF) to provide emergency care where the MTF can most expeditiously furnish the service after the offense has been committed. In certain instances, charges for this treatment may be waived by the MTF Commander. Medical treatment for service members, retirees, and their dependents is available at the following medical facilities:

a. **Military Medical Treatment Facilities (Bldg 5700)**

15301 Warren Shingle Road
Beale AFB, CA 95903-1520

Tri-Care Service Center
Family Practice Clinic
Emergency

1-800-242-6788
634-4750
911

Life Skills Clinic (Bldg 5709)
115301 Warren Shingle Road
Beale AFB, WY 28005

634-3420

Family Advocacy Clinic (Bldg 5709)
15301 Warren Shingle Road
Beale AFB, CA 95903-1520

634-3423

b. **Rideout Memorial Hospital (downtown)**

726 4th Street, Marysville, CA

Emergency
Non-Emergency

911
749-4300

Notification of Critical Events: You will be introduced to your Victim/Witness Liaison by the trial counsel assigned to your case. The liaison will go over some very important issues with you and will be your focal point for questions concerning your case during the judicial process. You will be requested to fill out various forms and paperwork, which identify your choices. If you request to be contacted and provide your Victim/Witness Advocate with your address and phone number, you will be notified, in advance, if possible, of the following events:

- a. The apprehension (arrest) of the accused.
- b. The pretrial release of the accused.
- c. The trial or entry of a plea of guilty and results of any sentencing proceedings of the accused.
- d. Any pertinent information regarding further referral services for yourself or dependents.

Consultation with Prosecuting Officials: While the military justice system proceeds through the investigative stages to a final determination, the military justice system often seeks your inputs on certain issues associated with the prosecution. For this reason, you may be requested to consult with commanders or their legal staff concerning any or all of the following matters:

- a. The entry (*preferral*) of charges against an accused;
- b. The dismissal of charges against an accused;
- c. Pretrial restraint (*confinement or some form of deprivation of pretrial liberty*);
- d. Plea negotiations (*plea bargaining*) between the accused and the government.

Property Return and Restitution: It is military policy to safeguard and return property which was not illegally held, illegally obtained, or otherwise subject to a legal claim by any agency of the government; (i.e., prohibited drugs, stolen property subject to confiscation or impoundment, etc.). If the property (evidence) is required for trial purposes, it may be temporarily retained. Your Victim/Witness Advocate will advise you of the agency holding your property and the procedures for having it returned.

Restitution: (Recovery for Victim Loss) The military justice system was established primarily to assist in the maintenance of good order and military discipline, rather than to secure restitution that might be available to you. The Manual for Courts-Martial does not authorize restitution as part of an accused's sentence. However, in the hope of receiving a lighter sentence, an accused may agree to make restitution voluntarily. You should cooperate fully with the judge advocate in charge of the case by giving information regarding the impact of the crime on you as a victim. If the accused offers restitution, the judge advocate will then have an accurate picture of what

restitution should be in your case. When an offender returns stolen property or otherwise makes good the losses caused to the victim, he/she has given restitution to the victim.

a. **Claims Compensation:** The accused may be personally liable for personal injury to you or for damage done to your property.

(1) Article 139, UCMJ, provides that appointing commanders may direct collection and payment of a claim for property that Air Force military personnel willfully damage or wrongfully take, if the claim results from riotous, violent, or disorderly conduct.

(a) To file an Article 139 claim, the claimant must complain (orally or in writing) to the commander of the military organization or unit of the alleged offender. If claimants are unsure what organization the offender belongs to, they may file a complaint with the commander of the nearest military organization.

(b) While claimants do not need to request a specific amount when they first complain, the claimant or authorized agent must present a claim for a specific amount in writing before the appointing commanders make settlement.

(c) Claims must be presented within 90 days of the date of the incident, unless the appointing commander finds good cause for the delay.

(2) Under certain circumstances, a claim may also be made against the military service itself. Any such claim may be discussed with the local military claims office, (530) 634-3029.

b. **Civil Litigation:** A victim may try to recover losses through a civil lawsuit against the accused. Such a private lawsuit is completely separate from the court-martial. A military attorney cannot represent you in a civil lawsuit. Local attorneys are listed in the Cheyenne telephone directory or you may call the Nevada County Bar Association's Lawyer Referral Service at (530) 265-4129 to locate an attorney who can help you. If your losses are not more than \$5,000 you will not need a lawyer to file in **Small Claims Court**. The Base Legal Office can provide you with information that describes how to assert your claim in the Small Claims Court. One difficulty that may be encountered in suing an accused is that even if a victim receives a favorable judgment from the civilian court, it may be difficult to collect from the accused if he/she is destitute.

c. **Transitional Compensation for Abused Dependents:** It is DoD policy to provide monthly transitional compensation payments and other benefits described in AFI 36-3024, *Transitional Compensation for Abused Dependents*, for dependents who are separated for dependent abuse. Basically, the Air Force provides monthly payments and other benefits as discussed below, for dependents of active duty members, who have been on active duty for more than 30 days and who after 29 November 1993 are:

(1) Separated from active duty under a court-martial sentence resulting from a dependent-abuse offense.

(2) Administratively separated from active duty if the basis for the separation includes a dependent-abuse offense; or

(3) Sentenced to forfeiture of all pay and allowances by a court-martial that has convicted the member of a dependent-abuse offense.

(4) Payment Commencement and Duration.

(a) Payment commences:

1. On the date the Convening Authority approves the sentence for a dependent abuse offense that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; or

2. The date the member's commander starts administrative separation action if the basis for separation includes a dependent-abuse offense.

(5) The duration of payments will be for the remaining active duty commitment of the member or for 12 months, whichever is longer. However, payment will not exceed 36 months.

(6) Payments will stop if the court-martial sentence, which serves as the basis for payment, is remitted, set side or mitigated to a punishment not including a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances.

(7) Payments are forfeited if:

1. The spouse remarries. Dependent children may continue to receive payments if they are not living with the spouse or abuser.

2. The abuser lives in the same household as the spouse or dependent child; or

3. If it is determined that the spouse was an active participant or aider/abettor in the abuse of the child.

(8) Miscellaneous Compensation: Recipients of payments are entitled to use the commissary and exchange store while receiving compensation payments. Medical and dental benefits may be available for one-year following the member's separation for an abuse offense, for problems associated with the abuse. The Secretary of the Air Force acts upon all requests for medical or dental benefits. Application for Transitional Compensation Benefits is made through the Military Personnel Flight (MPF) by completing a DD Form 2698. Contact the base Victim/Witness Advocate for assistance in completing this application.

(9) A spouse may not receive payments under both the Transitional Compensation for Abused Dependents program and the Uniform Services Former Spouse Protection Act (retirement pay and benefits, discussed below.) If eligible for compensation under both programs, the spouse must elect which to receive. Once an applicant has received or is receiving one of these payments the other cannot be applied for. Therefore, it is very important to determine eligibility for retirement pay *prior to* applying for transitional compensation.

(10) Uniformed Services Former Spouse Protection Act: A former spouse or legally separated spouse may be entitled to a percentage of retirement pay designated by a court if the member had 20 plus years of active service even if the member was not eligible to receive retirement pay.

(a) Basic eligibility:

1. The spouse/former spouse must obtain a court order setting forth a portion of the retirement pay.

2. The spouse must have been married to the abusive member for at least 10 years during which the member performed at least 10 creditable service years;

3. Member must be “retirement eligible” (20 years of creditable service.)

(b) Application procedures and guidance are generally provided by DFAS. For further information contact either the MPF at (307) 773-1845 or the Beale Victim Assistance Coordinator, 9 RW/JA at (530) 634-2928.

d. **California State Crime Victim’s Compensation:** This is another possible avenue for seeking compensation for expenses resulting from violent crime. A victim can apply for crime compensation from the state of California if the victim is a lawful resident of California or was victimized in California, reported the crime to the authorities, willingly cooperated with the appropriate law enforcement agencies, not have been involved in the crime, incurred economic loss as a direct result of the crime or suffered physical injury, extreme mental distress, or death of a family member as a direct result of the crime, and files an application within one year of the crime. Compensable losses include medical and funeral expenses, loss of wages, and mental health counseling. Examples of crimes, which may be compensable, include sexual assault, child molestation, homicide, domestic violence, drunk driving, aggravated assault and armed robbery. The program is not designed for claims involving property loss or damage, pain and suffering, or expenses that would benefit the offender. For further information on this program, call the Division of Victim Services at 1-800-VICTIMS (842-8467).

Witness Fees and Costs: If you are not a federal employee, you may receive a witness fee for testifying in a court-martial. Out-of-town witnesses receive reimbursement for certain travel expenses in addition to their witness fee. If you need other services in order to testify, such as interpreter services, day care, etc., please contact your Victim/Witness Advocate at (530) 634-2928. At the conclusion of your testimony, the Non-commissioned Officer in Charge (NCOIC) of Military Justice, at the Base Legal Office, will help you file your witness voucher. A check for all fees will be mailed to you or direct deposited into your bank account by DFAS when the case has concluded. If you are a federal employee, you receive your regular salary, notwithstanding your absence from work, while testifying, but you will not collect a witness fee in addition to your salary.

SECTION IV

THE MILITARY JUSTICE SYSTEM - WHAT IT ASKS OF YOU

There is often a tendency for victims or witnesses to want to withdraw from the criminal justice process, perhaps because of fear, frustration, or simply the desire to get as far away from the incident as possible. We understand these feelings and are here to assist in dealing with them. The military justice system is designed to promote good order and discipline in the armed forces, provide a system of the just disposition of criminal offenders, provide the accused a fair trial, prevent the commission of further crime, and appropriately punish and rehabilitate those persons whose guilt has been proven beyond a reasonable doubt. In order to accomplish these goals, your cooperation with law enforcement and other military authorities is extremely important. We ask, however, that while you may not be able to set these feelings aside completely, that you nevertheless do not let them prevent your essential cooperation in the search for justice. The Beale Air Force Base Victim and Witness Assistance Program has been established to reduce the hardships of your experience and to facilitate your cooperation. By taking advantage of the program, you will be helping the military justice system work and may, in the process, prevent others from becoming victims.

Talking with Attorneys, Investigators, and Others:

a. As a victim or witness participating in a court-martial, you understandably have questions about the details of the process, such as where and when the court will be held, what time you will be needed, and what to expect in the courtroom. If you are traveling to Beale Air Force Base from outside the local area, you may also be concerned about transportation, lodging, and meals. The attorney or the paralegal assigned to the case will assist you in making all the necessary arrangements for your court appearance. You should feel free to ask the attorney, the paralegal, or your victim/witness advocate for assistance with any special needs or problems that may arise.

b. Even though you are being asked for your cooperation in this case by the prosecution, witnesses do not belong to either side of a criminal case. The Base Legal Office requests that you cooperate fully with both sides, the prosecution and the defense. In an interview with a representative of the government or defense, you should always do your very best to *“tell the truth, the whole truth, and nothing but the truth.”*

(1) If you give a statement to an investigator or lawyer for the government or the defense, you do not have to sign the statement. Any statement you make during an interview, even if not signed, may be used to try to challenge or discredit your testimony in court if your court testimony differs from your first statement, whether written or oral. If you decide to sign the statement, ensure that you have read it over very carefully first and have corrected any mistakes before signing it. You have the right to request a copy of your statement if you wish for future reference.

(2) The attorney in charge of the case may discuss various aspects of the case with you, both for your information and to prepare you for testimony if necessary. Anytime you have an interview with an attorney or investigator for the defense, please let the attorney in charge of the case for the government from the Base Legal Office know about it.

(3) Other than the attorneys and investigators assigned to the case, it is usually not a good idea to discuss the case with other people. For example, an accused may be under orders not to talk to you about the case as a condition on liberty prior to trial and might be placed in pretrial confinement if he or she does so. Remember, if an accused approaches you, contact the judge advocate in charge of the case immediately. Since you are a potential witness, you are encouraged not to discuss the case with members of the press because the rights of the government and of the accused to a fair trial could be jeopardized by pretrial publicity. Potential witnesses should not discuss the case with other potential witnesses before or during the trial. This can create the appearance of collusion or impropriety. Once the court-martial is completely finished, you may discuss the case with other witnesses or whomever you wish.

Scheduling the Hearing: There is sometimes more than one kind of court hearing in a case in which you might be asked to testify. It is difficult to schedule hearings at a time convenient for everyone involved. A hearing may require the presence of witnesses, law enforcement officers, the attorneys for the government and the defense, the judge, investigating officer, or magistrate, as well as the accused. Therefore, when a time and place is set for a hearing, please be there promptly. If you know in advance that you might have difficulty in making an appearance, let the judge advocate in charge of the case know so that an attempt may be made to adjust the schedule. Please note that if you have been sent a subpoena, you should know there are serious penalties if you don't obey that formal order to appear. Despite the best efforts of everyone concerned, once in a while a hearing does not take place on schedule. Sometimes a hearing or court-martial must be postponed. The Base Legal Office will notify you promptly of any scheduling changes that affect your attendance. Upon request, reasonable steps will be taken by the attorney in charge of the case to inform an employer of the reasons a victim or witness must be absent from work.

Separate Waiting Areas: At the court-martial and other proceedings, victims and witnesses may be afforded, to the extent practicable, the opportunity to wait in an area of the Base Legal Office separate from the accused or other witnesses. Separate waiting areas are appropriate when necessary to avoid embarrassment, coercion, or similar emotional distress. If the case includes numerous witnesses and you would like a separate waiting area, please ask the victim/witness advocate or the judge advocate in charge of the case.

SECTION V

THE MILITARY JUSTICE SYSTEM WHAT HAPPENS IN A COURT-MARTIAL

1. General Information:

a. You are entitled to understand what is happening in the case in which you are involved. There are many steps to a court-martial, and the attorney assigned to the case or the accused's attorney may contact you during various stages of the military justice process. The attorney representing the government in the case is called the trial counsel. The accused's attorney is called the defense counsel.

b. If the military does not have jurisdiction over a case, the appropriate civilian authorities will be notified and will determine whether prosecution is appropriate. If the military does not have jurisdiction, you will not receive any further notification from military authorities. However, upon request, the Base Victim/Witness Liaison will advise you of the identity of the civilian authorities who will be handling the matter. The Victim/Witness Liaison can also provide you with a point of contact (POC), if any, for information pertaining to victim services within the civilian jurisdiction responsible for your case.

c. If the military does have jurisdiction, potential punishment for criminal convictions can range from very minor sanctions, such as a reprimand, to more serious punishments such as life imprisonment or death in certain felony cases such as premeditated murder. The decision of how to proceed is made by the accused's chain of command.

2. Non-Court Alternatives:

a. **Article 15 punishment:** When there has been a violation of a particular article of the UCMJ, the commander discusses the offense and surrounding circumstances with an attorney from the Base Legal Office. Minor offenses are often not serious enough to warrant a court-martial. However, this type of offense may warrant non-judicial punishment under Article 15 of the UCMJ. This is a disciplinary procedure that gives the commander a prompt means to maintain good order and discipline and to promote positive behavior changes in service members. Under such proceedings, the commander determines guilt or innocence and has authority to impose extra duty, forfeitures of pay, reduction in rank, or restriction to the installation. The commander offers an Article 15 to the member, and it is the member's choice to accept it or ask for trial by court-martial. Depending on the circumstances, an Article 15 proceeding between the accused and his commander does not always involve imposition of punishment. A judge advocate reviews such decisions made by commanders.

b. **Administrative discharge or resignation:** An enlisted member can ask to be administratively discharged instead of being court-martialed (called a "*Chapter 4*"). An officer

can ask to be allowed to resign in lieu of court-martial (called a “*RILO*”). When they are approved, they usually result in an “*Under Other Than Honorable Conditions Discharge*.” This is the worst type of administrative discharge available. Regulations prohibit the Base Legal Office from telling victims what specific adverse administrative action an accused received. We can only explain what options the commander had and whether or not he or she took corrective administrative action.

3. Types of Courts-Martial:

a. Offenses may also be disposed of by a military criminal trial known as a court-martial, when determined appropriate by a commander who, by law, has the authority to convene a court-martial. There are three kinds of courts-martial:

(1) **Summary Court-Martial:** The lowest level of court-martial, roughly equivalent to a civilian municipal, police, or magistrate’s court. A military officer sits as the judge. If the accused is found guilty, the member may be sentenced to a maximum loss of two-thirds of one month’s pay, reduction in rank, and 30 days confinement (jail).

(2) **Special Court-Martial:** This is an intermediate military court consisting of a military judge and, at the option of the accused, a jury of military members (to include one-third enlisted members if requested by an enlisted accused). The Wing Commander of the base convenes a Special Court-Martial. This court may impose sentences consisting of fines, reduction in rank to the lowest enlisted grade, two-thirds forfeiture of pay per month for a maximum of up to one year, confinement for a maximum of up to one year, and in certain cases, a punitive discharge from the military known as a bad conduct discharge (BCD).

(3) **General Court-Martial:** This is the most severe military court-martial; reserved for serious military or civilian-type offenses (felonies). The Numbered Air Force Commander, following a determination, an Article 32 Investigation, that there is sufficient evidence normally orders a General Court-Martial. A General Court-Martial is composed of a military judge and, at the option of the accused, a jury of military members (to include one-third enlisted members if requested by an enlisted accused). It may impose up to the maximum permissible punishments authorized by law, which may include two different types of a punitive discharge, a dishonorable discharge (DD) or a bad conduct discharge (BCD), total forfeitures of all pay and allowances, life imprisonment in jail, or the death sentence. The President of the United States has listed the maximum punishments authorized for the various military offenses under the Uniform Code of Military Justice, in a book known as the Manual for Courts-Martial. Your Victim/Witness Advocate can advise you regarding the maximum punishment for the offense(s) under investigation.

4. Stages of a Courts-Martial:

a. **Preferral - Accusing a Military member of a Crime:** When the offense is too serious for disposition by an Article 15 proceeding, or when the accused demands a trial by court-martial, the accused's commander can charge him with a violation of one or more of the punitive articles of the UCMJ that prohibit criminal activity. The accused's commander then forwards the charges and related information to the special court-martial convening authority (SPCM CA). At Beale Air Force Base, the SPCM CA is the 90th Space Wing Commander. After discussing the offense and surrounding circumstances with the base Staff Judge Advocate, the SPCM CA has several options:

(1) The SPCM CA can send the charges back to the accused's commander with instructions to either drop the charges or initiate Article 15 proceedings.

(2) The SPCM CA can order a special court-martial.

(3) The commander can instead order an Article 32 Investigation, which will determine whether a general court-martial is appropriate.

b. **Article 32 Investigations:** In cases alleging serious offenses, normally a formal preliminary hearing (*Article 32 investigation*) is held to evaluate the quality and quantity of the evidence and to recommend what level of court-martial, if any, may be appropriate. An Article 32 investigation is like a grand jury proceeding in the civilian criminal justice system. Article 32 of the UCMJ says no charges can be sent to a general court-martial without an impartial investigation. The Article 32 investigator will examine the evidence and call witnesses for sworn testimony. The accused and his or her lawyer have a right to be present when evidence is reviewed or witnesses testify, a right to cross-examine government witnesses and to call witnesses for the defense. The accused has a right to testify but doesn't have to say anything. At the end of the Article 32 investigation, the investigator recommends to the convening authority what should be done with the case. The victim will almost always be called to testify at the Article 32 investigation.

c. **Referral of Charges:** The convening authority (*i.e., the 9th Reconnaissance Wing Commander for a Special Court or the 8th Air Force Commander for a General Court*) decides if a case will go to court. The members detailed to a court-martial shall be those persons who in the opinion of the convening authority are best qualified for the duty by reason of their age, education, training, experience, length of service, and judicial temperament. Each member shall be on active duty with the armed forces and shall be:

(1) A commissioned officer;

(2) A warrant officer, except when the accused is a commissioned officer;

(3) An enlisted person if the accused is an enlisted person and has made a timely request.

d. **Service of Charges:** Once the charges have been referred to a court-martial, they are formally served on the accused. Once the charges are served, the trial can begin any time within three to five days. If the case is complicated, the trial may be delayed in order to give adequate time to prepare and arrange for witnesses. The military trial has two parts. The first part, known as the *Findings Phase*, is to decide whether the accused is guilty or not guilty. If the accused is found guilty of any charge(s) or specification(s), then the trial moves on to the second part known as the *Sentencing Phase*. The *Sentencing Phase* of the trial is to determine what the punishment will be.

e. **Pretrial Confinement:** If the accused is likely to flee from prosecution, engage in serious misconduct, is a threat to himself/herself or others, and if lesser forms of restraint are inadequate to prevent this from occurring, the accused's commander may place the accused in pretrial confinement (*jail*) to await trial by court-martial. A neutral and detached magistrate who may need your testimony to determine whether the accused should be confined while awaiting trial must review the commander's decision.

f. **Pretrial Agreements:** When a case is sent to a special or general court-martial, sometimes a pretrial agreement (*plea bargain*) is reached between the convening authority and the accused. These agreements are entered into for a number of reasons, such as, sparing a victim the trauma of testifying in court, to eliminate the cost of a lengthy trial, and to reduce the risk of having a case reversed by an appellate court. Pretrial agreements usually provide that the accused will plead guilty in exchange for a limit on the sentence or dismissal of certain charges.

g. **Pleas of the Accused:** At trial, the accused can plead not guilty, guilty of all the charged offense(s), guilty of some but not all of the charged offenses, or guilty of some lesser offense(s). A guilty plea, if genuinely made, is the strongest form of proof known to the law. Pleading guilty results in a conviction for that offense. The accused can, instead, plead not guilty to some or all of the charges and rely on his/her right to require the government to prove his/her guilt beyond a reasonable doubt.

5. **Trial Proceedings:**

a. **Findings Phase:** The trial counsel (prosecutor) is a judge advocate from the Base Legal Office or from the Western Circuit at Travis AFB, California. The accused is provided with a military attorney free of charge (usually the Area Defense Counsel). Accused personnel may also retain a civilian lawyer provided at their own expense. A military judge is assigned to preside over the trial, usually from the USAF Trial Judiciary Office at Travis AFB, California. The accused decides whether to be tried by a military judge alone or by a court with members (jury). If the accused is enlisted, he or she has the right to request enlisted members be placed on the court. The enlisted members will make up one-third of the jury.

(1) **Prosecution Evidence**: If the accused pleads not guilty, the trial counsel (prosecutor) and defense counsel may make opening statements about what they believe the evidence will show. Then, the trial counsel calls witnesses and brings in evidence to try and prove the accused's guilt. The defense counsel is given a chance to cross-examine these witnesses. The trial counsel can never call the accused as a witness.

(2) **Defense Evidence**: Next, the defense gets a chance to call its own witnesses and put in evidence. However, because the government has the burden of proving the case, the defense does not have to present anything. The accused does not have to testify, and if he/she chooses not to, his/her silence cannot be used against him/her. If the accused does testify, he/she is placed under oath and anything he/she says can be used against him/her. The trial counsel can cross-examine him/her just like any other witness called for the defense.

(3) **Argument**: After the defense finishes calling witnesses and introducing evidence, the trial counsel can put on rebuttal witnesses or evidence. This evidence is introduced in order to counter what the defense witnesses said or the evidence introduced by the defense. After both sides have finished calling their witnesses and introducing evidence, counsel for each side makes a closing argument. The trial counsel tries to convince the court that there is enough evidence to prove the accused's guilt beyond a reasonable doubt. The defense counsel then tries to establish that the government failed to sufficiently prove its case. The lawyers summarize the evidence before the court and tell how the law applies to the facts. Because the government has the burden of proof, the trial counsel argues twice, both before and after the defense counsel's argument. If there is a jury, the judge instructs the court members on their responsibilities and advises them on the law.

(4) **Deliberation**: The court members deliberate in private and decide by secret written ballot whether the accused is guilty or not guilty of the charge(s) and/or specification(s). The members do not have to be unanimous in order to find the accused guilty. Deliberation on findings by the judge or court members may take several minutes or several hours. If the accused is found not guilty of all of the charges, the court-martial is over. This is called an *Acquittal*. If the accused is found guilty of anything, whether by a guilty plea or findings, the *Sentencing Phase* of the trial begins immediately. If the case was litigated, sentencing is done by the same entity that determined guilt. If it was a guilty plea, the accused can request to be sentenced by either the judge alone or by military members.

b. **Sentencing Phase**: In the civilian criminal justice system, the sentencing proceeding is held at a later date. However, in the military justice system, sentencing immediately follows the finding of guilt. During this phase of the trial the accused has the right to present matters in extenuation and mitigation, that is, matters about the offense(s) or themselves, which the accused wants the court to consider in deciding on a sentence.

(1) **Prosecution Evidence**: The prosecution may put on evidence that makes the accused or the situation look worse. These are called matters in aggravation. In addition to evidence and testimony about the crime's adverse impact on the victim and the Air Force, the

prosecution will also present evidence of the accused's previous court convictions, Article 15 punishments, or Letters of Reprimand. Performance reports may also be admitted into evidence, as well as decorations, awards, and other personal data. Victim impact testimony may also be heard, which means that you may testify at the sentencing portion of the trial.

(2) **Defense Evidence:** After the government matters are submitted to the court, the defense counsel will submit evidence in mitigation and extenuation. This is evidence which tends to show the accused does not deserve the maximum punishment authorized or that the circumstances do not justify a harsh punishment. Since the military rules of evidence are more relaxed than during trial, the defense usually presents whatever information they believe is needed for the court to decide on a fair punishment. This can include written statements or oral testimony from witnesses. The accused may testify under oath, make an unsworn statement, say nothing at all, or have the defense counsel make a statement on the accused's behalf. If the accused testifies under oath, the prosecution can cross-examine the accused.

(3) **Argument and Deliberation:** After the defense puts on sentencing evidence in mitigation and extenuation, the prosecution can put in rebuttal evidence to counter this evidence. The lawyers then make closing arguments about what an appropriate sentence would be. If there is a jury, the judge next instructs them on their responsibilities and the law, including the possible maximum punishment in the case. The court then closes to deliberate and decide the punishment to be imposed on the accused. In all trials by court-martial, imposing “*no punishment*” is a possible sentence.

c. **Post-Trial Actions on the Sentence by the Convening Authority:**

(1) The accused and the defense counsel may submit allegations of legal error and clemency matters to the convening authority.

(2) The convening authority must take specific action on the sentence and must order the sentence executed before it takes effect. The convening authority can decide to approve or disapprove all or part of the sentence, or to mitigate, suspend, or remit (*cancel*) all or part of the sentence. The convening authority may order all parts of a sentence executed in his initial action on the case except those involving death, dismissal (*for officers*), or punitive discharges (*bad conduct discharge or dishonorable discharge for enlisted*). The convening authority may not increase the sentence.

d. **Execution of the Sentence - Confinement:** If the sentence approved by the convening authority includes death, dismissal, a bad conduct discharge, a dishonorable discharge, or confinement for one year or longer, and the accused has not waived or withdrawn his/her right to appellate review, the case will automatically be appealed to the Air Force Court of Military Review. After that a petition for review can be filed with the Court of Appeals for the Armed Forces (CAAF). If the case is reviewed by CAAF, the accused can file a petition for review with the United States Supreme Court. If there is no automatic appeal, the accused can file an appeal

or review request with The Judge Advocate General under Article 69, UCMJ. In the military review process, the accused will have free defense counsel provided, if requested.

e. **Questions** - Any questions you may have about what happens before, during, or after a court-martial in your case should be addressed to the Victim/Witness Coordinator or the trial counsel assigned to the case at the Beale Legal Office, (530)634-2928.

SECTION VI

PREPARING TO TESTIFY

Introduction: Being a witness is a very important job, not only for the side that calls you to testify, but also for yourself and for the American justice system. In order for a court, board, or hearing officer to make a correct decision, all evidence must be related truthfully and accurately by witnesses. Lack of cooperation can easily result in an injustice. There are also serious penalties associated with not cooperating with a criminal investigation or giving false testimony in a court-martial.

Our Commitment: All the people involved in the case know that your time is valuable and that you probably have other things you would rather be doing. Every attempt will be made to obtain your testimony in as little time as possible. However, when a person's future is on the line, hasty actions are inappropriate. Therefore, there may be unavoidable delays in getting you on and off the witness stand, so please be patient.

Written Statements versus Live Testimony: Frequently, witnesses who have already given statements before the trial or hearing are called to testify. You may wonder why you should be inconvenienced by going to court when they could use your statement instead. You must testify in person because the law requires the witness to appear in court, tell his or her story under oath, and be subject to questioning by all parties. The Sixth Amendment of the United States Constitution gives the accused the right to confront witnesses against him or her. Therefore, even though you may have already given a statement, you are still needed in court.

Why are You a Witness? Frequently, people are called as witnesses believe they do not know any relevant facts about the case and therefore should not be called. However, you may know something very important even though it may seem insignificant to you. Remember, the lawyers investigate the case thoroughly and know what testimony is necessary and relevant. If your testimony is not important to the case, you will not be called.

Subpoenas: If you are a civilian witness and subpoenaed to a court-martial, do not ignore the subpoena. It is an order of the court and must be obeyed. Failure to appear in court as required by the subpoena could place you in contempt of court and subject you to legal punishment. If you have any questions or problems about appearing in court, contact the lawyer who sent you the subpoena.

SECTION VII

HELPFUL HINTS FOR PREPARING TO TESTIFY IN COURT

Cooperate with the lawyers: If you are contacted by the lawyer for either side for an interview before the trial, cooperate with them. Failure to cooperate prior to trial could cause you embarrassment at trial and can significantly extend your participation in the trial. *However, you are not required to talk to defense attorneys until after the investigation is completed or, in the case of a General Court-Martial, after the completion of the Article 32 Hearing.*

Go over the facts: Prior to your visit in court, go over the facts of the case in your mind. Visit the scene of the crime. It may help to refresh your memory. Before you testify, try to picture the scene, the objects there, the distances, and exactly what happened so that you can recall the facts more accurately in court.

Appearance: Be neat in your personal appearance. You are being judged not only by what you say, but how you look. You will be sworn in before your testimony. When you take your oath, say “*I do*” clearly. On the witness stand, get comfortable, sit straight, and look around to familiarize yourself with the surroundings. Usually the victim/witness advocate or the trial counsel will show you the courtroom so you will be somewhat familiar with its layout.

What to say: When testifying, the first rule is to tell the *truth!* Don’t answer questions with half-truths. Don’t try to judge whether an answer is going to help or hurt one side or the other. Don’t let your personal feelings of who should win or lose color your testimony. Avoid giving your opinion about the guilt or innocence of the people involved in the trial. That is the job of the court. As a witness, your only duty is to tell it like you saw it; nothing more, nothing less.

Speak to be heard: Answer the questions clearly and loudly enough so that everyone in the courtroom can hear you. Don’t talk too fast or too slowly. Don’t mumble or slur your words. Look at the court panel and address your remarks to them so they will be able to hear and understand what you have to say. Do not nod your head for “*yes*” or “*no*” answers. Wait until the counsel has completed the question before you respond. It is very important to ensure that all parties to the trial hear and understand your testimony, to include the court reporter, who must hear everything spoken in order to preserve the record of trial.

Be polite: Use military courtesy if you are a military member. Use “*ma’am*,” “*sir*,” and “*your honor*.” Be serious at all times. The courtroom is not the place to be cute or humorous.

Do not memorize: It will sound rehearsed. Speak using your own words.

Listen carefully: If you do not hear a question, ask for it to be repeated. If you do not understand a question, ask that it be rephrased so that you can understand what the question is.

Do not guess: If you don't remember, simply say that you don't remember. A trial is not like a television quiz show where you must come up with some kind of an answer.

Answer directly: Answer directly and simply. Answer only the question asked. Don't volunteer extra information. Do not exaggerate or make overbroad statements that you may have to correct. Give positive, definite answers when possible (*yes or no*). If a question cannot be truthfully answered with a "yes" or a "no," you have the right to explain the answer. Stick to the facts. Avoid stating your opinions or conclusions unless directly asked for them.

Correct mistakes: If you make a mistake in answering a question, correct it immediately. If your answer was not clear, clarify it immediately.

Objections: If an objection is made by one of the lawyers or if the judge speaks, stop talking immediately. Don't try to complete your answer until told to continue.

Demeanor: Don't argue with the lawyer asking the questions. Restrain your temper and always be courteous.

Cross-examination: While testifying on cross-examination, don't look at the lawyer who called you for help in answering the question. You are on your own. If the question is improper, the lawyer will object and the judge will rule on it. It's important for you to listen to the objection so that you understand why it's being made.

Preparation: If you are asked whether or not you have talked to anyone about your testimony before coming to court, be sure to answer "yes" if you have. There is nothing wrong with discussing the facts with lawyers, parties, security police, or investigators before the trial. If asked what you were told to say, answer "*the truth.*"

Dates, distances, times, or speed: If the question is about distances, time, or speed and your answer is only an estimate, be sure you say it is only an estimate. Beware of suggestions by lawyers as to estimates and do not agree with their estimates unless you independently arrive at the same estimate.

Be natural: Be yourself. Don't try to be someone you are not. If you relax, tell the truth, and remember you are talking to other people, you'll get along fine.

After testifying: Do not tell other witnesses what was said during your testimony until after the case is over. Do not ask other witnesses about their testimony. Witnesses are not allowed to be in the courtroom until after they have testified, and they are not allowed to hear the testimony of witnesses who come before them. **Do not** discuss the case or your testimony within the hearing of the court members (*the jury*). The only time the court members should hear from you is while you are testifying in the courtroom.

When Your Child is a Witness:

Helping Them on Trial Day: Being a witness in a trial is generally a new experience. Most people do not do it often and many people get nervous as they wait and think about it. Similarly, parents of child witnesses often feel nervous for their children. After working with many parents and children in this situation, we have seen several things that people often find helpful.

Think about who is nervous about what: Feelings are contagious. For example, children are particularly sensitive and can easily catch their parents' feelings. Remember that children are often nervous about something completely different than what parents are nervous about. A parent may worry about whether or not a child can describe the incident clearly or about an overly aggressive cross-examination. The child may be worried about what will happen if he or she has to go to the bathroom while on the stand or about what he will tell his friends when he goes back to school. Many children are not as worried as their parents about testifying, and find that in looking back, testifying was often a helpful learning experience.

Find ways to reassure your child that you both are “just fine:” This does not mean telling her “*I’m not nervous*” if you are, or “*there is no reason to be nervous*” if she is. But, we have seen at least four things that help.

- 1. Bring a friend to wait with you while your child is testifying,** preferably someone who is caring, but not overly emotional.
- 2. Let your child know, a few times, that you know “they will do just fine.”** They know what happened and they know how to tell what is true. Then, when they are through testifying or being interviewed, focus on how they feel rather than what they said. If your child is worried that he did not do well on the stand, reassure him or her that it is sometimes difficult to judge our own performances and ask what the prosecuting attorney said.
- 3. Provide your child with lots of affection,** perhaps in the form of hugs, well before court rather than just as they are going into court.
- 4. The night before, you and your child can relax with a favorite meal and activity** (*TV program, movie, reading*). Keep the emphasis off “*getting a good night’s sleep*” and just focus on relaxing.

Plan for the waiting: There is a good chance you and/or your child will spend time waiting for court. You may already know about passing “*wait time*” with your child while away from your home.

Pack some snacks or a lunch: Bring healthy food such as fruit, milk, and sandwiches, and avoid the heavy sugars such as candy and cookies.

Pack a few favorite toys: Often child or teenage witnesses like to hold one of their items while they are testifying.

Bring a book or other activity for yourself.

Questions: If you have any questions about testifying or problems related to the case, please contact the judge advocate assigned to the case or your victim/witness advocate through the Beale Legal Office at (530) 634-2928.

GLOSSARY OF LEGAL TERMS

ACQUITTAL: A final judgment by a judge or jury that the prosecution has not proven a criminal defendant's guilt beyond a reasonable doubt. This is a "*not guilty*" verdict, and the defendant or accused is released from the jurisdiction of the court immediately following its announcement.

ALLOCUTION: The right a defendant or accused has to make a statement (*written or spoken*) at the sentencing portion of their trial.

CONTINUANCE: A delay of the court-martial proceedings.

CONVENING AUTHORITY: The individual who decides whether or not a particular case will go to court. At Beale Air Force Base, for a *special court-martial*, the convening authority is the 9th Reconnaissance Wing Commander. For a *general court-martial*, the convening authority is the 8th Air Force Commander.

CONVICTION: A judgment of guilty which is based on the decision of the judge or jury following their hearing all the evidence presented by the prosecution and defense, after sufficient deliberation, upon the accused's guilt or innocence.

DEFENDANT/ACCUSED: Terms are synonymous and identify a person against whom criminal charges are pending.

DEFENSE ATTORNEY [AREA DEFENSE COUNSEL (ADC) AND CIRCUIT DEFENSE COUNSEL (CDC)]: The attorney that represents the accused. He or she may be a private attorney if hired by the accused at the accused's expense, or an attorney appointed by the Air Force. The accused may be represented by both his/her own privately-retained attorney and an attorney provided free of charge by the Air Force, or he/she may excuse the attorney provided by the Air Force and be represented solely by his privately-retained attorney if he/she so desires.

DIRECT EXAMINATION: The initial stage of questioning by the attorney who first called the witness.

DISCOVERY: A pretrial procedure in which the defense receives evidence in the possession of the prosecution, including witness statements, police reports, scientific examinations, etc. The prosecution is also entitled to discover defense evidence.

EVIDENCE: Testimony, documents, material objects, or anything presented to human senses that are offered to prove or disprove any fact relevant to a case.

EXPERT WITNESS: A person who has special training, education, or experience on a particular subject and who is formally found to be qualified as an expert in a particular field by a

judge. This expert witness may then give expert opinions in court on matters in which his or her expertise is relevant.

MISTRIAL: A mistrial occurs when a trial must be stopped prior to its conclusion. Usually, the case may be retried at the discretion of the convening authority.

MOTION: A formal request by the prosecution or defense for a judge to hear and decide a disputed issue.

OVERRULED: A judge's ruling that an attorney's objection is improper.

PLEA: The response by an accused to formal charges in court. If an accused remains silent or his plea of guilty appears to be improvidently made, a plea of "*not guilty*" is automatically entered on his or her behalf by the court.

PRETRIAL AGREEMENT: An agreement between the convening authority and the accused that offers the accused a lighter sentence in return for a plea of guilty. While an accused has an absolute right to plead not guilty, the court recognizes that time, effort, and expense are often saved by the accused's plea of guilty and often is willing to reduce the accused's exposure to more severe punishment in return for an agreement to plead guilty.

PROSECUTOR: In military trials by court-martial, the prosecution is conducted by the trial counsel (*a lawyer*) who is a representative of the government and works for the staff judge advocate and the convening authority.

SENTENCE: The penalty imposed by a judge or jury following the determination of guilt.

SUBPOENA: A mandatory legal notice to appear in court.

SUSTAINED: A judge's ruling that an attorney's objection is proper.

VICTIM: A person who suffers direct or threatened physical, emotional, or financial harm as a result of an offense. May also include the immediate family of a minor who is a victim or the family of a homicide victim.

WITNESS: A person who participates in a military criminal investigation or proceeding for the purpose of providing information or evidence concerning an offense committed under the Uniform Code of Military Justice. When the witness is a minor, the term "*witness*" usually includes the minor's parents or any person having legal custody of the minor. "*Witness*" does not include a person allegedly involved in an offense as a co-conspirator, accomplice, or other principal.

INFORMATION FOR CRIME VICTIMS

Protection From Harassment

It is a federal offense to threaten, intimidate, harass, mislead, or retaliate against a victim involved in a criminal proceeding or investigation. When appropriate, steps will be taken to protect you from intimidation or other threats. If anyone does threaten you or if you feel that you are being harassed because of your contribution to the case, immediately notify the judge advocate in charge of the case or the Air Force agency investigating the offense. Here at Beale AFB, the appropriate phone numbers are as follows:

Beale Legal Office	(530) 634-2928	368-2928
Security Police Investigations	(530) 634-2131	368-2131
Office of Special Investigations	(530) 634-2383	368-2383

EMERGENCY:

911

Consultation With Victim

If you are a victim, or an immediate family member of a victim of a serious offense, the judge advocate in charge of the case will wish to obtain your views about legal decisions made before, during, and after the trial. Any adverse impact on you and your family will be explored in detail. In this way, your situation and opinions can and will be given due consideration throughout the case. Please be frank, thorough, and totally honest when discussing these matters with the judge advocate in charge of the case.

Under ordinary circumstances, victims are consulted on the following matters: decisions regarding preferral of charges, dismissal of charges, pretrial restraint, pretrial agreement negotiations (*including pretrial agreement terms*), plea negotiations, decisions regarding discharge in lieu of court-martial, and the scheduling of judicial proceedings where the victim is required or entitled to attend.

Consultations with victims may be limited when justified by circumstances such as 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 will be considered, military officials have the responsibility to act in the best interests of the United States and may take any action deemed necessary in the interests of good order and discipline and in the prevention of service-discrediting conduct.

Victim's Right to Information

Since 1 July 1995, the Air Force, in cooperation with the Department of Defense, has distributed and maintained various types of DD Forms in order to enhance the rights of victims and witnesses. These forms provide invaluable information to victims and witnesses of crimes.

1. DD Form 2701. Initial Information for Victims and Witnesses of Crime.

Provides basic rights of a victim and lists phone numbers and points of contact for further information.

2. DD Form 2702. Court-Martial Information for Victims and Witnesses of Crime.

Provides information on the many processes of a court-martial and lists points of contact for further questions and information.

3. DD Form 2703. Post-Trial Information for Victims and Witnesses of Crime.

Lists location of confinement facility, clemency and parole consideration, and points of contact for further questions and information.

4. DD Form 2704. Victim/Witness Certification and Election Concerning Inmate.

This form has to be filled out by a victim/witness of a crime and is maintained at the Base Legal Office. A copy is also sent to the servicing confinement facility and HQ AFSFC/SFC, which is the Military Service Central Repository located at Lackland AFB, Texas. Victim and witnesses are given the option to be informed of an inmate's status. If they elect the right to receive information about changes in the status of the inmate, the Military Service Central Repository will be the agency to notify the victim/witness in the case of upcoming clemency and parole hearings or any other change in status. *Note: It is the responsibility of the victim/witness to notify the Military Service Central Repository if they move or if their telephone number changes in order to be notified of a change in inmate status.*

5. DD Form 2705. Victim/Witness Notification of Inmate Status.

If the victim/witness elected to be notified in the case of a change in inmate status on the DD Form 2704, they will receive a DD Form 2705 from the confinement facility which outlines the upcoming changes to take place.

Assistance With Your Employer and Creditors: Upon request of a victim, the judge advocate will take reasonable steps to inform an employer of the reasons why a victim may be absent from work. In appropriate cases, a victim who is subject to serious financial strain as a direct result of a crime or cooperation in the investigation or prosecution of a crime will be assisted by the Beale Air Force Base Legal Office in explaining the situation to creditors. If you need assistance in these areas, please notify the judge advocate assigned to the case.

Treatment, Support, and Counseling: The Family Support Center (FSC) on base maintains information on available treatment, support programs, and counseling services. The FSC serves as the liaison between victims and those programs. The FSC director works with other agencies to identify victim's needs and determines appropriate forms of assistance available through the military and civilian community services. The FSC provides information to victims on available medical, financial, legal, and other social services and then assists victims in obtaining those services. The number for the FSC at Beale AFB is (530) 634-2963.

Access to Reports and Documents: Victims have the right to obtain certain investigative and judicial reports under the Freedom of Information Act (FOIA). Any request for release of investigative reports or other documents must be processed in accordance with the Freedom of Information Act and DoDR 5400.7. Please contact the Freedom of Information Act Manager at (530) 634-2964 if you have such a request.

Victim Reimbursement for Damages: Crimes often cause substantial financial losses for the victims. Perhaps you have had cash or valuable property stolen and not recovered, property damaged, medical expenses not covered by the government, or a loss of income because you could not work. If any of these things have happened to you, check to see if your insurance will cover the loss or see if one of the programs listed in pp 6-10 could provide help for you.

Civilian Programs and Services

While there are a number of programs available here at Beale Air Force Base to assist in domestic violence cases, there are still programs available within the civilian sector for which you may qualify as a resident of California. Victims of federal crimes must apply to the appropriate state or local offices for compensation. The federal government normally does not pay compensation directly to crime victims. A state that receives federal money for its victims' compensation program must compensate eligible victims of federal crimes, including victims of offenses under the Uniform Code of Military Justice. For further information, contact:

California Victim Compensation Program (VCP)

P.O. Box 3036

Sacramento, CA 95812-9912

1-800-777-9229

Hearing impaired, please call the

California Relay Service at 1-800-735-2929

Also see the attached list of Yuba County, California, resources at the back of this handbook.

CONCLUSION

The military expects that, absent some expressed legal privilege, if you are called to testify, you will do so and that you will do so truthfully. The military justice system is designed to provide the accused a fair trial, to protect the innocent (*including innocent victims and witnesses*), to prevent the commission of further crime, and to appropriately punish and rehabilitate those persons whose guilt has been proven beyond a reasonable doubt by competent evidence. The testimony of live witnesses is often necessary to accomplish these goals. The military justice system has the authority to compel the appearance of witnesses to provide testimony at a court-martial. A civilian witness who disregards a subpoena may be tried in Federal Court under Title 10, U.S.C. Section 847, and upon conviction, be subjected to a fine or imprisonment.

The vast majority of witnesses in military criminal proceedings, in spite of inconveniences that accompany their involvement, do fulfill their responsibilities as either a victim and/or witness by testifying and cooperating willingly. We hope that through the Beale Air Force Base Victim/Witness Assistance Program, you will be encouraged to do the same. Again, if you have any questions at all, contact your Victim/Witness Advocate at (530) 634-2928.

Hopefully, this packet has answered many of your questions regarding your rights and role in the military justice system. You should understand that victims have certain rights and should be treated with dignity and respect. Witnesses have important responsibilities in this process and their full cooperation is essential if the system is going to operate fairly and effectively. Your contribution of time and energy is appreciated by everyone in the Beale Legal Office and by the military commanders at Beale Air Force Base. Again, if you have any questions or problems related to the case or need assistance, please call the judge advocate assigned to the case or one of the base victim/witness advocates at the Beale Legal Office, building 2429, 17801 Warren Shingle Road, Beale AFB, CA 95903-1520, (530) 634-2928 or DSN 368-2928.