

Your Rights as a Victim.

As a crime victim, you have the following rights:

- The right to be treated with fairness and respect for your dignity and privacy;
- The right to be reasonably protected from the accused offender;
- The right to reasonable, accurate, and timely notice of public preliminary hearings, pretrial confinement hearings, court proceedings, and clemency and parole hearings related to the offense;
- The right to be present at all public proceedings related to the offense unless the hearing officer or military judge determines that your testimony would be materially altered if you as the victim heard other testimony;
- The right to reasonably confer with the prosecutor/Trial Counsel in the case;
- The right to receive available restitution;
- The right to be reasonably heard at: 1) a public hearing concerning the continuation of any pretrial confinement of the accused; 2) a sentencing hearing related to the offense; 3) a public Military Department Clemency and Parole Board hearing related to the offense;
- The right to submit a written statement for the consideration of the Convening Authority prior to taking action on findings and sentence;
- The right to proceedings free from unreasonable delay;
- The right to be provided information, if applicable, about the conviction, sentencing, imprisonment, Convening Authority's action, appellate review, and release of the offender.

Points of Contact:

From now on, your point of contact will be the confinement facility or the Service Central Repository listed below. Please call if you have any questions.

Service Central Repository

(Name)

(Telephone Number)

Confinement Facility

(Name)

(Telephone Number)

Service Clemency and Parole Board

(Name)

(Telephone Number)

Other

(Name)

(Telephone Number)

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at: <http://vwac.defense.gov/>

**DEPARTMENT OF
DEFENSE**



**POST-TRIAL
INFORMATION FOR
VICTIMS AND
WITNESSES OF CRIME**

Post-Trial Information **For Victims and Witnesses of Crime**

Introduction.

This brochure details the post-trial process and your rights in that process. This includes your right to be notified of changes in the confinement status of the offender in your case, and for a victim to submit matters.

Record of Trial.

After the trial, a transcript of the proceedings will be prepared. If you are the victim of a qualifying sexual offense, you are entitled to a no-cost copy of the record of trial as soon as it is authenticated.

Location of Confinement Facility.

The Victim and Witness Assistance Program does not end with the completion of the court-martial. If the accused is convicted of any offense, the court-martial will sentence the accused. If the sentence includes confinement, the accused, now called "prisoner", is usually taken immediately to jail. If there is a confinement facility at the installation where the trial was held, the prisoner will be held there temporarily.

Depending on the security level of the prisoner, he/she may be assigned to various work details around the installation. If the prisoner's period of confinement is minimal, and there are adequate facilities on the installation or in a locally-contracted confinement facility, the prisoner may serve the entire sentence at the installation or local facility.

If there is no confinement facility at the installation, the facility is not adequate to house the prisoner, or the sentence is in excess of what is handled on the installation, he/she will be taken to a regional confinement facility. The prisoner may later be transferred to other facilities available, based on length of sentence, programs and security levels.

You can be notified of these changes if you fill out a form called DD Form 2704, "Victim/Witness Certification and Election Concerning Prisoner Status." It is very important that you keep the confinement facility informed of your current address, email, and telephone number.

Convening Authority Action.

Forfeitures of pay and reductions in rank usually begin 14 days after the sentence is announced, unless deferred by the Convening Authority, who is typically a senior officer. Other parts of the sentence take effect only after the "Convening Authority" takes "action" on the case, which generally occurs within two to four months after trial. Depending on the charges, the Convening Authority may disapprove findings, disapprove or reduce part of the sentence, or approve everything except a punitive discharge. The Convening Authority cannot increase any part of the sentence. A victim has the right to submit a written statement to the Convening Authority, which may include an opinion on whether the accused should receive clemency and how the victim has been impacted by the crime. A victim also has the right to receive notification of the Convening Authority's action and the outcome of any appeal. You will be informed of the process for how to do this, if applicable.

Appellate Review.

All court-martial convictions are either reviewed by a judge advocate or subject to some form of appellate review. An appeal is when a higher court reviews the decisions made by lower courts to determine if a legal error was made. The post-trial appeal process can take a long time. Depending on the offense, an accused can choose to waive appellate review. A victim has the right to be notified in advance of the date and time of any appellate courtroom hearings, and to be notified of the final decision of any appellate court or judge advocate review.

Clemency and Parole Consideration.

Military prisoners are generally eligible for clemency consideration within their first year of confinement. Military prisoners are generally eligible for parole consideration when they have completed 1/3 of their confinement, and every year thereafter. A victim may make a statement to the confining Correctional Facility or directly to the Clemency and Parole Board on how the crime affected him/her. This statement may be given in person, or submitted by a victim in writing or on audio or videotape to the Service Clemency and Parole Board at the address on the back of this page.

Notification Rights.

You have the right to be notified in writing of the following changes in the prisoner's status: transfer to another facility, parole, escape, release from confinement, or death while in confinement. If the prisoner is released on temporary home leave (for example, to visit a dying parent), the confinement facility will make every effort to notify you in advance.

How To Exercise Your Rights.

If you want to exercise any of your post-trial rights, you must make your elections on the DD Form 2704, "Victim/Witness Certification and Election Concerning Prisoner Status," and DD Form 2704-1, "Victim Election of Post-Trial Rights." You will be provided an opportunity to make your elections and to receive a copy of this form after sentencing. You MUST notify the appropriate offices of any change in your address or contact information if you want to receive these notices. Your information will be kept confidential.