

**SAMPLE LETTER FROM TRIAL COUNSEL
REQUESTING WITNESSES**

[Command]

[Address]

Phone:

FAX:

5813

[DATE]

From: LT Kenneth M. HARRISON, USCG, Trial Counsel

To: Commanding Officer, USCGC TAMPA (WMEC 902)

Subj: SPECIAL COURT-MARTIAL, UNITED STATES V. JACOBS

1. Trial in the case of the United States v. Michael L. Jacobs 123 45 6789. USCG, has been scheduled for 0900 hours, 04 October 2000, in Room 504, Federal Building, Portsmouth, Virginia.

2. JACOB's detailed defense counsel is LTJG E. F. HARRINGTON, USCGR. I have been designated trial counsel.

3. It is requested that the following individuals, all prosecution witnesses, attend the trial.

- a. LT L. A. INGRAHAM, USCG, USCGC TAMPA (WMEC 902);
- b. BMC A. N. COULTER, USCG, U.S. Coast Guard Group, Hampton Roads, Virginia; and
- c. SN L. N. GONZALEZ, USCG, USCGC TAMPA (WMEC 902).

4. As of this date, the defense has requested that one civilian witness be called to testify in their behalf. I will issue a subpoena summoning him to testify.

5. The above witnesses and the accused should arrive at the location stated in paragraph 1 above not later than 0800 hours, 04 October 2000. Insofar as the above witnesses are essential to the trial of this case, it is requested that I be notified immediately of any factors which might delay or prevent the attendance of any witnesses.

6. The members of the court appointed under your convening order dated 10 September 2000 should arrive at the trial site prior to 1000 hours, 04 October 2000, for the trial.

7. All participants to the trial, including the accused, should appear in the Coast Guard Service Dress Blue Bravo uniform.

K. M. HARRISON

SAMPLE SUBPOENA

SUBPOENA

The President of the United States, to Mr. Arnold Z. Swartz, SSN (required)
(Name and Title of Person being Subpoenaed)

You are hereby summoned and required to appear on the 10th day of October, 19 00, at 9:00
o'clock A.M., at RM 504 Federal Bldg., (before _____,
(Place of Proceeding) (Name and Title of Deposition Officer)
designated to take your deposition) (a Special court-martial of the United States) (a court of inquiry), appointed
by Commanding Officer, USCGC NORTHLAND (WMEC 904) order, dated 5 October
(Identification of Convening Order or Convening Authority)
19 00, to testify as a witness in the matter of _____
(Name of Case)
(and bring with you _____),
(Specific Identification of Documents or Other Evidence)

Failure to appear and testify is punishable by a fine of not more than \$500 or imprisonment for a period not more than six months, or both. 10 U.S.C. §847. Failure to appear may also result in your being taken into custody and brought before the court-martial (_____) under a Warrant of Attachment (DD Form 454). Manual for Courts-Martial R.C.M. 703(e)(2)(G).
TONO: 11/99/G8/1/G/BL/123/000 (sample)
ACCT DATA: 2P/123/987/56/0/BL/12345/2109 (sample)
Bring this subpoena with you and do not depart from the proceeding without proper permission.

Subscribed at Portsmouth, VA this 6th day of October 19 00.
Q. M. HALE, LT, USCG Trial Counsel
(Signature (See R.C.M. 703(e)(2)(c)))

The witness is requested to sign one copy of this subpoena and to return the signed copy to the person serving the subpoena.

I hereby accept service of the above subpoena.

Signature of Witness

NOTE: If the witness does not sign, complete the following:

Personally appeared before me, the undersigned authority, _____,
who, being first duly sworn according to law, deposes and says that at _____, on _____
19 _____, he personally delivered to _____ in person a duplicate of this subpoena.

Grade _____
Signature

Subscribed and sworn to before me at _____, this _____
day of _____ 19 _____.

Grade

Official Status _____
Signature

**SAMPLE SUBPOENA
SAMPLE CERTIFICATE IN LIEU OF A SUBPOENA**

CERTIFICATE IN LIEU OF SUBPOENA

I hereby certify that, although not subpoenaed,

Mr. Arnold Z. Swartz
24 Gold Street
Creston, Iowa 23046

was requested to and did in fact appear at the trial by special court-martial in the case of United States v. Seaman Ivan M. SMITHY 000 00 0000, USCG, USCGC NORTHLAND, Portsmouth, Virginia, held in Room 504, Federal Building, Portsmouth, Virginia, on 10 October 1984.

Q. M. HALE
Lieutenant, U. S. Coast Guard
Trial Counsel

Grade

Official Status

Signature

SAMPLE CLAIM FOR WITNESS FEES AND MILEAGE

Standard Form 1157 (Rev. 4-80)
 Department of the Treasury
 1 TFRM 4-2000
 1157-107

CLAIMS FOR WITNESS ATTENDANCE FEES, TRAVEL, AND MISCELLANEOUS EXPENSES

Previous editions obsolete

PART I - ATTENDANCE CERTIFICATION

1. General Information

a. Witness Name Mr. Arnold Z. Swartz d. Case Name U. S. v. SMITHY
 b. Witness Address e. Case Number _____
 Street 24 Gold Street f. District or Location Portsmouth, VA
 City Creston State IA Zip 44444
 c. U.S. Citizen: Yes (x) No () Alien: Legal () Illegal ()

2. Travel and Attendance Information

a. Dates of Travel From Residence to Case Location: From 9 / 10 / 00 To 9 / 10 / 00
 b. Dates of Travel From Case Location to Residence: From 10 / 10 / 00 To 10 / 10 / 00
 c. Dates of attendance: From 10 / 10 / 00 To 10 / 10 / 00

3. Certification

I certify that the witness named above attended in the case or matter indicated and is entitled to the statutory allowances for attendance and travel. In the proceedings before United States Magistrate where more than four witnesses were called, the Magistrate also certifies that the approval and certificate of the U.S. Attorney were first obtained.

Q. M. HALE Trial Counsel 10 October 00
 (Signature) (Title) (Date)

PART II - WITNESS CLAIM FOR FEES AND ALLOWANCES

	Rate	No. of Days	Amount Claimed	Totals
1. Attendance Fees				
a. Fact, Pretrial Conference & Detained Witness	30.00	01	\$ 30.00	
Total Attendance Fees				\$ 30.00
2. Mileage Allowance (Indicate type of privately owned vehicle: (Auto) (motorcycle) (airplane))				
	Rate	No. of Miles	Amount Claimed	
a. From Residence to Case Location (and Return)			\$ 0.00	
b. From Hotel/Motel to Court (or Court to Hotel/Motel)			0.00	
Total Mileage Allowance				\$ 0.00
3. Subsistence Per Diem Rate: _____ or HRGA Rate: _____ (HRGA: High Rate Geological Area)				
	Rate	No. of Days	Amount Claimed	
a. Meals			\$ 0.00	
b. Lodging			0.00	
Total Subsistence Allowance				\$ 0.00
4. Miscellaneous Allowances (See Item 8 Below)				
a. Common Carrier			\$ 200.00	
b. Parking Fees, Tolls, Taxi Fares			55.00	
Total Miscellaneous Allowances				\$ 255.00
5. Total Amount Claimed (Items 1-4, Part II)				\$ 285.00
6. Less Outstanding Check or Cash Advances				\$ _____
7. New Amount Claimed by Witness				\$ 285.00

8. Use this space to itemize your expenses from Item 4, Part II above. Receipts are required for all common carrier and parking fees, and for all other single items in excess of \$15.00.

Item 4
 Airline Ticket: \$200.00
 Taxi Fares: \$55.00

SSN: (required)
 TONO: 11/99/G8/1/G/BL/123/000 (sample)
 ACCT DATA: 2P/123/987/56/0/BL/12345/2109 (sample)

Paid by Check No. _____
 Paid by Cash \$ _____
 (Signature of Payee) _____
 (Date) _____

9. Witness Certification

I certify that the above data is correct and that payment has not been received, and that at the time of travel and attendance I (was) (was not) a U.S. Government employee and I (was) (was not) a citizen of the United States. (If not a citizen, present your Alien Registration Record with this form.) I (did) (did not) receive a Government Transportation Request to pay for my official travel.

SAMPLE WARRANT OF ATTACHMENT (DD-454)

WARRANT OF ATTACHMENT

_____(Type)_____ Court-Martial of the United States

 Coast Guard

UNITED STATES)
 V.)
 _____)
 (Name and SSAN of Accused))
 _____)
 (Rate and Organization))

The President of the United States, to _____

 (United States marshal or such other person as may be directed,

 RCM 703(e)(2)(G)(iv), MCM, 1984)

WHEREAS, _____(Name of Witness)_____, of _____(Address of Witness)_____,
 was on the _____day of _____, 19 ____,
 at _____(Place Subpoenaed)_____, duly subpoenaed to appear and attend
 at _____(Place Witness ordered to testify)_____, on the _____day of
 _____, 19 ____, at _____o'clock __ m., before a _____(Type)_____
 court-martial duly convened by _____(Title, Unit, Order No. of Convening Authority)_____, dated
 _____, 19 ____, to testify on the part of the _____(United States)/(Defendant)_____ in the above-
 entitled case; and whereas he/she has willfully neglected or refused (to appear and attend)¹ (to produce
 documentary evidence which he/she was legally subpoenaed to produce) before said _____(Type)_____
 court-martial, as by said subpoena required, although sufficient time has elapsed for that purpose; and whereas
 he/she has offered no valid excuse for his/her failure to appear; and whereas he/she is a necessary and material
 witness in behalf of the _____(United States)/(Defendant)_____ in the above-entitled case:

¹ Line out inappropriate words.

VICTIM WITNESS ASSISTANCE PROGRAM FORMS (2701-2704)

Initial Information**For Victims and Witnesses of Crime**

Introduction: We are concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may experience anger, frustration, or fear as a result of your experience. The officer responsible for Victim/Witness Assistance (Victim Witness Liaison or Advocate) at your installation can help.

We have prepared this brochure to help you deal with the problems and questions which often surface during an investigation and to provide you with a better understanding of how the Military Criminal Justice system works. Your continued assistance is greatly needed and appreciated.

A criminal investigation can be both complex and lengthy and may involve several agencies, some Federal and some local. If you request, you will be kept informed of the status of your case by the investigator handling your case. His or her name is on the back of this brochure.

If You Are Threatened Or Harassed: If anyone threatens you or you feel that you are being harassed because of your cooperation with this investigation, contact the investigator or the Victim Witness Responsible Official right away. It is a crime to threaten or harass a victim or witness.

If You Were Injured: If you do not have insurance to pay the cost of your medical or counseling bills, or related expenses, the state Crime Victim Compensation office may be able to assist. The telephone number for this office is on the back of this

brochure.

If You Were a Victim of Spouse or Child Abuse: For your safety, you may want a restraining order, or temporary shelter. For information about these steps or about counseling services, call the Victim-Witness Assistance Program Coordinator. If the offender is convicted or discharged for abusing you or your children, you may be eligible for "Transitional Compensation" benefits. Contact the prosecutor identified on the back of this brochure for further information.

Restitution: If an individual is arrested and prosecuted in federal court, you may be eligible for restitution. Restitution is court-ordered payment to you as a victim of crime. It is made by the offender for any out of pocket expenses caused by the crime. Restitution cannot be ordered as a sentence in a military court-martial, but it can be used as a condition of a pre-trial agreement to plead guilty to an offense, or as a condition of clemency or parole.

If Property Was Stolen: If your property was stolen, we hope to recover it as part of our investigation. If we do, we will notify you and return it to you as quickly as possible. Sometimes property needs to be held as evidence for trial. We will return your property once it is no longer needed as evidence.

If You Need Assistance With Your Employer or Command: If you have problems at work because of the crime or the investigation, we can contact your employer or commanding

officer to discuss the importance of your role in the case.

If An Arrest is Made: If you ask, you will be notified if a suspect is arrested. Since criminal defendants may be released before trial, you can request a restraining order to help protect you from the suspect.

Trial: Once an offense has been referred to trial, you will be contacted by the military trial counsel (prosecutor) or the Assistant U. S. Attorney assigned to handle your case, as appropriate. Each command and U.S. Attorney has a Victim/Witnessed Responsible Official to help answer your questions and deal with your concerns during the prosecution. You have the right to be consulted at key stages in the trial and will be informed of these rights by Trial Counsel.

Confinement: If the accused is sentenced to confinement (prison), you have the right to notification of changes in the confinee's status. Use DD form 2704, "Victim/Witness Certification and Election Concerning Inmate Status", to request that the confinement facility notify you of parole hearings, escape, release, or death of the confinee.

The Emotional Impact of Crime: Many victims and witnesses are emotionally affected by the crime. Although everyone reacts differently, victims and witnesses report some common behaviors such as increased concern for their personal safety and that of their family, trouble concentrating on the job, difficulty handling everyday problems, feeling overwhelmed, and thinking of crime repeatedly.

FORM 2701

Some or all of these behaviors may occur and will ease with time. They are normal reactions but you may wish to see a counselor. State compensation funds may be available to reimburse you for such counseling. The Victim-Witness Assistance Program Coordinator will have further information.

Your Rights As A Victim:

As a Federal Crime Victim, you have the following rights:

- The right to be treated with fairness and with respect for your dignity and privacy;
- The right to be reasonably protected from the accused offender;
- The right to be notified of court proceedings;
- The right to be present at all public court proceedings related to the offense, unless the court determines that your testimony would be materially affected if you as a victim heard other testimony at trial;
- The right to confer with the attorney for the government in the case;
- The right to available restitution
- The right to information about the conviction, sentencing, imprisonment, and release of the offender.

If You Need Additional Assistance:

In regard to the status of the investigation, contact the investigator below:

(Name & Telephone Number)

In regard to other assistance available contact the command Victim-Witness Assistance Program Coordinator, or the person identified below:

(Name & Telephone Number)

In regard to the prosecution. contact legal office below:

(Name & Telephone Number)

In regard to compensation for medical or other expenses, contact the state office for Crime Victim Compensation:

(Name & Telephone Number)

Please notify these offices of any changes of address or telephone number

For further information on crime issues, contact:

Office for Victims of Crime Resource Center 1-800-627-6872



UNITED STATES COAST GUARD

INITIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME

**Court-Martial Information For Victims and Witnesses of
Crime**

Introduction:

The United States Coast Guard is concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may feel anger, confusion, frustration, or fear as a result of your experience and then feel added frustration in the course of the trial. The information in this brochure will explain the criminal justice process, and your role as a witness.

In the military, a prosecutor is called the Trial Counsel. The Trial Counsel's office will make every effort to keep you informed of the times and places you may be needed. However, it is not unusual for the court dates to change several times before the trial. It is very important to keep the Trial Counsel informed of your current address and telephone number.

Preferral of Charges:

Like a civilian criminal "complaint," the preferral of charges begins the trial process. Upon preferral, you may participate at several points as outlined below.

Pretrial Conference:

You will be asked to speak with the Trial Counsel handling the case at least once before you testify. The Trial Counsel will answer any questions you may have at this time, and will tell you what will be expected of you as a witness.

Article 32 Hearing:

Serious crimes are dealt with in a "General" court-martial, which includes an "Article 32" Hearing. Similar to a grand jury hearing, an Article 32 Hearing is the preliminary investigation into the charges to determine if reasonable grounds exist to believe the accused committed the crimes charged. In the Article 32 Hearing, testimony is given to an Investigating Officer (IO), rather than a judge or jury. You may have to appear at the hearing and testify under oath regarding what you know about the charges. After the Article 32 Hearing, the IO recommends whether to "refer" (send) the case to trial. In less serious cases, the preliminary hearing is not required and cases are referred to a Special Court Martial.

Court-Martial:

This is a trial of the accused. It generally has two parts: findings (guilty or not guilty) and sentencing (punishment). In the findings phase the accused has the right to choose whether a Military Judge sitting alone or a panel of members" (jury) will decide whether the accused is guilty of any offenses.

Testimony:

If you testify, you will be placed under oath and asked questions by the trial counsel, and, in most cases, cross-examined by the Defense Counsel. Usually, counsel for both sides & will have spoken to you prior to testifying so there will be very few surprises. If you have concerns about embarrassing questions that could be asked, tell Trial Counsel before the trial.

Pointers When Testifying:

- Dress Appropriately: Be neat. Dress conservatively.
- Tell the Truth: Honesty is the best policy.
- Speak Clearly and Loudly: Everyone in the courtroom must be able to hear what you have to say. Do not chew gum.
- Don't Guess or Speculate: If you don't know, say you don't know. Give positive, definite answers when you remember positively.
- Be Courteous: Answer politely and address the judge as "Your Honor."
- Don't Lose Your Temper: Stay calm.

Closing Argument:

After all the evidence is received by the court, each side makes a closing argument. After argument, the judge or members will adjourn to deliberate on the issue of guilt or innocence. If there is a finding of "not guilty," the accused is released and the court-martial process ends. If there is a finding of "guilty," the trial: immediately goes to the sentencing phase.

Sentencing:

In this phase, the judge or members (jury) decide the appropriate types of and the amount of punishment. The Trial Counsel may call witnesses to show aggravating factors concerning the offenses. The defense may call witnesses to show the offense may be less serious than otherwise indicated. You may be asked to return to the witness stand and testify as how the crime has affected you. This may include the emotional, physical and financial suffering you experienced.

FORM 2702

Punishment:

The court-martial ends when the judge reads the sentence to the accused. Normally, any confinement ordered begins at the time the sentence is announced. Other parts of the sentence, such as forfeitures of pay and reduction in rank, take effect after the “convening authority”, usually a senior officer, takes “action” on the case. This generally occurs within two to three months, but could take longer in more complex cases.

If the accused is sentenced to prison, you have additional rights to notification of any changes in the inmate’s status. These will be explained to you by the Trial Counsel or a designated representative.

If the offender is convicted or discharged for abusing you or your children, you may be eligible for “transitional compensation” benefits. Contact the Trial Counsel for an application (DD Form 2707) and for further information.

Notified of the acceptance of a guilty plea; to present to the court evidence on sentencing;

Informed about the conviction, sentencing, and imprisonment of the accused.

Notes:

Points of Contact:

Your Participation:

You may choose to participate in the trial at several stages. You may ask to be:

- Notified of and be present at all public court proceedings;
- Consulted on pre-trial confinement of accused and release of accused from pre-trial confinement;
- Contacted about the proposed dismissal of any and all charges;
- Consulted on decision not to prosecute;
- Contacted regarding the proposed terms of any negotiated plea;
- Consulted on proposed terms of any pre-trial agreement;

Victim-Witness Assistance Program Coordinator

(Name and Telephone Number)

Trial Counsel

(Name and Telephone Number)

For further information on crime issues, contact:

Office for Victims of Crime Resource Center 1-800-627-6872



COURT-MARTIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME

UNITED STATES COAST GUARD

FORM 2703

Your Rights As A Victim:

As a victim of a crime, you have the following rights under the Victim's Rights and Restitution Act of 1990 (Public Law No. 101-647):

- To be treated with fairness and with respect for your dignity and privacy;
- To be reasonably protected from the accused;
- To be notified of court proceedings;
- To be present at all public court proceedings related to the offenses, unless the court determines that your testimony would be materially affected if you heard other testimony at trial;
- To confer with the attorney for the Government (Trial Counsel) in the case;
- To receive available restitution;
- To receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused.

For Further information on crime issues, contact:

Office for Victim of Crime Resource Center 1-800-672-6872

UNITED STATES



COAST GUARD

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

FORM 2703

Request for Notice

Please fill in all the blanks.

Re: United States v. _____

Court-Martial Docket Number _____

I request notification of important case events.

NAME (Print or Type)

HOME ADDRESS

BUSINESS ADDRESS

TELEPHONE: WORK

 HOME

DATE

SIGNATURE

Please return within thirty (30) days of receipt in the enclosed self-addressed, stamped envelope to:

VICTIM/WITNESS CERTIFICATION AND ELECTION CONCERNING INMATE STATUS <small>(This form is exempt from Freedom of Information Act release)</small>	
PRIVACY ACT STATEMENT	
<p>AUTHORITY: 42 U.S.C. 10606 <u>et sec.</u>, Victim's Rights and Restitution Act of 1990; 18 U.S.C. 1501 <u>et sec.</u>, Victim and Witness Protection Act of 1982.</p> <p>PRINCIPAL PURPOSES: To inform victims and witnesses of their post-trial rights; to determine whether the victim or witness of a crime elects to be notified of changes in the confinement status of a convicted</p> <p>ROUTINE USES: None</p> <p>DISCLOSURE: Voluntary, however, failure to provide identifying information will prevent the correction facility from notifying victim or witness of changes in a criminal offender's status.</p>	
SECTION I - ADMINISTRATIVE INFORMATION <small>(Incident Number and Organizational Identifier are obtained from DD Form 1569)</small>	
Unit _____	Incident Number _____
Organizational Identifier (OR) _____	
SECTION II - REPRESENTATIVE INFORMATION <small>(Complete this section only if there are no victims or witnesses who are entitled to notification under the Victim's Rights and Restitution Act of 1990)</small>	
<p>As representative for the Government in the court-martial case of United States v. _____ <small>(Name of court-martial case)</small></p> <p>convened by: _____ <small>(Court-martial convening order number, date, and issuing command)</small></p> <p>I certify that this case does not involve a victim or witness entitled to receive information about the confinement status of the defendant as required by the Victim's Rights and Restitution act of 1990 (Public Law 101-647; 104 Stat. 4820).</p> <p>_____ _____ <small>(Date)</small> <small>(Signature, grade, and title of person certifying)</small></p>	
SECTION III - NOTIFICATION STATEMENT <small>(Complete this section when there are victims or witnesses entitled to notification.)</small>	
<p>I certify that on this date I personally notified the victim(s) and witness(es) in the court-martial case of the United States v. _____, convened by _____, <small>(Name of court-martial case)</small> <small>(Court-martial convening order number, date, and issuing command)</small></p> <p>whose sentence included confinement, of their right under the Victim's Rights and Restitution Act of 1990 (Public Law 101-647, 104 Stat. 4820), to receive information about the status of the inmate, to include length of sentence, anticipated earliest release date, likely place of confinement, the possibility of transfer, and the right to receive notification of a new place of confinement. I advised of the possibility of parole or clemency with an explanation of these terms. Additionally, I advised of the right to prior notification of the inmates parole hearings, release from confinement, escape and death. Finally, I advised that to receive notification of the inmate's transfer, parole hearings, and release from confinement, the victim or witness must provide the information required in Section IV of this form.</p> <p>_____ _____ <small>(Date)</small> <small>(Signature, grade, and title of person certifying)</small></p>	

