

§ 720.23

issue the person subpoenaed permissive orders authorizing attendance at the trial at no expense to the Government, unless the person's absence would have an adverse impact on naval operations. In such a case, a full report of the circumstances will be made to the Judge Advocate General or, in the case of civilian employees, to the Associate General Counsel (Litigation). In those cases where fees and mileage are not tendered as required by rule 17(d) of the Federal Rules of Criminal Procedure, but the person subpoenaed still desires to attend, the commanding officer also may issue permissive orders at no cost to the Government. Such persons, however, should be advised that an agreement as to reimbursement for any expenses incident to travel, lodging, and subsistence should be effected with the party desiring their attendance and that no reimbursement should be expected from the Government.

(2) *Civil actions.* When members or civilian employees are served with a subpoena to appear as a witness on the behalf of a nongovernmental party in a civil action brought in a Federal court, the provisions of § 720.20 apply.

§ 720.23 Naval prisoners as witnesses or parties in civilian courts.

(a) *Criminal actions.* When Federal or State authorities desire the attendance of a naval prisoner as a witness in a criminal case, they should submit a written request for such person's attendance to the Judge Advocate General. The civilian authority should include the following averments in its request:

(1) That the evidence to be derived from the prisoner's testimony is unavailable from any other source:

(2) That the civilian authority will provide adequate security arrangements for the prisoner and assume responsibility for the prisoner while he is in its custody; and

(3) that the civilian authority will assume all costs of transporting the prisoner from the brig, of maintaining that prisoner while in civilian custody, and of returning the prisoner to the brig from which he was removed.

The civilian authority should also include in its request an estimate of the length of time the prisoner's services

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will be required, and should specify the mode of transport by which it intends to return the prisoner. Upon receipt of such a request, authority by the Judge Advocate General will be given, in a proper case, for the production of the requested naval prisoner in court without resort to a writ of habeas corpus ad testificandum (a writ which requires the production of a prisoner to testify before a court of competent jurisdiction).

(b) *Civil actions.* The Department of the Navy will not authorize the attendance of a naval prisoner in a Federal or State court, either as a party or as a witness, in private litigation pending before such a court. The deposition of a naval prisoner may be taken in such a case, subject to reasonable conditions or limitations imposed by the command concerned.

§ 720.24 Interviews and depositions in connection with civil litigation in matters pertaining to official duties.

Requests to interview, depose, or call as witnesses, current or former members or civilian employees of the Department of the Navy, regarding information obtained in the course of their official duties, including expert testimony related thereto, shall be processed in accordance with 32 CFR part 725.

§ 720.25 Repossession of personal property.

Repossession of personal property, located on a Navy or Marine Corps installation, belonging to a member or to any dependent residing at or located on a Department of the Navy installation, may be permitted in the discretion of the commanding officer of the installation where the property is located, subject to the following. The documents purporting to authorize repossession and the procedures for repossessing the property must comply with State law. Prior to permitting physical repossession of any property, the commanding officer shall cause an informal inquiry into the circumstances and then determine whether to allow the repossession. If repossession is to be allowed, the person whose property is to be repossessed should be asked if he wishes