OFFICE OF THE INSPECTOR GENERAL,
USAFCEFS

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Family Support Relief

By LTC Timothy J. Diley, Command Inspector General

The number one assistance intake that we receive here at the Fires Center of Excellence IG office is Family non-support. Unfortunately, this alarming trend is the number one IG assistance case across the Army. While cases of Family non-support are not appropriate for the Inspector General (IG), we will refer this case down to the Soldier's chain of command for appropriate action. Family non-support carries a negative connotation based on Soldiers not complying with their duty to pay support to family members when separated or divorced. However, there are many Soldiers that take their obligations and responsibilities seriously and pay support. In fact, there are circumstances where Soldiers can be relieved from regulatory requirements outlined in the regulation.

Army Regulation 608-99, Family Support, Child Custody, and Paternity, paragraph 2-14 explains how a battalion commander may release a Soldier under his or her command from the cited provisions of the regulation. Here are the situations explained in the regulation:
(1) An order issued by a court without jurisdiction, (2) A court order without a financial support provision, (3) The income of the spouse exceeds the military pay of the Soldier, (4) This Soldier has been the victim of substantial abuse, (5) The supported family member is in jail, (6) Regulatory support has been provided to the spouse for 18 months, (7) The supported child is in custody of another who is not the lawful custodian.

We have referred cases of financial relief down to the command based on Soldiers who have provided 18 months of financial support. However, there are two instances that a battalion commander cannot authorize financial relief for a Soldier: (1) financial support for children from the marriage and (2) an existing court order or written financial support agreement. Paragraph 2-14 (6) states, "*This subparagraph authorizes a battalion commander to release a Soldier from the regulatory requirement to provide financial support to his or her spouse (see paras 2-5a (3) and 2-6), but not from the requirement to provide financial support to the children from that marriage. This does not give the battalion commander authority to release a Soldier from the requirement to provide support required by a court order or a written financial support agreement.*"

The command must verify the Soldier does not have a court order or a written financial agreement for support, and there are no children from the marriage to support. Then, subparagraph 2-14 (a) through (e) specifies several requirements that must all be met, in order for the battalion commander to release the Soldier from providing financial support. Those requirements are:
(a) The husband and wife have been separated for 18 months.
(b) The Soldier has made the financial support required by this regulation for the entire18 months.
(c) Civilian courts are available and would have jurisdiction to order financial support. A foreign court will meet this requirement only if its judgment would have continuing effect even if the Soldier leaves the jurisdiction (see para2–4c).
(d) The Soldier has not acted in any manner to avoid service of process or otherwise to prevent a court from ruling on the issue of support.

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Corrective Action vs. Punishment

By SFC Kent Scobey, Assistant Inspector General

Training is an essential element in today's Armed Forces. At the start of our enlisted careers, we attend Initial Entry Training (IET) and Advanced Individual Training (AIT) to gain the basic knowledge of how to be Soldiers and how to do our jobs. Officers attend either West Point, ROTC, or Officer Candidate School (OCS) and then follow up training with the Basic Officer Leaders Course (BOLC). Once at the assigned unit, both officers and enlisted personnel continue to train to perfect knowledge and technique in their Military Occupational Specialty (MOS). Training in the military never stops; however, mistakes in both training and life occur. When this happens, leaders must know how to correct training and disciplinary deficiencies. Though retraining is often viewed as punishment, the military differentiates the two. Leaders must understand the difference between retraining and punishment in order to administer either when necessary.

Corrective training is one of the most effective nonpunitive measures leaders may use when a Soldier's performance is viewed as sub-standard. Corrective training is not punishment and should not be confused with extra duty. IAW AR 600-20, paragraph 4-6.b. (1&2), "One of the most effective administrative corrective measures is extra training or instruction (including on-the-spot correction)." For example, if Soldiers appear in an improper uniform, they are required to correct it immediately; if they do not maintain their housing area properly, they must correct the deficiency in a timely manner. If Soldiers have training deficiencies, they will be required to take extra training or instruction in subjects directly related to the shortcoming. The training, instruction, or correction given to a Soldier to correct deficiencies must be directly related to the deficiency. It must be oriented to improving the Soldier's performance in their problem area. Corrective measures may be taken after normal duty hours. Such measures assume the nature of training or instruction, not punishment. Corrective training should continue only until the training deficiency is overcome. Authority to use it is part of the inherent powers of command." The most effective way to conduct corrective training is leader presence.

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Uniform Code of Military Justice

By SFC Scott Young, Assistant Inspector General

Following the National Defense Authorization Act (NDAA) in 2017, a number of Uniform Code of Military Justice (UCMJ) updates took effect on January 1st, 2019. The late John McCain described the changes as the "most significant reforms" in UCMJ history. The question is, how will the changes actually impact the Army?

UCMJ now includes four new Punitive Articles: **Article 93a**: Prohibited activities with military recruits or trainee by person in position of special trust; the article enhances criminal liability for sexual acts/contact between specified trainers and trainees, as well as between recruiters and applicants for military service. **Article 121a**: Fraudulent use of credit cards, debit cards, Government Travel Charge Card, and other access devices. **Article 123**: Offenses concerning government computers; Criminalizes misuse or destruction of government computers, software, and classified/ protected information, including improper accessing of Personally Identifiable Information. Article 132: Retaliation; Criminalizes abuse of authority towards anyone for either reporting a criminal offense or for making a protected communication.

The criminally accused in the military will now face a more robust investigative branch of the military criminal justice system. Military judges can now write or approve warrants to collect electronic communications from an online service provider during a military criminal investigation. The investigative process has also been expedited and enhanced by allowing military judges to order wiretaps, subpoenas, and other special investigative legal tools before a case ever goes to court martial.

Alleged victims of military crimes gained protections under the January 1st, 2019 UCMJ update. Accusing or reported victims can request government counsel for any interviews with investigators. Associated representatives working with people who cannot represent themselves have also gained the same legal protections provided to the victim.

Article 134, known as "The General Article," was amended permitting court-martials for law violations outside of American territory, effectively applying Title 18 (non-capital offenses) worldwide. Adultery, known as "Extramarital Sexual Conduct," now includes vaginal, anal, and oral sex. However, legal separation **BY A COURT** is now an affirmative defense.

Panels may now include Soldiers or officer of any rank from any unit if the accused makes no election. The accused may elect to an enlisted panel, which must be comprised of at least 1/3 enlisted members. Panel sizes vary depending on type of courtmartial; 0 – Special, Judge Alone; 4 – Special; 8 – General (non-capital); 12 – General (capital) members. All courtmartials will now require a 3/4 majority to agree on both conviction and sentence previously a 2/3 majority. Moreover, the criminally accused lost the legal ability to request a panel with that decision resting solely in the hands of a government official.

Lastly, the blood alcohol concentration (BAC) limit acceptable while driving has also been lowered to 0.08, from the previous 0.10. Aggravated Assault has been broadened to include more types of harm, including domestic violence. "Dangerous weapon" no longer must be likely to produce death or grievous bodily harm, only needs to be capable (e.g. fists and feet). Stalking has been expanded to include cyber stalking and victims now include "intimate partners." You can reference the changes in this article in the 2016 Manual for Courts Martial and the National Defense Authorization Act of 2017. If you have any questions regarding the changes please contact your Legal Office or the FCoE IG office.

Corrective Action vs. Punishment Cont.

Though extremely important, leader presence is not a requirement unless unit Standard Operating Procedure (SOP) instruct leader presence. Corrective training should continue only until the training deficiency is overcome.

Conversely, punishment occurs only after an Article 15 or a courts-martial and is usually adjudicated by a commander at the lowest level or a Military Judge. After adjudication, the nature of the extra duty assigned does not have to include tasks related to the offense. The time limit is predetermined in accordance with the type of punishment, i.e. level of Article 15 (company, summarized, or field grade) or correction facility.

Though corrective action and punishment are closely related, leaders need to know the difference. Each leader is a mentor and should conduct teaching and training to the lowest level Soldier within unit ranks, regardless the MOS. Not only should a leader mentor Soldiers on military skill, technique, and knowledge, but leaders at all levels should also take a vast interest in the Soldier's personal life. Life is a lesson taught, so each of us should be able to utilize the knowledge gained by others to avoid the pitfalls of life. As leaders, let us make sure that we know the difference between corrective action and punishment, so as to better mentor our Soldiers in the United States military and in life.

Family Support Relief Cont.

(e) The Soldier is not receiving BAH–WITH solely on the basis of providing financial support to the family member concerned or agrees to terminate such BAH–WITH effective upon the date released from the support obligation.

Commanders need to gather some important information before granting relief. Reach out to the affected family member to gather all necessary information to understand and make an informed decision on financial support. Ensure your Soldier provides all required documentation to the command (pay vouchers, allotment proof, money order receipts, court orders, and written financial support agreements) to establish a basis why relief from financial support is warranted. Finally, a legal review is mandatory according to paragraph 2-12 (3), "Prior to granting release under this section, the commander must obtain a written legal opinion that a release is legally sufficient and complies with the requirements of this regulation."

The command is ultimately responsible for enforcing financial support to spouses and children in accordance with AR 608-99. Commanders must also understand that relief from these obligation can be granted under certain situations and should be considered. Don't hesitate to contact the IG office if you have any questions regarding family financial support. The IG office is here to assist commanders with improving readiness and ultimately your warfighting capability.

"Droit-et-Avant"

Office of the Inspector General, USAFCOEFS BLDG 1613 Randolph Road

Upcoming Inspections			
Date	Agency	Units Affected	Topic
25 FEB - 08 MAR 19	FCOE IG	FCOE, 30 ADA, 428 FA, 343 FA	DTS
29 APR - 10 MAY 19	FCOE IG	TBD	Special Conditioning Program

The FCoE Inspector General's Office would like to welcome the newest members of the team, SFC Scott Young and his family. His knowledge and experience will be a great contribution to Fort Sill and the surrounding community.

Inspector General Mission

The Office of the Inspector General provides assistance, teaches and trains, and conducts inspections and investigations as directed by the Commanding General for and throughout the United States Army Fires Center of Excellence and Fort Sill in order to assist commanders in achieving disciplined and combat-ready units and to maintain the operational effectiveness of the command.

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