

Chapter 13: Additional Considerations

Section 13A: The Military and Domestic Violence

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The military services consider domestic violence to be a leadership issue. The message is clear: Each service member is expected to take personal responsibility for the safety, health and well-being of his or her family members and to exemplify the core values -- honor, courage, and commitment -- of the military services. Military leaders and members recognize that family violence is unacceptable and incompatible with these core values. At every level of command, a military service Family Advocacy Program (FAP) reinforces this message by providing leadership and key responder training, as well as command and community education supporting the following five key objectives of Department of Defense family advocacy programs.

Prevention

- Prevention programs are offered by all military services in an effort to reduce and eliminate abuse of family members. The New Parent Support Program offers home visiting nurses for parents with new babies and has reduced both spouse and child abuse. Additionally, "Skills for Living" family support programs are also helping to reduce situational stress and create healthy, strong, nonviolent relationships. These programs include: marriage preparation and enrichment; anger control, conflict resolution and negotiation skills; stress management; parenting; personal financial management; family member employment assistance; suicide prevention; sexual assault and rape prevention; family team building training; and "empowered bystander" training for service members who witness abusive acts and need to know what to do to prevent further acts of violence in their own lives and in the lives of others.

Victim Safety and Protection

- Victim safety and protection is a primary concern of all command leaders and community members. Commanding officers, family center professionals, and medical treatment facility personnel ensure that victims receive needed victim advocacy services, medical assessments and care, risk (danger) assessments, safety and "stay safe" planning, assistance in accessing shelters and safe housing, Military Protective Orders (see below), child removal orders (if appropriate), 1-800 crisis hotline/helpline assistance, crisis intervention/short-term counseling services, support groups/survivor groups, legal assistance, and chaplain support. Family Centers and chaplains also provide community referrals for emergency financial assistance, food supplements, shelter, transportation, childcare, and other types of support.
- Military Protective Orders (MPOs) are similar to civil court orders of protection. They are issued by commanding officers, and formal hearings are not required. If ordered *ex parte*,

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they do not normally exceed 10 days in duration. If a longer period of safety and protection is required, the commanding officer normally gives victims and alleged offenders an opportunity to respond to abuse allegations. The purpose of the MPO is to stabilize the situation and to provide additional time for incident investigation while taking into account any hardships that may be imposed on both victims and alleged offenders. MPOs may direct service members to stay away from victims or designated places; refrain from contact with victims; refrain from doing certain things; and provide support for family members.

- If an offender is separated from military service for reasons of abuse, his or her family members may be eligible for monthly Transitional Compensation payments for up to thirty-six months. Victims may initiate a request for such payments through a military service appointed representative who reviews and approves the victim's application and forwards it to the Defense Finance and Accounting Service (DFAS) for payment. DFAS also provides child and spouse support payments and other pay garnishments where there is a court order directing such payments.
- Commanding officers of military medical treatment facilities can assist victims of abuse in requesting "Secretarial Designee Status" from the military service Secretaries, so that they can receive up to one year of medical and/or dental care for injuries resulting from abuse if the service member is separated from active duty for reasons of abuse.

Rehabilitation, Education, and Counseling

- Installation level, multi-disciplinary Case Review Committees/Case Management Teams make recommendations to commanding officers regarding appropriate education and counseling programs for offenders whose abuse cases have been substantiated through investigative and administrative processes. In domestic violence cases, rehabilitation programs focus on power and control issues, resocialization, and building "Skills for Living."
- Service members are normally offered rehabilitation services if the service member (1) has accepted responsibility for the substantiated abusive behaviors; (2) has demonstrated a desire to eliminate such behaviors; and (3) has definite potential for future productive service.

Offender Accountability

- When a service member has been accused of committing a family violence offense, the commanding officer must direct or make a formal inquiry into such charges. After the investigation is complete, (s)he may dismiss the charges, initiate administrative action, impose non-judicial punishment (NJP), convene a summary or special courts-martial (if empowered to do so), or forward the case to a general courts-martial convening authority.
- Double jeopardy does not preclude prosecution by courts-martial even though a service member has been tried by either a state or foreign court. Double jeopardy only prevents two prosecutions for the same offense by the same sovereign. However, service members tried in civilian court will not normally be tried again by the military, and special permission must be obtained before such prosecutions may go forward. A decision by a commanding officer to

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take no action does not bar later disposition of an offense in a different manner or independent action by a superior commander.

- Non-judicial punishment is imposed for certain offenses without referring the case to a courts-martial (e.g., grabbing, shoving, a single incident with no pattern of abuse, no visible injuries to the victim). Unless the accused is attached to or embarked on a naval vessel, the accused may refuse NJP and request a trial by courts-martial. The maximum NJP an officer can impose includes punitive censure, extra duties for not more than 45 days, restriction for 60 days, reduction one pay grade for E-6 and below, and forfeiture of one-half of a month's pay per month for two months.
- A summary courts-martial is a military judicial forum that provides a simple procedure for adjudicating relatively minor offenses. It is not authorized in the case of officers. The summary courts-martial officer acts as judge, prosecutor, and defense counsel and in doing so, decides questions of fact. The accused may retain a civilian counsel at his or her own expense or have "non-attorney" representation. The accused has the right to confront and cross-examine the witnesses against him or her and to demand a trial by a higher level court. The maximum punishment is hard labor without confinement for up to 45 days, reduction to the grade of E-1 (for E-4 and below) and reduction of one pay grade for E-5 through E-9, and forfeiture of two-thirds pay for one month.
- A special courts-martial is a military judicial proceeding which is authorized for all service members. The accused may request trial by a military judge or military jury. The maximum punishment that may be adjudged is confinement for six months, reduction to the grade of E-1 for enlisted personnel, forfeitures totaling not more than two-thirds pay per month for six months, and a bad conduct discharge (for enlisted personnel only) from the military service.
- A general courts-martial is a judicial proceeding authorized for all service members. It is preceded by an Article 32 investigation. Given the limited punishments available at special courts-martial, in a case involving an officer, a general courts-martial is usually convened if the decision is made for a judicial resolution. Depending upon the severity of the offense, punishments range from punitive censure, total forfeitures, and separation from military service (bad conduct or dishonorable discharge) to confinement for life or death.

Consistent, Appropriate Community Responses to Abuse Cases

- DOD and the military services have issued Family Advocacy policies to guide their prevention efforts and responses to abuse incidents: (1) DOD Directives 6400.1, 6400.1-M, 6400-2, 6400.3; SECNAV 1752.3A; OPNAV 1752.2A; Marine Corps Order P1752.3B; AFI 40-300; AR608-18; COMDINST 1750.7B (Coast Guard). Additionally, the Department of the Navy has developed guidelines for Case Review Committees and commanding officers regarding appropriate responses to various types and levels of violence and abuse.
- "Coordinated Community Responses" to abuse incidents are in various stages of development at nearly 400 military installations world-wide. When an offender commits abuse, a report is made to the installation's Family Advocacy Program Manager/

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Representative and/or law enforcement and special investigations organizations. These officials and the installation Family Advocacy Program Officer ensure that commanding officers, base security/police, criminal investigators, medical treatment personnel, family advocacy educators and counselors, victim advocates and other "first responders" are fulfilling their established roles and responsibilities. These responders serve as part of the installation's Case Review Committee/Case Management Team and make recommendations to commanding officers throughout the life of each FAP case. Based on available data, they also determine the status of each FAP case as follows: (1) suspected (case is opened for risk assessment and investigation); (2) substantiated; (3) unsubstantiated -- unresolved (insufficient evidence); and (4) unsubstantiated -- did not occur. Once the commanding officer makes a decision regarding administrative, punitive and/or rehabilitation actions, this committee/team also monitors the offender's compliance with command decisions and rehabilitation requirements.

Bibliography

UNIFORM CODE OF MILITARY JUSTICE

MANUAL FOR COURTS-MARTIAL (1995)

DOD and Military Service Family Advocacy Policies (available from 703/696-1702)

DOD Family Advocacy Program Manager (contact 703/696-1702)

Military Violence Checklist

Contact the nearest Family Service (or Support) Center for:

1. Prevention programs
2. Victim advocacy services
3. Crisis intervention services
4. Support groups for victims and survivors
5. Command and community referrals
6. Rehabilitation, education, and counseling (Navy and Marine Corps)
7. Civilian agency coordination

Contact the nearest military medical treatment facility for:

1. Emergency/ambulatory medical and dental care
2. Drug and alcohol services
3. Psychiatric, psychological and social work services
4. Rehabilitation education/counseling services (Army and Air Force)
5. Assistance with requests for "Secretarial Designee Status"

Contact the nearest military installation Legal Officer (Staff Judge Advocate) or Legal Services Office for information regarding:

1. Release of family advocacy case information
2. Command liaison
3. Legal questions (e.g., serving legal documents on offenders, convening authorities, etc.)
4. Transitional compensation, child and spouse support payments, pay garnishments
5. Complaint hotlines
6. Military Service Inspectors General
7. Law enforcement

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Section 13B: The Earned Income Credit: Extra Money for People Who Work

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What is the Earned Income Credit?

The EIC is a special tax benefit for working people who earn low or moderate incomes. It has several important purposes: to reduce the tax burden on these workers, to supplement wages, and to make work more attractive than welfare.

Workers who qualify for the EIC and file a federal tax return can get back some or all of the federal income tax that was taken out of their pay during the year. They may also get extra cash back from the IRS. Even workers whose earnings are too small to have paid taxes can get the EIC. What's more, the EIC reduces any additional taxes workers may owe.

Who can get the EIC and how much is it worth?

Single or married people who worked full time or part time at point in 1997 can qualify for the EIC, depending on their income.

Workers who were raising one child in their home and had family income of less than \$25,760 in 1997 can get an EIC of up to \$2,210.

Workers who were raising more than one child in their home and had family income of less than \$29,290 in 1997 can get an EIC of up to \$3,656.

Workers who were not raising children in their home but were between ages 25 and 64 on December 31, 1997 and had income below \$9,770 can get an EIC of up to \$332.

Which children qualify for the EIC?

"Qualifying children" include: sons, daughters, stepchildren, grandchildren and adopted children, as long as they lived with the taxpayer for more than half the year. Nieces, nephews, children of a friend or foster children can be "qualifying children" if they lived with the taxpayer all year and were cared for as members of the family.

"Qualifying children" must be under age 19, or under age 24 if they are full-time students. Totally and permanently disabled children of any age also are considered "qualifying children." A valid Social Security number is required for any qualifying child born before December 31, 1997.

How does the EIC work?

Eligible workers can get a check from the IRS. Ms. Berger has three children and earned \$18,000 in 1997. Her federal income tax for the year was \$203, all of which was withheld from her pay.

She is eligible for an EIC of \$2,378. The EIC pays her back the \$203 she paid in income tax and gives her an additional cash refund of \$2,175.

Eligible workers who don't owe federal income tax can get a check. Mr. Smith has no children. He worked part time in 1997 earning \$4,900. Because of his low earnings he had no income tax taken out of his paycheck and owes nothing to the IRS. His earnings entitle him to an EIC check for \$332.

Eligible workers pay less in taxes. Mr. and Mrs. Johnson have two children. They earned \$25,000 in 1997 and owe the IRS \$1,000 more than what was withheld from their pay during the year. But their income also makes them eligible for an EIC of \$903. The EIC reduces the additional taxes they owe from \$1,000 to \$97.

How do you get the EIC?

Workers raising children in 1997 must file either Form 1040 or 1040A and must fill out and attach Schedule EIC. Workers with children cannot get the EIC if they file Form 1040EZ or fail to attach Schedule EIC. Married workers must file a joint return to get the EIC.

Workers who were not raising children in 1997 can file any tax form C including the 1040EZ. These workers write "EIC" (or the dollar amount of their credit) on the Earned Income Credit line on the tax form. They do not file Schedule EIC.

A correct name and Social Security number must be provided for every person listed on the tax return and Schedule EIC. If this information is incorrect or missing, the IRS will delay the refund.

Workers don't have to calculate their own EIC; if they choose, the IRS will do it for them!

Workers raising children can get the EIC in their paychecks!

Workers who are raising children can get part of their EIC in their paychecks throughout the year and part in a check from the IRS after they file their tax return. This is called the advance payment option. For more information, see the sheet in this kit called "Increasing Workers' Take-Home Pay."

Workers can get FREE help filing their tax forms

Many families that apply for the EIC pay someone to complete their tax forms. This can cost \$25 to \$65. Getting a "quick tax refund" that comes back in a few days costs even more. Paying for tax preparation takes away from the value of the EIC. But low-income workers can get free help with tax preparation through a program called VITA (Volunteer Income Tax Assistance). For more information, see the sheet in this kit called "VITA! Free Tax Preparation for Low-Income Workers."

Does the EIC affect welfare benefits?

In most cases, the EIC does not affect eligibility for benefits like cash assistance ("welfare"), Medicaid, Food Stamps, SSI, or public or subsidized housing. For more information, see the sheet in this kit called "Questions and Answers about the EIC."

Can immigrant workers get the EIC?

Many legal immigrants can qualify for the EIC, as long as they meet the eligibility requirements. For more information, see the sheet in this kit called "Questions and Answers about the EIC."

The materials in this kit should answer many questions about the EIC. For more information, call the IRS during business hours at 1-800-TAX-1040. The line is often busy, so be patient!

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