

public interest of having soldiers support their families and obey court orders must be balanced against the sensitivity of the privacy interests involved. Army policy favors permanent resolution of support and custody matters in court. The denial of information that hinders such resolution is not in the public interest.

(4) Before releasing information from a system of records without the soldier's consent, commanders may consult the SJA. Generally, the types of information shown below may be released to the complaining family member entitled to support or those authorized by the family member to act in his or her behalf (for example, legal assistance attorneys, Member of Congress, courts, Government welfare agencies).

(i) Present unit of assignment, including port calls and future duty assignments, permanent or temporary, if known.

(ii) Scheduled separation and retirement dates from the Service.

(iii) Rank and authorized pay and allowances for that grade.

(iv) Allotments authorized or being authorized for or in behalf of the family member entitled to support.

(v) The soldier's stated intentions, if any, regarding resolution of the complaint.

(vi) The general whereabouts of the soldier's children, if known.

(5) The SJA should be consulted for legal advice before the residential address of a soldier or family member is released.

(6) Any information released should be pertinent to the inquiry. The soldier's relationship, if any, to the person making the inquiry, should be considered. Consistent with the purpose of this regulation, information that unduly invades the privacy of the soldier or his or her family should not be released.

(g) *Penalties.* Compliance with the minimum support requirements (§584.2(d)) and child custody provisions (§584.2(e)) of this regulation will be enforced by administrative and criminal remedies as appropriate.

(h) *Basic allowance for quarters.* A summary of the rules regarding entitlements to basic allowance for quarters (BAQ) is in §584.7. The minimum

support requirements of this regulation are stated in amounts equal to a soldier's BAQ at the "with dependents" rate. However, a soldier's entitlement or lack of entitlement to such allowances has no relationship to the obligation under this regulation to support family members. Except for §584.2(f)(2)(ii)(B), the actual receipt or nonreceipt of BAQ also has no relationship to that obligation.

(i) *Entitlement of variable housing allowance.* Soldiers entitled to BAQ at the "with" or "without dependents" rate may be entitled to variable housing allowance (VHA). Terms for receiving VHA are set forth in the Joint Travel Regulations, M4550 through M4557. Soldiers may use VHA to defray housing costs for family members.

(j) *Garnishment.* A summary of the rules regarding garnishment of Federal wages is in §584.8.

(k) *Involuntary allotments.* A summary of the rules regarding involuntary allotments from pay and allowances is in §584.9.

#### **§584.2 Family support and child custody.**

(a) *General.* (1) This chapter requires soldiers to provide financial support to family members and to obey court orders on child custody. It also provides guidance and policy to commanders to follow when resolving nonsupport and child custody issues. Consistent with specific provisions below, a soldier will—

(i) Furnish financial support to family members that meets at least the minimum support requirements of this regulation (§584.2(d)).

(ii) Provide such additional support within his or her financial ability to meet the financial needs of family members (§584.2(j)).

(iii) Comply with all court-imposed obligations (§584.2(c)(3)).

(iv) Obey court orders and this regulation on child custody and visitation rights (§584.2(e)).

(2) It is the responsibility of soldiers to resolve nonsupport issues with family members by one of the methods shown in §584.2(a)(2)(i) through (iii). In all cases, Army support policy for family members should be considered temporary until either an agreement has

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been reached between the parties (including those acting on behalf of minor children) or court action has been taken.

- (i) Oral agreements.
- (ii) Written support agreements.
- (iii) Court orders.

(3) Each complaint of nonsupport will be considered individually by the soldier's immediate commander. Alleged desertion or other marital misconduct on the part of a spouse has no effect on a soldier's obligation to provide financial support as required by § 584.2(d).

(b) *Separation from family due to military service.* Military service often requires soldiers to live separately from their families during oversea service or extended temporary duty. Soldiers must plan carefully for the support of their families during these periods. Commanders will educate soldiers and their families on the advantages of joint bank accounts. Such arrangements usually minimize the hardship and financial burden on family members that may occur during periods of such separation. If proper, commanders will urge soldiers to start an allotment to or for their family to ensure continuous financial support. The amount of such a support allotment should be set up by agreement between the soldier and his or her family. In the absence of such an agreement or a court order, the provisions of § 584.2(d)(2) apply. Each soldier is expected to keep reasonable contact with family members to minimize inquiries, claims, and complaints sent to Army officials.

(c) *Support by oral agreement, written support agreement, or court order—(1) Oral agreement.* It is not the Army's policy to involve itself in disputes over the terms or enforcement of oral support agreements. Where an oral agreement exists and is being followed, the Army need not and will not interfere. When a dispute arises, the Army will require compliance only with the provisions of this regulation. Thus, if a family member complains that a soldier is not sending an agreed upon amount that is less or more than the minimum required by § 584.2(d), the commander will advise the soldier to either send the agreed upon amount or the minimum amount required by § 584.2(d). Section 584.2(d) applies when

the parties cannot reach an oral agreement or the amount agreed upon is in dispute. In appropriate cases, the commander can order additional support beyond the minimum amount required by § 584.2(d). (See § 584.2(j).)

(2) *Written support agreement.* If the parties are separated and have a signed written agreement, the amount of support specified in such an agreement controls. A signed written agreement includes a separation agreement or a property settlement agreement. A written agreement on support also may be shown by letters exchanged between the parties in which the amount of support has been agreed to by the parties. If the agreement is silent on an amount of spousal and/or child support, the interim minimum financial support requirements of § 584.2(d)(2) apply. The amount specified in the written agreement will be deemed adequate until modified by—

- (i) Another agreement reduced to writing and signed by both parties.
- (ii) Court order.

(3) *Court order.* (i) Court orders often contain other financial obligations, such as provisions for property division, marital property awards, and payment of medical and other expenses. Commanders have a responsibility to ensure that soldiers comply with these provisions. Soldiers will comply with all court-imposed obligations. Failure to do so may result in costly and time-consuming litigation or court contempt proceedings. These actions often are to the detriment of the soldier and the unit's readiness mission. Section 584.2 (d)(1)(i), however, only applies to court orders directing the soldier to provide financial support to family members on a periodic basis.

(ii) Court orders under this regulation include those orders issued by the courts of the Federal Republic of Germany (FRG). The courts must have acquired valid jurisdiction consistent with the provisions of articles 32 through 37 of the Supplementary Agreement concerning foreign forces stationed in the FRG. This agreement supplements the North Atlantic Treaty Organization Status of Forces Agreement. A soldier will comply with all

other foreign nation court and administrative orders that are recognized by treaty or international agreement.

(iii) Commanders should be aware that conditions may have changed greatly from when a court order was issued. For example, a soldier may have gained other family responsibilities. Many outstanding and uncontested support orders against soldiers cause severe hardship. Such orders can only be modified by a court. If a soldier's income appears inadequate to satisfy an outstanding order and still maintain the soldier, the commander should urge the individual to consult a legal assistance attorney. However, the soldier will comply with the terms of a court order until relieved of this obligation by modification of the order by a court.

(d) *Minimum support requirements.* (1) Soldiers will not violate the following:

(i) Financial support provisions of a court order.

(ii) Financial support provisions of a written support agreement in the absence of a court order.

(iii) Interim minimum financial support requirements of § 584.2(d)(2) in the absence of a court order or written support agreement.

(2) In the absence of a court order or written support agreement, and until such an order or agreement is obtained, the following interim *minimum* financial support requirements apply:

(i) *Single family units.* (A) Family not living in Government family quarters. The soldier will provide support in an amount equal to the soldier's BAQ at the with-dependents rate. This amount of financial support will be provided for this family unit regardless of whether or not the soldier is—

(1) Receiving BAQ.

(2) Occupying Government family quarters.

(B) Family living in Government family quarters. While the supported family is occupying Government family quarters, the soldier will provide an amount equal to the difference between BAQ at the with- and without-dependents rate. When the supported family members move out of Government family quarters, support will be provided in an amount equal to BAQ at the

with-dependents rate for the soldier's rank.

(ii) *Multiple-family units.* In multi-family unit support situations, each supported family member will receive a pro-rata share of the BAQ at the with-dependents rate. This share will be determined by dividing an amount equal to BAQ at the with-dependents rate for the soldier's rank by the total number of supported family members (excluding former spouses). The following modifications apply: First, any court ordered support will be paid as stated. Secondly, supported families living in Government family quarters will receive an amount equal to the difference between BAQ at the with- and without-dependents rate for the soldier's rank. Lastly, any remaining family members (excluding former spouses) will receive a pro-rata share of the BAQ amount. This will be provided regardless of the amount of support paid to other family members. Following are examples:

(A) *Example 1.* A soldier is divorced and has three children from that marriage. The soldier is required by a court order to pay \$300 per month for the children and \$100 per month for the former spouse. The soldier has remarried and has two more family members (spouse and child) living in private housing. The soldier now has a total of five family members that he or she must support under Army policy. (A former spouse does not qualify as a family member in pro-rata determinations.) The children by the previous marriage must receive \$300 and the former spouse must receive \$100 per the court order. The present spouse and child should receive support equal to two-fifths of BAQ at the with-dependents rate for the soldier's rank.

(B) *Example 2.* A soldier has one child by a previous marriage. There is no court order for child support. The soldier is unable to show that the court granting the divorce had personal jurisdiction over the soldier so as to be able to order child support. The soldier has remarried and has a spouse and two children living in private housing. The soldier now has a total of four family members that he or she must support under Army policy. (These family members are the child by a previous marriage and the present spouse and two children.) Each family member should receive support equal to one-fourth of BAQ at the with-dependents rate for the soldier's rank.

(C) *Example 3.* A soldier has two children by a previous marriage. The soldier is required by court order to pay \$200 per month for these children. Also, the soldier is required to pay \$75 per month for support of a child

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per a court order that has declared him to be the father. He has remarried and has a spouse and three children living in Government family quarters. The soldier now has a total of seven family members that he must support under Army policy. The children by his previous marriage must receive \$200 per the court order. His other child must receive \$75 per the court order. The spouse and children of his present marriage should receive an amount equal to the difference between BAQ at the with- and without-dependents rate for the soldier's rank.

(iii) Military members married to one another. In the absence of a court order or written support agreement, an Army soldier is not required to provide support to a spouse on active duty in the Armed Forces.

(iv) Children of military member parents.

(A) *Single family units.* In the absence of a court order or written support agreement, the following interim support requirements apply:

(1) Single family units when the Army soldier does not have custody of any children of the marriage. The Army soldier will pay an amount equal to the difference between his or her own BAQ at the with- and without-dependents rate to the military member having custody of the child or children of the marriage. This amount of financial support will be provided regardless of which military member, if any, is receiving BAQ or occupying Government family quarters.

(2) Single family units when the Army soldier has custody of the child or children of the marriage (for example, Army soldier has custody of one child and spouse has custody of two children). In this situation, the Army soldier is not required to provide a minimum amount of financial support for the children in the other military member's custody.

(B) *Multiple-family units.* The provisions of § 584.2(d)(2)(ii) apply. However, the amount in § 584.2(d)(2)(iv)(A) will not be diminished by proration because of the Army soldier's financial support obligations to other family members. For example: An Army soldier has an adopted child from a previous marriage. The soldier is required by court order to pay \$150 per month for this child. The soldier presently is married to a spouse on active duty with the Air

Force. They have two children from this marriage. The Air Force member and children reside in private housing. The Army soldier has a total of three family members that he or she must support. The Army soldier will pay \$150 a month to the adopted child per the court order. The children from the present marriage will receive an amount equal to the difference between his or her BAQ at the with- and without-dependents rates for the Army soldier's rank.

(3) A commander has no authority to excuse a soldier from complying with the interim *minimum* support requirements of § 584.2(d)(2) when they are applicable.

(4) In the absence of a contrary provision in a written support agreement or court order, monthly financial support to family members will be sent before the last calendar day of the month for which the support is due. If the family members are not residing together, the soldier will ensure each family member receives his or her pro-rata share. (For example, spouse lives along and the children live with their grandparents.)

(e) *Child custody.* (1) A soldier relative, who is aware that another person is a lawful custodian of an unmarried child under the age of 14 years, will not—

(i) Abduct, taken, entice, or carry away the child from the lawful custodian.

(ii) Withhold, detain, or conceal the child away from the lawful custodian.

(2) A "lawful custodian" is a person authorized, either along or together with another person or persons, to have custody and exercise control over a child less than 14 years of age by order of a court. The fact that joint custody has been awarded to both parents by a court does not preclude a violation of this paragraph by the soldier parent. However, in the absence of a court order to the contrary, the mother of a child born out of wedlock who is not then, nor has ever been, married to the father of the child is deemed the "lawful custodian" of that child for the purpose of this regulation.

(3) A soldier relative is a soldier who is the parent, grandparent, brother, sister, uncle, aunt, or one who has at

some time been the lawful custodian of the child.

(4) It is a defense to a violation of this paragraph that the soldier—

(i) At the time of the offense had custody of the child to the exclusion of others pursuant to a valid order of a court having jurisdiction over the child; or

(ii) Voluntarily returned the child to the lawful custodian within 96 hours after return was demanded by the lawful custodian.

(f) *Relief from the minimum support requirement.* (1) Court orders with financial support provisions.

(i) Court ordered financial support will be by the terms of the court order. Relief from a court order can only be obtained under the law. Nothing in this regulation affects or lessens a soldier's legal obligation to comply strictly with the terms of a court order.

(ii) A soldier who disobeys a court order may be held in contempt of the court that issued the order. Also, a soldier may be punished for violating this regulation. It is, however, a defense to any violation of § 584.2(d)(1)(i) that—

(A) The court issuing the order was without jurisdiction to do so, and

(B) The soldier at all times has been complying with any of the following:

(1) The financial support provisions of another court order.

(2) The financial support provisions of a written support agreement.

(3) The interim minimum financial support requirements of § 584.2(d)(2).

(4) Court orders without financial support provisions.

(iii) A soldier will provide financial support to family members unless expressly relieved of this obligation by—

(A) Court order.

(B) Written support agreement.

(iv) A soldier will provide financial support under § 584.2(f)(2) to family members, which meets at least the minimum support requirements of this regulation. The financial support will be provided even when a court order contains no provision as to support except as follows:

(A) A soldier has no obligation to provide financial support to a former spouse except by order of court.

(B) A soldier has no obligation to provide financial support to minor

children of the marriage if he or she can show the following:

(1) The court issuing the final order of divorce had personal jurisdiction over the soldier to order child support.

(2) The soldier is not receiving BAQ at the "with dependents" rate based solely on the support of the minor children in question.

(3) *Written support agreements.* If a financial support obligation is evidenced by a written agreement between the parties, the soldier can only be relieved of this obligation by another written agreement or by court order.

(4) *Greater spousal income.* In the absence of a written support agreement or court order, a soldier has no obligation to support a civilian spouse who is receiving an annual income equal to or greater than the annual gross pay of the soldier. The income of the spouse does not affect the soldier's obligation to provide financial support to the children of that marriage in the physical custody of the spouse on a pro-rata basis. Example: A soldier is living in Government family quarters with one of their children. The soldier's spouse deserted the soldier and lives in private housing with their other child. The soldier's spouse earns \$5,000 more in annual income from a civilian job than the soldier earns in annual gross pay. There is no court order or written support agreement. The soldier has a total of three family members. However, under Army support policy, the soldier does not have to provide a pro-rata share of financial support to the spouse because the spouse's income exceeds that of the soldier. (Note that under § 584.2(a)(3) marital misconduct is not a relevant consideration.) The soldier must support the child in Government family quarters. In addition, the soldier must provide an amount equal to one-third of BAQ (pro-rata share) at the "with dependents" rate to the spouse on behalf of the child living with the spouse.

(2) [Reserved]

(g) *Commander's inquiries.* (1) If a soldier denies he or she has a financial obligation to support a spouse or children for any reason, the soldier's commander will—

(i) Inquire into the matter.

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(ii) Consult with the SJA prior to determining whether or not there is a support obligation. If there is no support obligation, BAQ at the "with dependents" rate should be stopped.

(2) If a soldier claims he or she has made support payments as required by this regulation, the soldier's commander will—

(i) Request the soldier to provide proof of payment in one of the following forms:

(A) Canceled personal checks.

(B) Leave and earnings statements showing allotments.

(C) Postal or money order receipts accompanied by a sworn statement from the soldier that the order was sent to the family member. If possible, evidence that the postal or money order was cashed by the complaining party should be provided.

(D) Other acceptable evidence of payment.

(ii) Consult with the SJA, if necessary, to determine whether the soldier has provided enough proof of payment.

(3) If a soldier is suspected of violating a child custody or visitation rights in a court order, the soldier's commander will—

(i) Inquire into the matter.

(ii) Consult with the SJA prior to taking action.

(4) In any case in which the soldier is suspected of violating this regulation (§584.2(d) or (e)), or of having committed other offenses, the commander, prior to questioning the soldier, will advise him or her of—

(i) The suspected offense.

(ii) The right to remain silent under article 31, UCMJ.

(iii) The right to counsel under the Fifth Amendment.

(h) *Form of support payment.* (1) Unless otherwise provided in the court order or by agreement, a financial support payment will be made in one of the following ways:

(i) In cash.

(ii) By check or money order.

(iii) By allotment.

(2) A soldier will receive credit for payments made to others on behalf of, and with the agreement of, the supported family members. Examples of support provided in kind include—

(i) Rent.

(ii) Utility services.

(iii) Interest and principal due on loans, mortgages, or charge accounts.

(iv) Insurance payments.

(i) *Arrearages.*

(1) *General.* A soldier who falls into arrears without legal justification or excuse is in violation of §584.2(d).

(2) Court orders and written support agreements.

(i) Amounts in arrears based on a past failure to comply with a court order or written support agreement will be paid at once in a lump sum amount. If an immediate lump sum payment is impractical, soldiers are expected to work out arrangements with the court or the affected family members to pay arrearages on a scheduled basis. If arrangements can not be worked out, commanders will intervene and order payment of arrearages on a scheduled basis based on the soldier's ability to pay.

(ii) When arrearages arise from non-compliance with court orders and written support agreements, this may result in—

(A) Garnishment of the soldier's pay account (§584.8).

(B) Initiation of an involuntary allotment against the soldier's pay account (§584.9).

(C) Contempt of court proceedings.

(D) Recoupment of BAQ received by the soldier.

(iii) Administrative or punitive action may be taken on a violation of this regulation for any month in which the soldier failed to provide the required financial support even if the amount in arrears eventually is paid.

(3) Interim minimum financial support requirements. A soldier should be encouraged to pay the amount in arrears based on past noncompliance with the interim minimum financial support requirements (§584.2(d) (1)(iii) and (2)). However, a soldier cannot be ordered to pay such an amount. Nevertheless, administrative or punitive action may be taken on a violation of this regulation for any month in which the soldier failed to provide the required financial support even if the amount in arrears eventually is paid.

Also, failure to provide required financial support in the past may be considered, together with other factors, in a commander's determination of the amount of additional support that may be ordered. (See § 584.2(j).)

(j) Additional support where there is no support agreement or court order.

(1) Ordinarily, a soldier should not be required to provide financial support beyond that required by § 584.2(d)(1)(iii). However, a soldier should provide additional support within his or her ability to meet the basic financial needs of family members when the interim support requirements of this regulation are shown to be inadequate.

(2) If there is a demonstrated need for immediate and temporary additional support because of unexpected and unforeseen circumstances and the parties are unable to agree on such additional support, a commander may order temporary additional support.

(3) Commanders will consider the following factors in determining the amount of additional support, if any, that a soldier should provide when a request for additional support is received:

(i) The pay, allowances, separate income, and other financial resources of both the soldier and the family member for whom additional support is requested.

(ii) The earning capacity of the family member on whose behalf support is requested.

(iii) The financial savings of the soldier and family member.

(iv) The separate and joint debts of the soldier and family member, by whom those debts were incurred, and the reasons behind them.

(v) The soldier's duty to provide financial support to other family members, including former spouses.

(vi) The financial needs of the soldier and the family member and whether these needs are temporary or permanent in nature.

(vii) The standard of living of the soldier and family member and whether such standard of living is reasonable under the circumstances.

(viii) With regard to spousal support, the duration of the marriage and the circumstances under which the parties separated.

(ix) The extent of the soldier's or family member's compliance with existing court orders and written support agreements. This includes those provisions dealing with child custody, visitation rights, property division, and marital property awards.

(x) The amount in arrears owed by the soldier based on past noncompliance with the minimum support requirements. (See § 584.2 (d) and (i).)

(xi) Any other fact which, in the judgment of the commander, has a logical bearing upon the amount of additional support the soldier reasonably should be expected to provide.

(k) *Procedure for making complaints.*

(1) Complaints about nonsupport of family members and noncompliance with court orders on financial support and child custody should be sent through command channels. The complainant should be referred to the immediate commander of the soldier concerned.

(2) The Inspector General (IG) may assist in properly routing the complaint. The IG also may assist if the responsible commander has failed to respond in a satisfactory manner or as required by this regulation. (See AR 20-1, para 4-9.)

(3) The USACFSC (DACF-IS-PA) has set up an office to assist in these cases. USACFSC will provide policy interpretations and guidance on unresolved or complex cases, as needed. USACFSC normally will go through command channels to the immediate commander of the soldier concerned requesting that action be taken under this regulation.

(4) Family members who present complaints against a military member of another Service (Air Force, Marine Corps, Navy, or Coast Guard) should be referred to the appropriate Service.

(l) *Commander's actions.* (1) Upon receipt of a complaint of nonsupport or noncompliance with court orders, including provisions on child custody or visitation rights, the commander will review the complaint. He or she will do the following if the information is incomplete:

(i) Acknowledge receipt of the complaint.

(ii) Explain that the information or documentation sent is not enough to give proper help.

(iii) If appropriate, send the complainant DA Form 5460-R (Request for Help in Receiving Support and/or Identification Cards for Family Members).

(iv) Advise that help will be given with the complaint upon return of the completed form and other requested information and documents.

(v) If appropriate, advise that DA Form 5460-R alone is not enough documentation for issuance of a dependent identification card (ID card) (AR 640-3). Documentation (that is, court orders, birth certificates, marriage certificates, etc.) must be provided to support eligibility for benefits.

(vi) Answer any policy or procedural questions that have been asked.

(2) Upon receipt of DA Form 5460-R or a complaint that has enough information to properly respond, the commander will—

(i) Review soldier's legal financial obligations in light of the complaint and the facts presented by all parties concerned.

(ii) If necessary, ask the SJA if the complaint is valid, if the soldier must provide financial support or give up custody of children, and any other related questions.

(iii) Notify the soldier of the complaint of nonsupport or of a violation of a child custody court order.

(iv) Require the soldier to complete and sign DA Form 5459-R. Information obtained from a system of records ordinarily will not be released outside DOD without the soldier's consent. (See § 584.1(f).)

(v) If the soldier is suspected of violating this regulation or of having committed other offenses, the commander, prior to questioning the soldier, will also advise him or her of—

(A) The suspected offense.

(B) The right to remain silent under article 31, UCMJ.

(C) The right to counsel under the Fifth Amendment.

(vi) Explain the following to the soldier:

(A) The Army's policies regarding support of family members and compliance with court orders.

(B) That refusal to give required support per this regulation may result in administrative or punitive action.

(C) That a soldier is not entitled to BAQ at the "with dependents" rate when no part of the allowance is given to family members. Therefore, collection action may be initiated by the Army.

(vii) Explain what garnishment is (§ 584.8) and how it might affect the soldier's pay, allowances, and allotments. For example, explain that the amount garnisheed monthly might significantly exceed monthly support obligations previously agreed upon.

(viii) Tell the soldier of any court order for attachment or garnishment that has been received. Immediately send the court documents to the Commander, U.S. Army Finance and Accounting Center (USAFAC), ATTN: FINCL-G, Indianapolis, IN 46249-0260 for action. (See § 584.8(b).) Also, inform the soldier that if the document is in proper legal form, a portion of the soldier's pay and allowances will be garnisheed.

(ix) Explain involuntary allotments (§ 584.9) if appropriate.

(x) Coordinate with the soldier's servicing finance and accounting office (FAO) for problems of pay, allowances, and allotments.

(xi) Urge soldiers to provide continuous support to family members by allotment. The allotment should be for the mutually agreed amount, court order, or as computed under this regulation. An account may be set up in a financial institution by the recipient to receive the allotment. This action may preclude delays in receipt and other related problems in the future.

(xii) Help the soldier start an allotment to make the required support payments. Also, advise the soldier to let the commander know if there is a change or stoppage to the support allotment.

(xiii) Give the soldier a chance to consult with a legal assistance attorney if he or she desires. However, the commander should ensure that this is not used as a delaying tactic. Where appropriate, a support payment plan should be initiated without delay.

(xiv) Urge soldiers thinking about divorce to seek legal advice from a legal

assistance attorney. Also, advise the soldier to ensure an amount of support is included in the court order for their children. This action may help to prevent future disputes.

(xv) Ensure that the soldier is not receiving BAQ at the “with dependents” rate when not entitled to it. (See § 584.7.)

(xvi) Ask the soldier about his or her intentions. Give the soldier the chance to furnish a voluntarily signed statement admitting or denying the complaint and stating his or her intentions.

(xvii) Send complaints received to the soldier’s new duty station if he or she has been reassigned. Advise the complainant of the soldier’s reporting date and the unit address to which correspondence should be sent. If proper, give the complainant a copy of DA Form 5460-R.

(3) Advise the complainant courteously and promptly—

(i) Of the Army policy in suitable areas of concern.

(ii) Of the soldier’s intentions, if the soldier allows release of the information.

(iii) That personal problems outside the requirements of this regulation must be resolved in court if the parties cannot agree.

(4) If proper to the situation, remind complainant of other helping agencies on post, such as the chaplain and Army Community Service. These agencies can give timely, interim help to meet immediate needs pending a more permanent resolution of the problem.

(5) Retain the statements allowing or forbidding release of information to the complainant and the soldier’s intentions with the case file for future reference. Documents/records will be filed per AR 600-37 and the Army Functional Files System (AR 340-2 and AR 340-18).

(6) Monitor actions closely to ensure promises of support or other actions by soldiers to complainants are being met.

(7) Consider administrative or punitive action if proper.

(8) Inform the first level field grade commander of the soldier’s repeated failure to meet the requirements of this regulation. Also, point out actions taken or contemplated to correct in-

stances of nonsupport of family members or violations of child custody court orders.

### § 584.3 Paternity claims.

(a) *General.* (1) This chapter sets policy and procedures to process paternity claims against male Army soldiers. These procedures apply to claims made in the continental United States and in foreign countries. They apply to claims made by the claimant or on behalf of the claimant by attorneys, court officials, and others.

(2) Soldiers will be informed of paternity claims against them. Commanders will ensure that soldiers are advised of their legal rights and will advise soldiers of their moral and legal obligations in the matter. Soldiers admitting paternity will be urged to provide the necessary financial support to the child. Also, they will take any other action proper under the circumstances.

(b) Procedures for questioning soldiers about paternity claims upon receipt of a claim of paternity against a soldier, the commander will take the following actions:

(1) If there is evidence that an offense (for example, rape, indecent acts with a minor) may have been committed—

(i) Inform law enforcement officials.

(ii) Inform the soldier of the suspected offense. Before questioning, advise the soldier of his right to remain silent under article, 31, UCMJ, and his right to counsel under the Fifth Amendment.

(iii) Coordinate further action under this regulation with the SJA and law enforcement officials if appropriate.

(2) If there is no evidence that an offense was committed—

(i) Allow the soldier a chance to talk with a legal assistance attorney about his legal rights and obligations.

(ii) Require the soldier to complete and sign DA Form 5459-R. Information obtained from a system of records normally will not be released outside DOD without the soldier’s consent. (See § 584.1(f).)

(iii) Inform the soldier of Army policy on the support of family members contained in this regulation.

(iv) Advise the soldier that a court order against him on the paternity claim, followed by a refusal to support