

Military Families & the Courts

Bench Card Resources for Judges Working with Military-Connected Families in Child Welfare, Family Violence, and Juvenile Justice



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NATIONAL COUNCIL OF
JUVENILE AND FAMILY COURT JUDGES

Military Families and the Courts

Bench Card Resource Packet

Families and couples with active-duty service members live in every community across the country, and not just in locations with military installations nearby. By virtue of their military connection and employment, active-duty personnel have unique priorities, resources, rights, constraints, and obligations that civilian individuals involved as parties in any family law matter do not have. It is important that judges are aware of the active duty status of a litigant as this status triggers a variety of considerations that judges need to take into account.

There are few guides or resources for civilian judges and legal professionals to assist them with obtaining relevant information from parties that have an active-duty status and military assignment. To help bridge this gap, the National Council of Juvenile and Family Court Judges has developed bench cards designed specifically to address these matters. These cards provide structured guidance and key questions aimed at eliciting vital information about cases in child welfare, family violence, and juvenile justice involving military-connected families.

Each bench card sets forth targeted questions aimed at gathering relevant details about the family's circumstances, such as deployment status, base location, and access to military resources. This information will help judges make informed decisions that support the well-being of military families and take into account the unique needs and circumstances of a family's connection with the military.

In addition to this bench card resource (which also includes a separate terminology sheet that is relevant to each of the three bench cards) a dedicated webpage will be launched, featuring the cards themselves along with a glossary of key terminology and additional resources. This platform is designed to enhance judicial understanding and ensure judges are equipped to address the distinct needs of military connected families effectively.

By utilizing these bench cards, judges can be more informed and compassionate with families and couples in family law cases that include an active-duty service member.

QUESTIONS TO ASK

1 Is either party an active duty service member?

2 Who is the complaint about?

Service Member

Both Parties

Non-Service Member

Is the service member required to carry a weapon?

3 Is the service member deployed?

Yes

No

Will there be a deployment in the next 18 months?

Yes

No

When?

4 Where is your family located for support?

5 Do you have any kin or fictive kin that would be an appropriate resource for the child?

6 Where are you stationed?

Is this a permanent or temporary station?

Do you live on base?

Yes

No

Do you live locally?

For how long?

7 Is there a current Memorandum of Understanding (MOU) with the military installation?

Yes

No

8 Does the Indian Child Welfare Act (ICWA) apply?

Yes

No

Give notice to the tribe

Are there active efforts to prevent removal of the child?

Necessary Information to Gather

- Access to military programs and services on base. Can parties receive services more quickly or affordably on base than in the community?
- Access to military related benefits for dependents including TRICARE.
- Opportunity to explore any possible moves, deployments, change in military status.

Key Components of a Court Order

- Address potential compliance issues for the service member such as moves or deployments.
- Child Welfare can order services for the families such as therapy, drug screening, assessments (mental health, drug, alcohol).
- When ordering services, the military personnel must follow proper procedures, such as obtaining permission from their commanding officer and ensuring that their absence does not interfere with their military duties. It's important for them to communicate with their chain of command to address any specific requirements/protocols.

Timeline Considerations

Adoption and Safe Families Act (ASFA) timeline considerations: Make sure at each hearing to consider the following:

- Has there been a status change for these:
 - Still active duty
 - Deployment
 - Can delay timelines in Child Welfare cases
 - Who do they notify of deployment
 - Has your station changed
 - Where you live

Considerations

- Please emphasize the need to inquire whether there is a military base nearby. This is critical because that base could offer important services for the family, including access to the Family Advocacy Program (FAP). It is crucial to address FAP and its collaboration with the child welfare agency.
- Military personnel have a right to be present at the hearings, make sure to identify who those personnel are.
- Is the family involved in another case or is there an active case in the juvenile justice system? This can include cross-over/dually adjudicated youth (refer to juvenile justice bench card).
- Visitation orders: If a service member lives on the base, coordinating efforts are needed to be able to enter the base.
- Foster a greater understanding of physical injuries, post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), and other mental or physical health matters as it pertains to the service member and/or family members.
- Interstate Compact on the Placement of Children (ICPC): Does the ICPC apply in this situation? Verify timely compliance with all ICPC requirements.
- Consider where other family members live or a trusted service member for possible placement.
- Family Care Plan: child support calculations, parenting time, and visitation.
- Do the children attend school on or off base?
- Pet Safety: Given the established correlation between animal cruelty and child abuse, judges should consider the safety and welfare of household pets when issuing orders. Additionally, assess the nature of the child's bond and attachment to any pets, as this relationship may be significant to the child's emotional well-being and stability.
- ICWA: For Native American children refer to the Indian Child Welfare Act (ICWA) and any state specific ICWA requirements.

QUESTIONS TO ASK

1 Is either party an active duty service member?

2 Who is the alleged abuser?

Service Member

Both Parties

Non-Service Member

Is the service member required to carry a weapon?

3 Where are you stationed?

Is this a permanent or temporary station?

Do you live on base?

Yes

No

Do you receive a Basic Allowance for Housing (BAH)?

Do you live locally?

For how long?

4 Has the alleged abusive party threatened the use of firearms or other weapons?

5 Do you have dependents?

Yes

No

How many?

What type (children, spouse, elder care)?

Are the eligible dependents on TRICARE?

6 Is the service member deployed?

Yes

No

Will there be a deployment in the next 18 months?

Yes

No

When?

Considerations

- **Isolation:** Frequent relocations can hinder access to family support and resources, making it challenging for victims to seek help.
- **Financial Dependence:** Service members may control financial access, complicating employment opportunities for non-service member dependents due to frequent moves. Evaluate the family's Basic Allowance for Housing (BAH) and how military benefits affect access to housing, healthcare, and legal assistance.
- **Service Member's Career:** Victims may hesitate to report abuse, fearing it could negatively impact the service member's career and their financial stability.
- **Mental Health Issues:** Consider whether behaviors stem from conditions like traumatic brain injuries (TBI) or post-traumatic stress disorder (PTSD), or if they reflect a pattern of coercive control, impacting the type of remedies necessary.
- **Firearms and the Military:** Service members under protection orders may be prohibited from possessing firearms. While they can carry firearms for official duties, command may place them on a "do not arm" roster during the order. Convictions for domestic violence disqualify them from firearm possession with no official use exemption. Coordination with installation command may be necessary for the surrender of firearms.
- **Family Advocacy Programs (FAPs):** FAPs can be valuable resources for courts, providing insights into military policies and procedures that may assist in navigating these cases.
- **Pet Safety:** To many, pets are important sources of comfort and companionship. Ask about pets in the home, concerns about their safety, and include them in orders when appropriate.

Civil vs. Military Protective Orders

Victims of domestic and sexual violence and stalking can benefit from having access to both civil and military protective orders and those that qualify should not be discouraged from seeking both. Differences between these types of orders include:

Civil Protection Orders (CPO)	Military Protection Orders (MPO)
Requires court involvement, including service of the petition on the respondent and the opportunity to be heard on the merits of the case.	Are issued by Base Command without sufficient due process requirements to receive full faith and credit under federal law and may only be issued against service members.
Available against a service member or civilian.	Violations are handled by command and are NOT criminal in nature.
Can be enforced on or off base by civilian or military law enforcement/justice system.	Cannot contradict terms of a CPO but can be more restrictive.
Duration of CPOs depends on the laws of the issuing jurisdiction and the circumstances of the case.	Does not expire until command terminates the order or the service member is no longer under issuing command.
May prohibit the possession of firearms or may include orders of support and/or child custody and visitation.	Does not expire until command terminates the order or the service member is no longer under issuing command.

Necessary Information to Gather

Jurisdiction and Custody Arrangements: Determine how long the child(ren) have been in the state and if Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) requirements are met, including any basis for emergency jurisdiction. Review current custody arrangements and how they have been impacted by the alleged abuse.

Servicemembers Civil Relief Act (SCRA): If a service member cannot attend protection order or family court proceedings due to military obligations, they may request a stay or seek to reopen the case after a default order has been issued, pursuant to SCRA. Any temporary ex parte orders, especially those addressing the safety of the victim or their family, may remain in place while the service member fulfills their obligations.

Key Components of a Court Order

- **Communication and Visitation:** Outline clear communication and visitation plans during the service member's deployment, ensuring both parties understand their rights. Define custody arrangements, implement safety provisions for the victim and children, and specify consequences for non-compliance with the order. Consider safe options for communication and visitation such as parenting apps.
- **Firearms:** For protection orders, make any orders regarding the nonpossession and surrender of personal firearms clear and specific with instructions for compliance with the order.
- **Intervention Program Enrollment:** When appropriate order attendance to Batterer or Abusive Person Intervention Programs (BIPs or APIPs), not anger management.
- **Transitional Compensation and Support:** Inform the victim that they may qualify for Transitional Compensation and recommend they speak with FAP or military victims counsel for more information and resources.
- **Support Orders:** Civilian court support orders can be incredibly important for military-connected victims of family violence to allow for separation between the parties and can increase the level of financial support ordered by military.

Timeline Considerations

- Take into consideration possible moves or deployments.
- Separate housing on base and its effects on BAH.
- The separation of the parties may affect military issued housing and a non-service member spouse may be given 30 days to relocate on the installation.
- Military investigations may occur alongside civilian processes, potentially affecting timelines if military courts or disciplinary actions are involved.

QUESTIONS TO ASK YOUTH AND PARENTS/GUARDIANS

1 Is either parent or legal guardian currently an active duty service member?

2 Active-Duty Status

Do the youth and active-duty parent live together?

Yes

Do you live on base?

No

How often do you speak with or see your parent?

3 Resources/Programs

For the youth, are you involved in any youth programs available through military resources such as Family Advocacy Program (FAP), Military Family Services, or Youth Activities?

For parent(s), what support services do you access through military resources?

4 Current/Future Assignments

For parent(s), is the current base assignment temporary or permanent? If it is temporary, are there plans to move soon and how do you anticipate this affecting your child?

5 Deployment & Impact

For the youth, is your active-duty parent currently deployed? If yes, how have things been for you during their deployment?

For parents, if there has been a deployment, have you noticed any changes in your child's behavior during this time? If so, what changes have you observed?

6 Managing Stressors

For the youth, what are some strategies or activities that help you handle stress related to military family life and your parent's duty assignment?

QUESTIONS TO ASK JUVENILE JUSTICE PROFESSIONALS

1 Where did the offense occur?

On base: Confirm Jurisdiction (state or base)
Note: State courts generally handle juvenile cases, unless serious offense is involved; See Considerations: Types of Federal Jurisdiction on Military Base

2 What is the offense?

Is it related to youth problematic sexual behavior?
Note: See Considerations Regarding Military Services for Youth Problematic Sexual Behavior for services through the Family Advocacy Program for youth impacted by or exhibiting problematic sexual behavior.

3 Is there a current Memorandum of Understanding (MOU) between the base and the local juvenile justice system?

Ensure timely notice of all hearings is provided in accordance with the MOU.

Do probation officers and other court officials have clearance to enter the base to provide support, supervision, and/or services to the youth?

Considerations

Military Services for Youth Problematic Sexual Behavior

- The Family Advocacy Program (FAP) is responsible for providing services to families affected by problematic sexual behavior of youth; services include multidisciplinary teams that coordinate responses to referrals of military families with youth impacted by or exhibiting problematic sexual behavior; the teams also help affected families plan safe paths forward.

Types of Federal Jurisdiction on a Military Base

- **Exclusive Jurisdiction:** The federal government has full authority; it handles juvenile misconduct.
- **Concurrent Jurisdiction:** State and federal governments share authority and enforce laws together.
- **Partial Jurisdiction:** Neither government has complete authority; jurisdiction is shared.
- **Proprietary Interest:** The Federal government has a property interest; the state retains full jurisdiction.

The Interstate Compact for Juveniles (ICJ)

- Inquire about transition status early to avoid issues; the sending state must send a referral packet 45 days before a military child on probation or parole arrives in a new state.
- The receiving state must accept the case unless a legal guardian remains in the sending state.
- Supervision transfer can take up to 45 days; if moving sooner, issue a travel permit and maintain supervision.
- Referral packets must be submitted within 10 days of a travel permit if issued first.
- Some states may be reluctant to accept cases involving sex offenses; prepare for alternative placements.

Impact of Post-Traumatic Stress Disorder (PTSD) on Family Dynamics

- PTSD is common among service members, especially if they have been assigned to military action in war zones. Recognize that an active-duty parent may have PTSD and this condition can affect their communication, emotional stability, and family relationships, and may influence the youth's behavior and mental health.

Key Components of a Court Order

Jurisdiction

- **Basis for Jurisdiction:** Specify the court's authority, highlighting any relevant military jurisdiction considerations.

Rehabilitation Programs

- Mandate participation in age-appropriate counseling, education, or support services that consider the military family's unique challenges as well as strengths and protective factors.

Necessary Information to Gather

- **Impact of Deployment:** Assess how the military parent's deployment may affect the juvenile's behavior and family dynamics.
- **Support Services:** Ensure awareness of available military and community resources for youth.
- **Educational Stability:** Consider the impact of frequent relocations on the juvenile's schooling and social integration.
- **Mental Health:** Be alert to potential mental health issues stemming from military family stressors.
- **Military Family Impact:** Acknowledge how the youth's military family background may have influenced their behavior and the offense.

Timeline Factors

- **Timely Referral to Support Services:** Connect the youth with counseling and rehabilitation programs within 1–2 weeks of the initial hearing, factoring in any upcoming relocations.
- **Scheduling Hearings:** Set initial hearings pursuant to local statutes, or sooner (ideally within 30 days) to address the youth's case and potential impacts of the military parent's deployment or change of assignment. Ensure timely notice is provided to all concerned.
- **Notification for Interstate Transfers (referring to ICJ):** If the military family is relocating, ensure the sending state sends a referral packet to the receiving state at least 45 days prior to the move.
- **Travel Permit Issuance:** If relocation occurs sooner, issue a travel permit and maintain supervision, with the referral packet submitted within 10 days.

[NCJFCJ Military Site](#)

[NCJFCJ Military Resource Page](#)

[Military One Source](#)

[Servicemembers Civil Relief Act \(SCRA\)](#)

[Uniform Deployed Parents Custody and Visitation Act](#)

[Gun Control Act 18 USC 922 \(g\)\(8\)](#)

[Gun Control Act 18 USC 925 \(a\)\(1\)](#)

[DoD Instruction 6400.06](#)

[Military Rank and Structure](#)

[Indian Child Welfare Act](#)

[Indian Child Welfare Act Judicial Benchbook](#)

[Civil Protection Orders: A Guide for Improving Practice](#)

[Extreme Risk Protection Orders](#)

[Adoption and Safe Families Act](#)

[Interstate Compact on the Placement of Children](#)

[DoD Family Advocacy Program \(FAP\)](#)

[Family Advocacy Program \(FAP\)](#)

[Concurrent Juvenile Jurisdiction](#)

[The Interstate Compact for Juveniles \(ICJ\)](#)

[Uniform Child Custody Jurisdiction and Enforcement Act: Guide for Court Personnel and Judges](#)

[Military State Policy](#) to see the latest status on legislation and policies being advanced in this state—on—state policy priorities important to military families. Find quick access to this state’s regional liaison, along with demographic data for the military community in this state.

Activation: Order to active duty (other than for training) in the federal service.

Active Duty: Full-time duty in the active military service of the United States, including active duty or full-time training duty in the Reserve Component.

Active Guard and Reserve: National Guard and Reserve members who are on voluntary active duty providing full-time support to National Guard, Reserve, and Active Component organizations for the purpose of organizing, administering, recruiting, instructing, or training the Reserve Components.

Basic Allowance for Housing (BAH): The military provides money to cover service members' housing and related costs in the civilian market when government quarters are not provided. If you live in privatized military housing, you will receive BAH.

Chain of Command: The succession of commanding officers from a superior to a subordinate through which command is exercised.

Deployment: The assignment of military personnel to a specific location for a set period, which can affect family dynamics and stability.

Deployment Cycle: The series of phases a service member goes through for military action, which can affect family stability and juvenile behavior.

Family Advocacy Program (FAP): A program designed to address prevention, identification, evaluation, treatment, rehabilitation, follow-up, and reporting of child abuse and neglect, domestic abuse, and problematic sexual behavior in children and youth.

Family Readiness Group (FRG): A support network for families of deployed service members that can offer assistance during challenging times.

Interstate Compact for Juveniles (ICJ): An agreement among states to facilitate the transfer of supervision for youth who move across state lines, relevant if a military family relocates.

JAG Legal Assistance/Legal Services: The military provides legal services regarding personal civil legal matters to eligible persons and education on personal legal rights and responsibilities.

Military OneSource: A resource that provides information and support for military families, including counseling services, which may be relevant in assessments of family support systems.

Military Culture/Mission Ready: Understanding the values, traditions, and challenges of military life can provide context for family situations.

Memorandum of Understanding (MOU): An agreement between military installations and local justice systems that outlines collaboration and services.

Non-Deployable: A service member who is unable to be deployed due to medical, legal, or family obligations.

Permanent Change of Station (PCS): The relocation of military personnel to a different duty station.

Resilience Training: Programs designed to help military families cope with the stresses of military life, important for understanding family dynamics.

Servicemembers Civil Relief Act (SCRA): A law that provides financial and legal protections for active-duty service members, including National Guard and Reserve members, and their families.

Special Victims' Counsel (SVC), Victims' Counsel (VC), or Victims' Legal Counsel (VLC): lawyers specially trained to provide legal counsel to eligible victims of sexual assault and domestic violence.

TRICARE: The uniformed services health care program for active-duty service members, active-duty family members, National Guard and Reserve members and their family members.



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