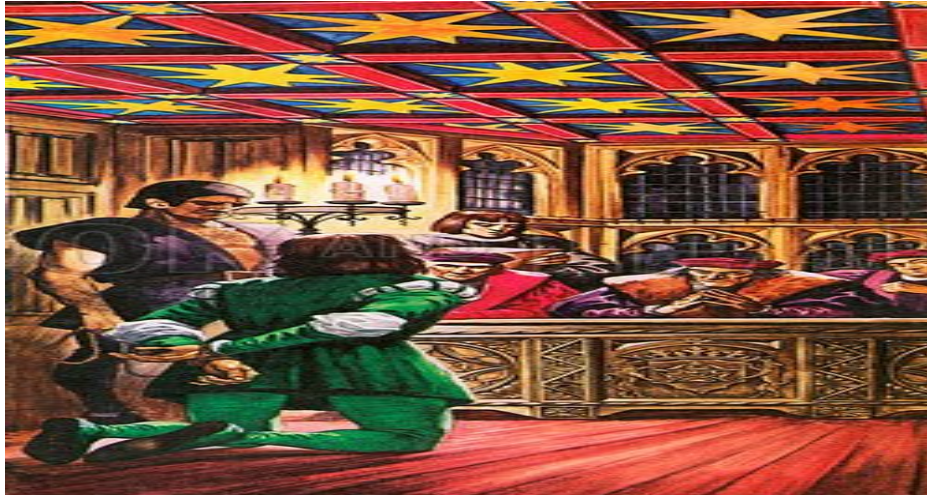


## The DoD Times (Redacted)



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### *How to Lose Your Children, DoD-Style, in 1, 2, 3... Family Advocacy Program “Administrative” Proceedings and their Potentially Devastating Outcomes*

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**Did You Know:** The DoD’s Family Advocacy Program (FAP) Incident Determination Committee (IDC) “administrative” hearings can result in a service member losing custody of their children in civil court and/or being involuntarily separated from the military with an [Other Than Honorable](#) discharge. These outcomes are the result of proceedings that lack even a basic semblance of [due process](#) for either the alleged victim or the alleged offender. While the hearings were originally intended to assess clinical treatment needs of alleged victims of emotional and/or physical abuse, they have morphed into semi-criminal hearings chaired by clinical technicians that carry life-long negative implications.

Specific to the Army ([AR 608-18](#) and [Army Directive 2021-26](#)) and likely relevant to all uniformed service members given all service regulations flow from federal law ([10 U.S. Code § 1058](#)) and DoD policy ([DoDI 6400.01](#)), the total absence of due process during IDC hearings include:

1. Neither the alleged victim nor the alleged offender may be present during the hearing.
2. Neither party is allowed to have legal representation at the determination meeting.
3. No cross examination of either party occurs.
4. The alleged offender is not made aware of what the exact alleged actions are which underpin an abuse allegation, nor is an alleged offender ever privy to what the case manager presents as the evidentiary file to the IDC.
5. [With respect to evidence](#), there is no guidance provided in the regulation as to “which evidence amounts to a greater weight than other evidence.”
6. The case determination is recorded, but a complete record of the IDC in a “play by play” account is not recorded.
7. The case determination is the only output an alleged offender will see once the panel convenes and makes its determination.
8. An alleged offender is allowed to request reconsideration of an IDC finding if they can prove the “IDC did not have all relevant information when it made its finding” or “the IDC did not follow published DA

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Policy” – a tough standard to meet when the alleged offender has no idea of the evidence presented and no record of the hearing to reference.

9. If an alleged offender requests a reconsideration, all accusations that were under determination during the initial hearing are again brought before the next IDC, even if certain allegations were unsubstantiated during the initial hearing.
10. In reviewing and determining to substantiate or not substantiate an allegation of emotional and/or physical abuse, the IDC uses a [preponderance of information](#) standard, which as we have previously discussed, amounts to the whim of the individual in the hands of [unscrupulous leaders](#).
11. There is no independent fact finder. The case manager, who conducts the victim intake interview and follow on treatment and meetings with the alleged victim, is the same case manager who interviews the alleged offender.

Here are some potential implications of these facts:

1. IDC findings are used during civil family court proceedings to strengthen the argument of a particular party regarding parenting plans, alimony, and child support. Thus, though not designed to impact anything other than clinical care, the determinations have far reaching impact.
2. Given the total lack of procedural due process, there is a risk that IDC members are biased to make inaccurate determinations, thus absconding justice for either the alleged victim or the alleged offender.
3. Commanders will likely initiate involuntary administrative separation and suspend the clearance of a service member who has been found guilty of emotional and/or physical abuse through an IDC hearing.
4. Given the absence of a record of proceedings or access to any evidence used during the IDC proceeding, service members fighting the administrative separation and discharge characterization process have no tangible way to defend themselves as they are forced out of the military.
5. Per DoD policy ([DoDI 6400.01](#) & [DoDM 1402.05](#)) accusations reviewed by an IDC, even unsubstantiated ones, are input into the [DoD Central Registry](#). The Army will maintain these records for 25 years. These records can be accessed by DoD entities as well as agencies at the federal, state, and local level, thus negatively impacting any chance a former service member has of finding a job.
6. Similar to the IDC, the administrative separation process lacks any semblance of [due process](#), which means the service member is twice the victim of a truly punitive administrative system in which they have no legal rights.
7. Driven to desperation by the inherent lack of due process in these “administrative” systems and their overwhelming negative impact on one’s professional and personal existence, currently serving and former service members are likely at a risk of committing suicide.

Congress must act to properly scope the procedures and outcomes of the DoD’s Family Advocacy Program Incident Determination Committees. Clinical technicians making semi-criminal determinations absent any semblance of due process is fundamentally unjust. Not even discussed here is the total disconnect between FAP and the Service’s criminal investigative services, another area of deep concern with tremendous negative impact that is borne by both alleged victims and alleged offenders.

If you feel that you have been a victim of these types of concerns, feel free to reach out privately at [francescagraham@walkthetalkfoundation.org](mailto:francescagraham@walkthetalkfoundation.org) and [warriorfamilyadvocacy@gmail.com](mailto:warriorfamilyadvocacy@gmail.com), or share your story in the comments.

If you would like to help us fight these issues, please consider donating to the [Walk the Talk Foundation](#) via either [Venmo](#) or [PayPal](#). We greatly appreciate your support.

Also, [SIGN THIS PETITION](#) demanding that our leaders in Congress change the DoD’s unjust administrative investigatory system.