

Guide for National Guard and Military Officers on Refusing Unlawful Orders

Maintaining ethical standards and adherence to laws is a core responsibility for all service members. If you're faced with an unlawful order, it is essential to handle the situation with professionalism and a firm understanding of your rights and responsibilities. This guide outlines the steps you can take to effectively and respectfully refuse unlawful orders while safeguarding your career and integrity.

1. Recognizing and Refusing Unlawful Orders Professionally

Unlawful orders are directives that require you to perform acts violating military law, the UCMJ (Uniform Code of Military Justice), or international law. These could include orders to commit war crimes, violate ethical obligations, or harm civilians unlawfully.

Steps to Refuse Professionally:

- **Stay Calm and Respectful:** Avoid emotional reactions. Responding in a composed, respectful manner demonstrates professionalism.
- **State Your Concern Clearly:** Express your understanding that the order may breach the law. For example, “Sir/Ma’am, I believe this order may violate military law or the UCMJ.”
- **Offer Alternatives:** If possible, suggest lawful and constructive alternatives to the order.
- **Avoid Public Confrontations:** Whenever possible, raise your concern in private to maintain unit cohesion and respect for the chain of command.

2. Demanding Accountability from Superiors

Holding your superiors accountable ensures the chain of command upholds military law and values. Here’s how to approach this professionally:

- **Request Clarification:** Politely ask your superior for clarification on how the order aligns with military law. This signals your willingness to understand without immediate confrontation.
- **Seek Support from Peers:** If others witness the situation, ask for their support and perspective—but remain cautious about group dissent, which can escalate tensions.
- **Maintain Evidence:** Keep a factual and unemotional record of interactions to back up your claims if the matter escalates.

3. Requesting Written Orders

Sometimes, unlawful orders are verbal and ambiguous. Asking for them in writing serves several purposes, such as ensuring clarity and preserving records.

How to Request Written Orders:

- **Be Formal and Direct:** Politely request the order in writing using language such as, “Respectfully, Sir/Ma’am, may I request this order in a written format for clarity and record-keeping?”
- **Document the Request:** Note the date, time, and nature of your request in your personal records.
- **Evaluate the Response:** If the superior hesitates or refuses, this could indicate a lack of confidence in the legality of their directive.

4. Consulting with JAG Officers on Article 138

If you believe the order or behavior of your commanding officer amounts to misconduct or violates your rights, Article 138 of the UCMJ allows you to seek redress.

Steps to Take:

- **Contact a Judge Advocate General (JAG) Officer:** They are legal experts who can provide guidance specific to your situation.
- **Understand Article 138:**
 - It allows you to file a formal complaint if you believe you have been wronged by a commanding officer.
 - Complaints should address violations of law or abuses of authority rather than disagreements over duties.
- **Follow the Complaint Process:**
 - Submit a written complaint to your commander or the next higher authority.
 - Provide supporting documentation and any evidence of the unlawful order.
- **Work Within the System:** Allow the military justice system to investigate and adjudicate your complaint.

5. Preparing for Potential Consequences

Refusing an unlawful order, even when merited, may lead to challenges. These could include strained relationships with your chain of command, delayed promotions, or investigations into your actions. Here’s how to mitigate risks:

- **Know Your Rights:** Familiarize yourself with military laws and protections under the UCMJ.
- **Document Everything:** Keep clear and organized records of incidents, orders, and your responses.
- **Seek Support Networks:**
 - Consult with chaplains, or military ombudsmen who can offer guidance.
 - Access peer support groups focused on military ethics.
- **Remain Committed to Military Values:** Acts rooted in integrity and ethical reasoning often speak louder than immediate repercussions.

6. Navigating Ethical Dilemmas with Integrity

Balancing duty to your superiors, your unit, and the law can be challenging. Upholding truth, fairness, and military values helps you maintain your honor and credibility. The respect earned through ethical behavior often outweighs the short-term discomfort of raising concerns.

Recommended Resources

These tools and organizations can offer further guidance and support:

- **Service-Specific Legal Assistance:**
 - Army Legal Assistance Program
 - Air Force JAG Corps
 - Navy-Marine Corps Legal Assistance
- **Ethical Resources for Service Members:**
 - Military OneSource (for free legal advice and counseling services)
 - GI Rights Hotline (girightshotline.org / 1-877-447-4487)
- **Forums for military and National Guard personnel dealing with legal dilemmas.**
 - Military Law Task Force of the National Lawyers Guild (nlgmtf.org)
 - About Face: Veterans Against The War (formerly IVAW) (aboutfaceveterans.org)
 - Center on Conscience and War (centeronconscience.org)
- **Military Code and Doctrine:**
 - Familiarize yourself with the [UCMJ](#) and [Field Manuals](#) governing ethical standards in the military.
- **Additional resources:**
 - [Defense.gov](#) - Ethical Behavior Training: Offers insights into ethical training and resources within the Department of Defense.
 - [Military Ethics](#): Cards for Humanity: A tool designed to help military personnel analyze and navigate ethically challenging situations.
 - [Military Defense - Unlawful Military Orders](#): Provides information on protections for service members who challenge unlawful orders.
 - [Contrarian - Duty to Disobey](#): Discusses the importance of recognizing and refusing unlawful orders.
 - [Lawfire](#) - The Law of Military Orders: Explores the legal framework surrounding military orders and the responsibilities of service members.

Refusing unlawful orders requires courage, discipline, and a deep sense of duty to the law and military principles. By following these steps, you protect your integrity, comply with military laws, and reinforce the ethical standards vital for trust and success in service. Always prioritize professional advice and use available resources to guide your decisions.

