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Managing Partner Greg T. Rinckey talks about back pay Sgt. Bowe Bergdahl is owed in Navy Times.

Bergdahl could collect 5 years of back pay, benefits
By Andrew Tilghman
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The Army owes Sgt. Bowe Bergdahl a lot of money. It's not just the standard paycheck for about \$1,400 that he's due on the 15th of this month. Technically, the Army owes Bergdahl a lump sum check for back pay covering his five years in captivity. That would probably be nearly \$200,000 because, according to Army regulations, a soldier freed from captivity is entitled to not only his accrued basic pay but also housing allowance, food allowance, hostile fire pay and even some per diem payments. But it's not clear when — or even if — Bergdahl will see any of that money. Bergdahl's Taliban captors released him June 1 as part of a controversial prisoner swap. Since then, he has been at a military hospital in Germany, where he's listed in stable condition. After Bergdahl returns home and completes the "reintegration process," Army officials say he will face an investigation into allegations that he left his post in Afghanistan without permission. That could lead to criminal charges of being absent without leave or desertion. In Washington, Bergdahl has swiftly become a lightning rod for President Obama's critics who say the commander in chief should not negotiate with terrorists and who question whether Bergdahl was worth the trade that simultaneously released five Taliban captives from the military prison at Guantanamo Bay, Cuba. The Army was unable to provide details about Bergdahl's pay as Friday afternoon, but a spokeswoman said the service was pursuing answers to Military Times' questions. While his official status was changed from

“missing/captured” back to that of a normal sergeant, officials were also unable to say whether his paychecks will be processed or back pay provided. The top brass repeatedly has said Bergdahl is innocent until proved guilty, so military law experts say the Army has no reason to withhold current or back pay. “He is entitled to that money,” said Greg Rinckey, a former Army judge advocate who practices military law with his New York-based firm Tully Rinckey. “At a later date, the Army could go back and try to recoup it, but at this point, he is due his pay,” Rinckey said in an interview Friday. Army regulations suggest that Bergdahl’s back pay could be held in an interest-bearing account at the Treasury Department. Treasury officials did not respond to a request for comment Friday. “Are they just going to hold [the money] in abeyance until they do an investigation?” wondered Larry Korb, a former Pentagon personnel chief who is now a senior fellow at the Center for American Progress. An internal Army investigation into Bergdahl’s disappearance was completed in 2010 and found that he most likely left his small combat outpost intentionally and in violation of orders, though it remains unclear why and whether he intended to leave permanently. Nevertheless, during his captivity Bergdahl was routinely promoted twice, in accordance with the standard practice for captured soldiers. That bumped him up from a private first class in the E-3 paygrade when he first disappeared to his current paygrade of E-5. “They’ve known about all this for years, and they promoted him twice anyway. So I don’t see any reason why they’d hold up his pay now,” Korb said in an interview Friday. Technically, decisions about Bergdahl’s pay land on the desk of Army Secretary John McHugh. Yet given the sensitive politics surrounding Bergdahl, it’s likely to go higher than that, Korb said. “They’re all going to want to make sure their bosses are OK with the decision,” Korb said. “I’m sure [Defense Secretary] Chuck Hagel, having been a former senator, if this comes to his desk, he’s going to say, ‘Mr President what do you think about this?’”