

Pricey Gifts for Superiors Land Service Members on Military's Naughty List

By Lisa Marie Windsor

'Tis the season for giving. Service members, however, must be very careful when giving gifts to superior officers, because when such presents are too valuable they could land subordinates on the military's naughty list.

As many JAG attorneys and military lawyers know, charges against service members who violate U.S. Department of Defense (DoD) rules pertaining to gift giving are about as common to the Christmas season as sleigh bells and mistletoe. Service members who give even moderately expensive holiday gifts to superior officers could be charged with disobeying a lawful regulation in violation of Article 92 of the Uniform Code of Military Justice. The giving rules are included in the Joint Ethics Regulation (JER, DODD 5500.7-R

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The types of gifts subordinates can occasionally give to superiors are items with a market value no more than \$10. Subordinates can also give food or beverages that are offered to other DoD employees or personal hospitality at an employee's home.

Gifts given during Christmas and Hanukkah fall under the category of "occasional basis" giving. Meanwhile, gifts given to employees for a marriage, illness, child birth, adoption, termination, reassignment or retirement fall under the "special, infrequent occasions" category. Superiors cannot accept gifts for special, infrequent occasions from groups of employees when their aggregate market value exceeds \$300 and he or she knows or has reason to believe at least one contributor is a subordinate. For group gifts to superiors with an aggregate value less than \$300, subordinates are limited to a \$10 voluntary contribution.

The purpose of these gift-giving prohibitions is not to turn the military into a Grinch but to guard the armed services from favoritism and conflicts of interest. These rules curb service members' attempts to secure more favorable evaluations or treatment from commanders in return for expensive presents and also protects service members from feeling pressured to purchase or contribute to expensive gifts for their bosses. These value limits do not apply to gifts from superiors to subordinates. However, as the JER states, all DoD employees cannot give, accept, demand or seek "anything of value to influence any official act."

Federal employees should also take note of the military's limitations on gifts to superior officers. The JER pulls much of the language for these giving prohibitions from the Code of Federal Regulation (C.F.R. Parts 2635.201-2635.304). Military personnel charged with Article 92 or facing non-judicial punishment because of a gift given or received should contact a Washington, D.C. military justice attorney.

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