



DEFENSE INFORMATION SYSTEMS AGENCY

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DISA INSTRUCTION 220-50-45*

POLICIES

Compliance of DISA Military Members, Civilian Employees, and Family Members Outside the United States with Court Orders

1. **Purpose.** This Instruction assigns responsibilities for compliance of DISA military members, civilian employees, and family members outside the United States with court orders. It also advises of the direction to be provided to a subject of a request.

2. **Applicability.** This Instruction applies to DISA.

3. **Authority.** This Instruction is published in accordance with the authority contained in DoD Instruction 5525.09, Compliance of DoD Members, Employees, and Family Members Outside the United States with Court Orders, 10 February 2006.

4. Responsibilities.

4.1 **Principal Directors, Directors, Commanders, and Chiefs of Major Organizational Elements.** These individuals will:

4.1.1 Immediately notify the Director, DISA, of the receipt of a request for assistance from a court or Federal, State, or local official concerning a court order, as described in subparagraph 4.1 of DoD Instruction (DoDI) 5525.09. (This includes matters involving enforcement of court orders relating to charges or convictions of felonies, contempt of court for failure to obey an order of the court, or orders to show cause why they should not be held in contempt for failing to obey a court order).

4.1.2 Obtain a determination from the DISA General Counsel (GC) as to whether the request concerning a court order is issued from a court of competent jurisdiction. (The subject of the court order should be afforded an opportunity to demonstrate his or her legal efforts to resist the court order or to otherwise demonstrate legitimate cause for noncompliance.)

4.1.3 Determine whether the individual's actions warrant a delay in ordering an expeditious return to the United States. (If such a delay is warranted by the circumstances, a delay request should be promptly submitted through the DISA GC to the Director, DISA. The Director, DISA, may grant a brief delay of no more than 90 days. All delays must be reported to the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) and the DoD General Counsel.)

4.1.3.1 If the request for return pertains to a felony or to contempt involving the unlawful or contemptuous removal of a child from the jurisdiction of a court or the custody of a parent or another person awarded custody by court order, and the matter cannot be resolved with the court

without the return of the subject to the United States, promptly take the actions prescribed in subparagraphs 5.1 and 5.2, unless the USD(P&R) grants an exception. (If an exception appears warranted, a recommendation for a USD(P&R) exception should be promptly submitted through the DISA GC to the Director, DISA, who will determine whether to submit it to the USD(P&R) for consideration.)

4.1.3.2 If the request for return does not pertain to a felony or contempt involving the unlawful or contemptuous removal of a child from the jurisdiction of a court or the custody of a parent or another person awarded custody by court order, and the matter cannot be resolved with the court without the return of the subject to the United States, promptly take the actions prescribed in paragraph 5, when deemed appropriate under the facts and circumstances of each particular case, following consultation with the DISA GC.

4.1.4 Provide follow up notifications to the DISA GC and Director, DISA, which, insofar as is practicable under the circumstances, includes all known information regarding the court order, the subject's legal efforts to resist the court order, and return of the subject to the United States.

4.2 General Counsel (GC). The GC will:

4.2.1 Provide a legal opinion as to whether the request for assistance from a court or Federal, State, or local official concerning an order (as described in subparagraph 4.1 of DoDI 5525.09) is based on an order issued by a court of competent jurisdiction; recommend whether a delay in taking action under DoDI 5525.09 is legally justifiable; recommend whether a USD(P&R) exception under subparagraph 4.1.3.1 is legally justifiable; and serve as a liaison between DISA and a court or Federal, State, or local official, as requested by the Director, DISA, or the individuals identified in subparagraph 4.1 of DoDI 5525.09.

4.2.2 Report all delays as directed in E1.1 of enclosure 1 of DoDI 5525.09.

4.2.3 Assist the Director, DISA, in submitting a request to the USD(P&R) for exception under subparagraph 4.1.3.1.

5. Direction to be Provided to a Subject of a Request.

5.1 If a DISA military member is the subject of a request, the member shall be ordered, under 10 U.S.C. 814, to return expeditiously to an appropriate port of entry at government expense, contingent on the party requesting return of the member providing for transportation, and escort, if desired, of the member from such port of entry to the jurisdiction of the party. The party requesting return of the member shall be notified at least 10 days before the member's return to the selected port of entry, absent unusual circumstances.

5.2 If a DISA civilian employee is the subject of a request, the employee shall strongly be encouraged to comply with the court order. Failure to respond to the court order may be a basis for withdrawal of command sponsorship and adverse action against the DISA employee, including removal from the Federal Service. Proposals to take such adverse action must be


approved by the Director, DISA, or appropriate individual identified in subparagraph 4.1. Such proposal shall be coordinated with the cognizant civilian personnel office and legal office.

5.3 If a family member of a DISA military member or civilian employee is the subject of the request, the family member shall strongly be encouraged to comply with the court order. Failure to respond to the court order may be a basis for withdrawing the command sponsorship of the family member.

5.4 The guidance in DoDI 5525.11, Criminal Jurisdiction over Civilians Employed by or Accompanying Armed Forces Outside the United States and Former Service Members, shall be followed when a civilian employee, contractor or subcontractor employee, certain former military members, or any family member accompanying these individuals, has been arrested or charged with a felony offense under 18 U.S.C. 3261 through 3267.

6. **Assistance.** An individual who is the Subject of a court order under subparagraph 5.4 shall, to the extent practicable, be provided assistance as described in E1.5 of enclosure 1 to DoDI 5525.09.

7. **Exceptions.** The provisions of this Instruction regarding the granting or delays or exceptions to compliance with court orders do not apply to federal court orders issued under 18 U.S.C. 3261 through 3267.



FREDERICK A. HENRY
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Chief of Staff

*This Instruction cancels DISAI 220-50-45, 8 December 2006, and must be reissued, canceled, or certified current within 5 years of its publication. If not, it will expire 10 years from its publication date and be removed from the DISA Issuances Web site.

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