



DEFENSE INFORMATION SYSTEMS AGENCY
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DISA INSTRUCTION 220-50-45*

8 December 2006

28 July 2010

POLICIES

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

1. **Purpose.** This Instruction assigns responsibilities and provides procedures for the return to the United States of DISA military members, certain former military members, and civilian employees, including contractors and subcontractors, serving outside the United States and family members accompanying them. It includes guidance for the return to the United States, or other action to be taken with respect to such individuals. It also includes guidance to be followed when such individuals have been charged with, or convicted of, a felony in a court; have been held in contempt by a court for failure to obey the court's order; or have been ordered to show cause why they should not be held in contempt for failing to obey the court's order.

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 of Strategic Business Units, Directors and Chief of Shared Services Units, Directors of Program Executive Offices, Direct Reports, and Special Advisors, Headquarters, DISA; and Commanders of DISA Combatant Command Field Offices.** 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 [DoD](#)

[Instruction 5525.09](#), subparagraph 4.1 (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. Afford the subject of the court order 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, promptly submit a delay request, 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.

4.1.4 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, promptly submit a recommendation for a USD(P&R) exception, through the DISA GC, to the Director, DISA, who will determine whether to submit it to the USD(P&R) for consideration.

4.1.5 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.

4.1.6 Provide follow up notifications to the DISA GC and Director, DISA, which, insofar as is practicable under the

circumstances, gives 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 [DoD Instruction 5525.09](#), subparagraph 4.1) is based on an order issued by a court of competent jurisdiction, recommend whether a delay in taking action under [DoD Instruction 5525.09](#) is legally justifiable, recommend whether a USD(P&R) exception under [subparagraph 4.1.4](#) 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.

4.2.2 Report all delays as directed in paragraph E1.1 of enclosure 1 of [DoD Instruction 5525.09](#).

4.2.3 Assist the Director, DISA, in submitting a request to the USD(P&R) for exception under [subparagraph 4.1.4](#).

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 Government. 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 [DoD Instruction 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 Federal Court or Federal Magistrate Judge has either issued an order, or otherwise might issue an order, requiring the return of civilian employees (including a contractor or subcontractor employee, certain former military members, or any family member accompanying these individuals, when they have been arrested or charged with a felony offense under 10 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 paragraph E1.5 of enclosure 1 to [DoD Instruction 5525.09](#).

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

FOR THE DIRECTOR:



MARK S. BOWMAN
Brigadier General, USA
Chief of Staff

*This Instruction cancels DISAI 220-50-45, 31 January 2006.

OPR: GC

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