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Law



**MAKING MILITARY PERSONNEL,
EMPLOYEES, AND DEPENDENTS
AVAILABLE TO CIVILIAN AUTHORITIES**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This Air Force policy directive establishes procedures for making Air Force members, civilian personnel, and family members available to United States civilian authorities for trial or specified court appearances. This directive applies to all Air Force military personnel, including reserve members while on active or inactive duty training and Air National Guard members while in Federal status, all Departments of the Air Force civilian employees (including nonappropriated fund employees), and all dependents. This directive implements national policies contained in Article 14, UCMJ (Title 10, United States Code, Section 814); Public Law 100-456, Section 721(a); The *Interstate Detainers Act*, 18 U.S.C App. Section 1 et seq.; DoD Instruction 5525.09, *Compliance of DoD Members, Employees, and Family Members Outside the United States With Court Orders*, 10 February 2006; DoD Instruction 5525.11, *Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members*, 3 March 2005; and, Air Force Instruction 51-1001, *Making Military Personnel, Employees, and Dependents Available to Civilian Authorities*. This directive does not confer any rights, benefits, privileges, or form of due process procedure upon any individuals. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF IMT 847, *Recommendation for Change of Publication*; route AF IMT 847s from the field through the appropriate functional's chain of command. Nothing in this policy directive confers any rights, benefits, privileges, or form of due process procedure on any individual nor does it create any obligations for the United States, the Department of Defense (DoD), or the US Air Force. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFMAN 37-123 (will convert to AFMAN 33-363), *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) located at <https://afrims.amc.af.mil/>.

SUMMARY OF CHANGES

This publication has been revised to reflect the updated release of DoD Instructions 5525.11 and 5525.09. This revision updates the authority for procedures making military personnel, employees, and dependents available to civilian authorities.

1. The Air Force demonstrates its full support of civil legal authorities by ensuring Air Force military and civilian personnel and dependents do not use military assignments to avoid valid orders of civilian courts. This directive establishes policies for personnel who cooperated with legal civil authorities in enforcing court orders relating to military and civilian personnel and dependents.

2. Requests by Federal authorities for members stationed within the United States will normally be granted when a warrant has been issued pursuant to Rule 4 of the Federal Rules of Criminal Procedure. Requests by state authorities for members located in that state will normally be granted when the state produces documents preferring charges.

2.1. Military members will not be transferred from a base within one state to a base within another state for purposes of making them amenable to prosecution by civil authorities.

3. Members stationed outside the United States will be expeditiously returned to requesting authorities in cases where the member is convicted or charged with a felony or other serious offense (punishable by confinement for more than 1 year) or is sought in connection with unlawful or contemptuous taking of a child from the jurisdiction of a court or from the lawful custody of another, unless noncompliance is legally justified.

4. Commanders ordinarily do not have authority to compel civilian compliance with court orders, but will strongly encourage civilians associated with their organizations to comply with valid orders of Federal and state courts, to include the use of adverse administrative actions against civilian employees, and withholding of official sponsorship, where appropriate.

5. A member subject to the Uniform Code of Military Justice (UCMJ) may be placed under restraint by military authorities pending delivery to state or Federal authorities. Restraint may be imposed upon receipt of information establishing probable cause that the member committed the offense, and upon reasonable belief that the restraint is necessary. Restraint may continue only so long as necessary to effect delivery.

6. This directive establishes the following responsibilities and authorities:

6.1. Commanders will respond promptly to requests from civil authorities within the United States for assistance. A commander exercising general court-martial jurisdiction, or an installation commander when authorized by the officer exercising general court-martial jurisdiction, may authorize delivery of a member of his or her command to Federal or state civil authorities.

6.2. The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) shall grant exceptions on a case-by-case basis with the concurrence of General Counsel (GC), DoD.

6.3. The Judge Advocate General (TJAG) is the approval authority for requests in cases described in paragraph 3., and may recommend denial. TJAG may approve or deny requests for return of Air Force members from overseas for offenses, which do not fit the criteria of paragraph 3., upon determination by TJAG that the best interests of the Air Force require it. TJAG may also approve a delay of up to 90 days to complete action on any request to return a member from overseas.

6.4. Air Force Legal Operations Agency, Military Justice Division (AFLOA/JAJM), is responsible for timely processing of requests for the return of members of the United States for delivery to civilian authorities.

7. This policy directive interfaces with AFI 34-301, *Nonappropriated Fund Personnel Management and Administration*; AFI 36-703, *Civilian Conduct and Responsibility*; AFI 36-704, *Discipline and Adverse Action*; AFI 51-201, *Administration of Military Justice*; and AFI 51-1001, *Delivery of Personnel to United States Civilian Authorities for Trial*.

Michael W. Wynne
Secretary of the Air Force