

States, as well as their family members who accompany them, who 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.

(b) This part does not affect the authority of DoD Components to cooperate with courts and State and local officials in enforcing orders against DoD members and employees outside the United States on matters not listed in paragraph (a) of this section.

(c) This part does not create any rights or remedies and may not be relied on by any person, organization, or other entity to allege a denial of such rights or remedies.

§ 146.5 Responsibilities.

(a) The *General Counsel of the Department of Defense* (GC, DoD) shall:

(1) Issue Instructions and other guidance, as necessary, to implement this part.

(2) Review and approve the implementing documents issued by DoD Components under this part.

(3) Coordinate on requests for exception to the requirements of this part under § 146.5(b).

(b) The *Assistant Secretary of Defense (Force Management and Personnel)* (ASD(FM&P)), with the concurrence of the GC, DoD, shall grant exceptions on a case-by-case basis to the requirements of § 146.6. In exercising this authority, the ASD(FM&P), on request by the DoD Component concerned, shall give due consideration to the pertinent mission requirements, readiness, discipline, and ongoing DoD investigations and courts-martial.

(c) The *Heads of DoD Components* shall:

(1) Comply with this part.

(2) Issue Regulations implementing this part.

(3) Report promptly to the ASD(FM&P) and GC, DoD, any action taken under paragraphs (a) (1) and (2) of § 146.6.

§ 146.6 Procedures.

(a) On receipt of a request for assistance from a court, or a Federal, State,

or local official concerning a court order described in § 146.4(a), the Head of the DoD Component concerned, or designee, shall determine whether the request is based on an order issued by a court of competent jurisdiction. Attempts shall be made to resolve the matter to the satisfaction of the court without the return of, or other action affecting, the member, employee, or family member (subject). Before action is taken under this section, the subject shall be afforded the opportunity to provide evidence of legal efforts to resist the court order, or otherwise show legitimate cause for noncompliance. If the Head of the DoD Component concerned determines that such efforts warrant a delay in taking action under this section, the DoD Component Head may grant a brief delay (not more than 90 days). All delays promptly shall be reported to the ASD(FM&P) and to the GC, DoD.

(1) If the request 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, the Head of the DoD Component, or designee, promptly shall take the action prescribed in paragraphs (b) through (d) of this section, unless the ASD(FM&P), or designee, grants an exception.

(2) If the request does not pertain to a felony or contempt involving the unlawful or contemptuous removal of a child from the jurisdiction of the court or the custody of a parent or another person awarded custody by court order, and if the matter cannot be resolved with the court without the return of the subject to the United States, the Head of the DoD Component, or designee, promptly shall take the action prescribed in paragraphs (b) through (d) of this section, when deemed appropriate with the facts and circumstances of each particular case, following consultation with legal staff.

(b) If a DoD member is the subject of the request, the member shall be ordered, under 10 U.S.C. 814, to return expeditiously to an appropriate port of