

(c) Noncompliance with a court order may be legally justified when the individual can adequately demonstrate that the conduct, which is the subject of the complaint or request, was sanctioned by supplemental court orders, equally valid court orders of other jurisdictions, good faith legal efforts to resist the request, or other reasons. HQ USAF/JACM and JACA, and Air Force legal offices in the jurisdiction concerned will provide legal support to servicing staff judge advocates who request assistance in reviewing these issues.

(d) When federal, state or local authorities request delivery of an Air Force member who is stationed outside the United States and who is convicted of or is charged by such authorities with a felony or other serious offense punishable by confinement for more than one year under the laws of the requesting jurisdiction, or who is sought by such authorities in connection with the unlawful or contemptuous taking of a child from the jurisdiction of a court or from the lawful custody of another, the member normally will be expeditiously returned to the United States for delivery to the requesting authorities. Delivery of the member is not required if the controversy can be resolved without returning the member to the United States, or the request for delivery of the member is denied in accordance with this subpart.

(e) An Air Force member stationed outside the United States ordinarily will not be returned to the United States for delivery to civilian authorities in connection with an offense not enumerated in paragraph (d) of this section, but The Judge Advocate General (TJAG) may direct return in such cases when TJAG determines that the best interests of the Air Force require it.

(f) Before action is taken under this subpart, the member will be afforded the opportunity to provide evidence of legal efforts to resist the court order or process sought to be enforced, or otherwise to show legitimate cause for non-compliance.

§ 884.11 Assigned responsibilities.

(a) The Assistant Secretary of Defense (Force Management and Per-

sonnel) (ASD(FM&P)) is the denial authority for all requests for return of members to the United States for delivery to civilian authorities when the request falls under § 884.10(d) of this subpart.

(b) The Judge Advocate General (TJAG) of the Air Force may approve requests which fall under § 884.10(d) of this subpart, or recommend denial of such requests. TJAG or his designee may approve or deny:

(1) Requests for return of members to the United States for delivery to civilian authorities when the request falls under § 884.10(e) of this subpart.

(2) Requests for delays of up to 90 days in completing action on requests for return of members to the United States for delivery to civilian authorities.

(c) The Military Justice Division (HQ USAF/JAJM) is responsible for the timely processing of requests for return of members to the United States for delivery to civilian authorities, and for notifying requesting authorities of decisions on requests. Action on a request will be completed within 30 days after receipt of the request by HQ USAF/JAJM, unless a delay is granted. HQ USAF/JAJM also is responsible for all reports and notifications to ASD (FM&P) and General Counsel, DOD (DOD/GC), as required by this part. HQ USAF/JAJM will conduct all communications with requesters.

§ 884.12 Procedures for return of an Air Force member to the United States.

(a) A request for return of an Air Force member to the United States for delivery to civilian authorities shall:

(1) Fully identify the member sought. Requesting agencies shall provide the members' name, grade, social security number (SSN), and unit of assignment, to the extent that information is known.

(2) Specify the offense for which the member is sought. If the member is charged with a crime, the request shall specify the maximum punishment under the laws of the requesting jurisdiction. If the member is sought in connection with the unlawful or contemptuous taking of a child from the jurisdiction of a court or the lawful custody

of another, the request should so specify.

(3) Include copies of all relevant indictments, informations, or other instruments used to bring charges, all relevant court orders or decrees, and all arrest warrants, writs of attachment or *capias*, or other process directing or authorizing the requesting authorities to take the member into custody. Reports of investigation and other material concerning the background of the case shall be included, if reasonably available.

(4) State that the requesting authorities will initiate appropriate action to secure the member's lawful delivery or extradition from the port of entry to the requesting jurisdiction, at the expense of the requesting authorities, and that they will notify HQ USAF/JAJM of the member's release from custody and the ultimate disposition of the matter.

(5) Be signed by a United States Attorney or Assistant U.S. Attorney, by the Governor or other duly authorized officer of a requesting state or local jurisdiction, or by the judge, magistrate or clerk of a court of competent jurisdiction.

(b) Requests for return of members to the United States for delivery to civilian authorities shall be directed to HQ USAF/JAJM, Bolling AFB, DC 20332-6128. Requests received by any other Air Force agency or official must be sent to HQ USAF/JAJM by the most expeditious available means.

(c) Upon receipt of a request, HQ USAF/JAJM will promptly notify the members' commander, who will consult with his or her servicing staff judge advocate and provide to HQ USAF/JAJM, through command channels, a report of relevant facts and circumstances and recommended disposition of the request. If the commander recommends denial of the request, or a delay in processing or approving it, he or she will provide the information specified in § 884.13 or § 884.14 of this subpart.

(d) When a request for return of a member to the United States for delivery to civilian authorities has been approved, HQ USAF/JAJM will notify AFMPC of the decision to return a member to the United States under this subpart. AFMPC will issue perma-

nent change of station (PCS) orders assigning the member to an installation as close to the requesting jurisdiction as possible, in light of the needs of the Air Force for personnel in the member's grade and AFSC.

(e) The requesting authorities will be notified concerning the member's new assignment, port of entry into the United States, and estimated time of arrival. Absent unusual circumstances, this notification will be made at least 10 days before the member's return.

§ 884.13 Delays in returning members to the United States.

(a) A delay of not more than 90 days in completing action on a request to return a member to the United States for delivery to civilian authorities may be granted when:

(1) Efforts are in progress to resolve the controversy to the satisfaction of the requesting authorities without the member's return to the United States.

(2) Additional time is required to permit the member to provide satisfactory evidence of legal efforts to resist the request or show legitimate cause for noncompliance.

(3) Additional time is required to permit the commander to determine and present the specific effect of the loss of the member on command mission and readiness, or pertinent facts and circumstances relating to any international agreement, foreign judicial proceeding, DOD, Air Force, or other military department, investigation, or court-martial affecting the member.

(4) Other unusual facts or circumstances warrant delay.

(b) HQ USAF/JAJM will promptly report all delays in cases falling under § 884.10(d) of this subpart, through SAF/GC and SAF/MI ASD(FM&P), and to DOD/GC.

(c) Delays in excess of 90 days are not authorized in cases falling under § 884.10(d) of this subpart, unless approved by ASD (FM&P).

§ 884.14 Denials of a request for return of a member to the United States.

(a) Denial of a request for return of a member to the United States for delivery to civilian authorities may be justified when: