

(1) The member's return would have an adverse impact on operational readiness or mission requirements.

(2) The member's return is precluded by an applicable international agreement.

(3) The member is the subject of foreign judicial proceedings, court-martial, or a DOD, Air Force, or other military department investigation.

(4) The member has shown satisfactory evidence of legal efforts to resist the request or other legitimate cause for noncompliance.

(5) Other unusual facts or circumstances warrant a denial.

(b) Commanders shall promptly send to HQ USAF/JAJM information suggesting that denial may be appropriate. In cases warranting denial, TJAG will promptly send a recommendation and supporting documentation, through SAF/GC and SAF/MI, to ASD(FM&P) for decision.

(c) The fact that a recommendation for denial is pending does not by itself authorize noncompliance, or a delay in compliance, with any provision of this part, but TJAG may consider a pending request for denial in determining whether to grant a delay.

Subpart D—Compliance with Court Orders by Civilian Employees and Dependents

§ 884.15 Policy on complying.

(a) Air Force civilian employees and dependents are expected to comply with orders issued by a federal or state court of competent jurisdiction unless noncompliance is legally justified. Air Force civilian employees who persist in noncompliance are subject to adverse administrative action, including separation for cause, as provided in AFRs 40-7, 40-735, 40-750, and 147-15.³ Such action is taken to improve discipline and maintain the standards of conduct expected of Air Force employees, but not for the purpose of enforcing private civil obligations.

(b) Air Force officials will ensure that civilian personnel and dependents do not use assignments or officially sponsored residence outside the United States to avoid complying with valid

orders of a federal or state court of competent jurisdiction.

(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.

§ 884.16 Procedure involving a request by federal or state authorities for custody of an overseas civilian employee or a command sponsored dependent.

(a) The procedures of this subpart apply to the following persons:

(1) Civilian employees, including non-appropriated fund instrumentality (NAFI) employees, who are assigned outside the United States.

(2) Dependents residing outside the United States.

(b) This subpart applies only when Air Force authorities receive a request for assistance (see § 884.12 of this part) from federal, state or local authorities involving noncompliance with a court order and noncompliance is the subject of any of the following: an arrest warrant; an indictment, information, or other document used in the jurisdiction to prefer charges; or a contempt citation involving the unlawful or contemptuous removal of a child from the jurisdiction of the court or the lawful custody of a parent or third party.

(c) Commanders will comply with requests to the maximum extent possible consistent with operational readiness, mission requirements, provisions of international agreements and foreign court orders, DOD and military department investigations, and courts-martial. If, after all reasonable efforts have been exhausted (see § 884.13 of this part), the matter cannot be resolved without the employee or dependent returning to the United States, then the commander shall:

(1) Strongly encourage the individual to comply; and,

³See footnote 1 in § 884.3.