

VOLUME 13

**“COMPLIANCE WITH CRIMINAL COURT ORDERS BY MARINES, DEPENDENTS,
AND CIVILIAN EMPLOYEES SERVING OVERSEAS”**

SUMMARY OF VOLUME 13 CHANGES

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**VOLUME 13: COMPLIANCE WITH CRIMINAL COURT ORDERS BY MARINES,
DEPENDENTS, AND CIVILIAN EMPLOYEES SERVING OVERSEAS**

TABLE OF CONTENTS

REFERENCES.....REF-1

0101 SCOPE.....1-3

0102 POLICY1-3

0103 REQUESTS FOR ASSISTANCE1-3

0104 MARINE AS THE SUBJECT OF A REQUEST1-4

0105 DoD CIVILIAN AS THE SUBJECT OF A REQUEST1-4

0106 FAMILY MEMBER OF A MARINE OR EMPLOYEE AS THE SUBJECT OF A
REQUEST.....1-4

0107 RESPONSIBLE OFFICIALS1-4

REFERENCES

- (a) SECNAVINST 5430.7R CH-1
- (b) SECNAVINST 5430.27D
- (c) SECNAVINST 5430.25E
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2016 ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62B
- (k) MCO 1200.18
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DOD Directive 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“REFERENCES”

As changes are made within this MCO Volume, the References list will also update.
Annotation of each update/change/addition to the References list is required.

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SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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**COMPLIANCE WITH CRIMINAL COURT ORDERS BY MARINES,
DEPENDENTS, AND CIVILIAN EMPLOYEES SERVING OVERSEAS**

0101 SCOPE

This Volume designates responsible Marine Corps officials for acting on a request or order from a court or from Federal, State or local authorities concerning a criminal court order (i.e., arrest warrants or similar process, generally in connection with a criminal prosecution) for the return to the United States of Service members and their family members or civilian employees and their family members serving overseas. Detailed procedural and policy guidance regarding the processing of requests or orders for the return of Service members, civilian employees, and their family members are set forth in DoD Instruction 5525.09, SECNAVINST 5820.9A, and JAGMAN chapter VI. Procedural and policy guidance regarding the release of official information for litigation purposes and providing testimony by Department of the Navy personnel as witnesses for litigation purposes is provided in DoD Directive 5405.2, SECNAVINST 5820.8A, and MCO 5800.16, Volume 8. See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

0102 POLICY

The Marine Corps shall cooperate with courts and Federal, state, and local officials in enforcing court orders relating to Marines and DoD civilian employees stationed outside the United 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. Marine Corps mission requirements (including operational readiness), the provisions of applicable international agreements, and ongoing DoD investigations and courts-martial shall be considered when determining the degree of cooperation required.

0103 REQUESTS FOR ASSISTANCE

010301. CMC (MM) shall determine whether the request from a court, or a Federal, State, or local official concerning a court order is based on an order issued by a court of competent jurisdiction. Every reasonable effort will be made to resolve the matter to the satisfaction of the court without returning Marines to the United States or by taking other action authorized by SECNAVINST 5820.9A against civilian employees or the family members of Marines and civilian employees. Before action is taken, the Subject of the court order shall be afforded the opportunity to provide evidence of legal efforts to resist the court order, or otherwise show legitimate cause for noncompliance. If CMC(MM) determines such efforts warrant a delay in taking action under this section, CMC(MM) may grant a brief delay (not more than 90 days). All delays shall be promptly reported to the USD(P&R) and the GC, DoD.

010302. Requests to return Marines for felonies or for contempt involving unlawful or contemptuous removal of a child from the jurisdiction of a court or the custody of a parent or other person awarded custody by a court order will normally be granted, but only if the Marine cannot resolve the issue with the court without return to the United States. When the Marine's return is inconsistent with mission requirements, applicable international agreements, or ongoing DOD investigations or courts-martial, DOD approval of denial will be requested.

010303. If the request does not pertain to a felony or contempt involving the unlawful or contemptuous removal of the 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, CMC (MM) shall promptly take the action prescribed in Enclosure 1 of DoDI 5525.09, when deemed appropriate under the facts and circumstances of each particular case, following consultation with CMC (JCA).

0104 MARINE AS THE SUBJECT OF A REQUEST

If a Marine is the Subject of the request, the Marine shall be ordered, under Section 814 of title 10, United States Code (Article 14, UCMJ), to return expeditiously to an appropriate port of entry at Government expense, contingent on the party requesting return of the Marine providing transportation, and escort, if desired from such port of entry to the jurisdiction of the party. The party requesting return of the Marine shall be notified at least 10 days before the member's return to the selected port of entry, absent unusual circumstances. The Marine will normally be returned on a temporary additional duty (TAD) basis unless there are compelling reasons the return should be a permanent change of duty station (PCS).

0105 DEPARTMENT OF DEFENSE (DoD) CIVILIAN EMPLOYEE AS THE SUBJECT OF A REQUEST

Involuntary return of a DoD civilian employee is not authorized. If a DoD employee is the Subject of the request concerning the court order, 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 DoD employee, including removal from the Federal Government. Proposals to take such adverse action must be approved by the Head of the DoD Component concerned. Such proposals shall be coordinated with the cognizant civilian personnel office and legal office.

0106 FAMILY MEMBER OF MARINE OR EMPLOYEE AS THE SUBJECT OF A REQUEST

Involuntary return of family members is not authorized. If the family member of a Marine or civilian employee is the Subject of a request concerning the court order, 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.

0107 RESPONSIBLE OFFICIALS

010701. CMC (MM) is the responsible official for acting on all requests involving Service members and their family members who are not civilians employed by the DON or a component service, including an individual paid from non-appropriated funds, who is a citizen or national of the United States.

010702. Commanding officers who receive a request for the return of a Marine or family members of a Marine belonging to the command will comply with procedures set forth in SECNAVINST 5820.9A, and forward the request to CMC (MM) for action.

010703. Commanding officers are the responsible officials for acting on all requests involving civilian employees and their family members who are not active-duty military members, and will take appropriate action in accordance with SECNAVINST 5820.9A.

010704. CMC (JA) will provide legal review and advice on requests under the cognizance of CMC (MM). CMC (JCA) is the point of contact for authorities issuing requests for return or other action.

010705. 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 the GC, DoD.