

## § 720.31

(3) In other cases considered to be of special significance to the Judge Advocate General or the Secretary of the Navy.

(c) *Exceptions.* Where not in conflict with the foregoing restrictions relative to personal information, the release of which would result in a clearly unwarranted invasion of personal privacy, the production in Federal, State, territorial, or local courts of evidentiary material from investigations conducted pursuant to this Manual, and the service, employment, pay or medical records (including medical records of dependents) of persons in the naval service is authorized upon receipt of a court order, without procuring specific authority from the Secretary of the Navy. When the request for production involves material related to claims in favor of the Government, notification should be made to the affirmative claims office at the naval legal service office having territorial responsibility in the area. Where travel is involved, it must be without expense to the Government.

(d) *Medical and other records of civilian employees.* Production of medical certificates or other medical reports concerning civilian employees is controlled by the provisions of Executive Order 10561, 19 FR 5963, as implemented by Federal Personnel Manual, chapter 294, and chapter 339.1-4 (reprinted in MANMED article 23-255(6)). Records of civilian employees other than medical records may be produced upon receipt of a court order without procuring specific authority from the Secretary of the Navy, provided there is not involved any classified or For-Official-Use-Only information, such as loyalty or security records. Records relating to compensation benefits administered by the Bureau of Employees' Compensation may not be disclosed except upon the written approval of that Bureau (20 CFR 1.21). In case of doubt, the matter should be handled in accordance with the provisions of subsection a above. Where information is furnished hereunder in response to a court order, it is advisable that certified copies rather than originals be furnished and that, where original records are to be produced, the assistance of the U.S. Attorney or U.S. Marshal be requested so

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that custody of the records may be maintained.

[38 FR 6021, Mar. 6, 1973, as amended at 48 FR 4466, Feb. 1, 1983]

### § 720.31 Production of official records in the absence of court order.

(a) *General.* Release of official records outside the Department of the Navy in the absence of a court order is governed by the Privacy Act (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552). The following sources pertain: SECNAVINST 5211.5 series (Privacy) and SECNAVINST 5720.42 series (Freedom of Information).

(b) *Release of JAG Manual Investigations, Court-Martial Records, Articles 69 and 73 Petitions, and Article 138 Complaints of Wrongs.* Except as provided in this section, only the Assistant Judge Advocates General (Civil Law) and (Military Law) shall make determinations concerning the release of the records covered herein if less than a release of the complete requested record will result. In all other instances the Deputy Assistant Judge Advocates General, who have cognizance of the record(s) in issue, may release such records. Local record holders are reminded that the authority to release records does not necessarily include denial authority.

(1) *JAG Manual Investigations (including enclosures).* Any request for release outside the Department of the Navy shall be forwarded to the Assistant Judge Advocate General (Military Law) for determination, except that Privacy Act requests for release shall be forwarded to the Assistant Judge Advocate General (Civil Law) for determination.

(2) *Court-martial records and Articles 69 and 73 petitions.* These are matters of public record and may be released by any local holder. Court-martial records should be released only following proper authentication.

(3) *Article 138 Complaints of Wrongs.* Forward as in paragraph (b)(1) of this section.

(c) *Affirmative claims files.* Affirmative claims files (including Medical Care Recovery Act files), except to the extent that such files contain copies of reports of investigations prepared

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under the Manual of the Judge Advocate General, or classified or privileged information, may be released by local holders to insurance companies to support claims; to civilian attorneys representing the injured party's and the Government's interests; and to other components of the Department of Defense, without the prior approval of the Judge Advocate General, provided that the amount of the claim is within the monetary settlement authority of the releaser. When the request for production involves material related to claims in favor of the Government, notification should be made to the affirmative claims office at the naval legal service office having territorial responsibility for the area.

(d) *Accounting for disclosures of records from systems of records.* When records located in a "system of records" are released, the official responsible for releasing the records shall consult SECNAVINST 5211.5 series regarding the requirement that accountings of the disclosures be maintained. Appendix A-3-a of the Manual of the Judge Advocate General is recommended for this purpose.

(1 CFR 18.14, and part 21, subpart B)

[45 FR 8599, Feb. 8, 1980, as amended at 48 FR 4466, Feb. 1, 1983]

### § 720.32 Certificates of full faith and credit.

The Judge Advocate General, the Deputy Judge Advocate General, or any Assistant Judge Advocate General is authorized to execute certificates of full faith and credit certifying the signatures and authority of officers of the Department of the Navy.

[38 FR 6021, Mar. 6, 1973]

### Subpart D—Compliance With Court Orders by Department of the Navy Members, Employees, and Family Members Outside the United States

AUTHORITY: DoD Directive 5525.9, 54 FR 296, 32 CFR part 146.

SOURCE: 55 FR 47876, Nov. 16, 1990, unless otherwise noted.

### § 720.40 Purpose.

This instruction:

(a) Implements 32 CFR part 146.

(b) Establishes policy and procedures for requesting the return to the United States of, or other action affecting, Department of the Navy (DON) personnel and employees serving outside the United States, and family members accompanying them, in compliance with court orders.

### § 720.41 Definitions.

*Court.* Any judicial body in the United States with jurisdiction to impose criminal sanctions on a Department of the Navy member, employee, or family member.

*Employee.* A civilian employed by the Department of the Navy or a component service, including an individual paid from non-appropriated funds, who is a citizen or national of the United States.

*Family member.* A spouse, natural or adopted child, or other lawful dependent of a Department of the Navy employee or member accompanying the Department of the Navy member or employee assigned to duty outside the United States.

*Felony.* A criminal offense that is punishable by incarceration for more than one year, regardless of the sentence that is imposed for commission of that offense.

*Member.* An individual on active duty in the Navy, Naval Reserve, Marine Corps, or Marine Corps Reserve.

*Request for return.* Any request or order received from a court, or from federal, state or local authorities concerning a court order, for the return to the United States of members, employees, or family members, for any reason listed in § 720.42.

*Respondent.* A member, employee, or family member whose return to the United States has been requested, or with respect to whom other assistance has been requested under this instruction.

*Responsible Official.* Officials designated in this instruction to act on a request to return, or take other action affecting, members, employees or family members to the United States under this instruction.