

## § 720.4

A waiver must be in writing and be witnessed. It must include a statement that the member signing it has received counsel of either a military or civilian attorney prior to executing the waiver, and it must further set forth the name and address of the attorney consulted.

(2) In every case where there is any doubt as to the voluntary nature of a waiver, such doubt shall be resolved against its use and all persons concerned will be advised to comply with the procedures set forth in § 720.3(c).

(3) Executed copies of all waivers will be mailed to the Judge Advocate General immediately after their execution.

(4) When a member declines to waive extradition, the nearest Naval Legal Service Office or Marine Corps staff judge advocate shall be informed and shall confer with the civil authorities as appropriate. The member concerned shall not be transferred or ordered out of the State in which he is then located without the permission of the Secretary of the Navy (Judge Advocate General), unless a fugitive warrant is obtained as set forth in § 720.3(c).

(c) *Fugitive warrants.* (1) A fugitive warrant, as used in this chapter, is a warrant issued by a State court of competent jurisdiction for the arrest of a member. Normally, a State requesting delivery of a member from another State will issue a fugitive warrant to the State where the member is then located.

(2) Upon issuance of a fugitive warrant by the requesting State to the State in which the member is located, the latter State will normally request delivery of the member to local State authorities. Delivery to local State authorities should be arranged by Navy or Marine Corps officers designated in § 720.3(a), upon compliance with the provisions of § 720.6, and subject to the conditions of §§ 720.9 and 720.3(c) (3) and (4).

(3) Upon receipt of a request for delivery of a member under fugitive warrant to State authorities, if the member voluntarily waives extradition, the provisions of § 720.3(b) apply. If the member is delivered to local authorities but refuses to waive extradition in the courts of the State in which he is located.

## 32 CFR Ch. VI (7-1-05 Edition)

(4) No delivery of a member by Navy or Marine Corps officers pursuant to a fugitive warrant or waiver of extradition shall be effected without completion of the agreement required by § 720.6 and execution of such agreement either:

(i) By authorities of both the requesting State and the State in which the member is located, or

(ii) By authorities of the State in which the member is located if such authorities, on behalf of the requesting State, accept the full responsibility for returning the member to a command designated by the Department of the Navy.

(d) *Members stationed outside the United States.* When the member sought by State authorities is not located within the United States, see § 720.4.

### § 720.4 Persons stationed outside the United States.

(a) *Persons desired by local U.S. authorities.* When delivery of any member in the Navy or Marine Corps, or any civilian employee or dependent, is desired for trial by state authorities and the individual whose presence is sought is stationed outside the United States, the provisions of subpart D of this part will be followed. In all such cases, the nearest judge advocate of the Navy or Marine Corps shall be consulted before any action is taken.

(b) *Members desired by U.S. Federal authorities.* When delivery of any member of the Navy or Marine Corps is desired for trial in a Federal district court, upon appropriate representation by the Department of Justice to the Secretary of the Navy (Judge Advocate General), the member will be returned to the United States at the expense of the Department of the Navy and held at a military facility convenient to the Department of the Navy and to the Department of Justice. Delivery may be accomplished as set forth in § 720.7, subject to the exceptions in § 720.9.

### § 720.5 Authority of the Judge Advocate General and the General Counsel.

(a) *Authority of the Judge Advocate General.* The Judge Advocate General, the Deputy Judge Advocate General, and the Assistant Judge Advocates