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UNITED STATES MARINE CORPS

MARINE AVIATION TRAINING SUPPORT GROUP

NAVAL AIR STATION

LEMOORE, CALIFORNIA 93246-5017

GruO 5500.1B

SUPP

3 Sep 92

GROUP ORDER 5500.1B w/ch-1

From: Commanding Officer
To: Distribution List

Subj: MARINE AVIATION TRAINING SUPPORT GROUP (MATSG) SEARCHES
AND SEIZURES

Ref: (a) Mil.R.Evid. 315
(b) MCM ¹³⁸⁸ ~~1980~~ (Rev.) par. 1302
(c) Mil.R.Evid 314(e)

Encl: (1) Request for Authorization to Conduct Search and
Seizure
(2) Record of Authorization for Search
(3) Report of Seized Property
(4) Consent to Search

1. Purpose. To establish the authority of the Commanding Officer ~~or designated representative of MATSG Lemoore~~ to order searches of persons and property and to promulgate regulations and guidelines governing such searches in accordance with references (a) through (c).

2. Cancellation. GruO 5500.1A

3. Objective. To ensure that every search conducted by members of this command is performed in accordance with the law. For purposes of this order "search" is defined as ~~the~~ a quest for ~~incriminating~~ evidence. Enclosures (1) through (4) will be completed as appropriate for each search.

4. Authority

a. Reference (a) as modified by court decisions, authorizes a Commanding Officer to order searches of:

(1) Persons subject to military law under the Commanding Officer's authority.

(2) Persons, including civilians, situated on or in a military installation, encampment, vessel, aircraft, vehicle or any other location under the Commanding Officer's control.

(3) Privately owned property, situated on or in a military installation, encampment, vessel, aircraft, vehicle or any other location under the Commanding Officer's control; in an area under their jurisdiction, provided such property is owned, used or occupied by a person subject to military law.

(4) U. S. Government owned or controlled property under the Commanding Officer's jurisdiction, which has been issued to an individual or group of individuals for the Commanding Officer's private use.

(5) All other U. S. Government owned or controlled property under the Commanding Officer's jurisdiction.

b. As to property described in paragraph 4.a.(5) above, a search may be conducted at any time by anyone in military authority on the scene, for any reason, or for no reason at all. Any property seized as a result of such a search will be handled in accordance with paragraphs 7.g. through j. below.

c. Items or other evidence seized as a result of a search of persons or property falling within paragraph 4.a. (1), (2), (3) or (4) above will be admissible in a subsequent court proceeding only if the search was based on probable cause. This means that before the search is ordered, the person ordering the search is in possession of facts and information, more than mere suspicion or conclusions provided to him by others, which would lead a reasonable person to believe that:

(1) Any offense has been committed.

(2) The proposed search will disclose an unlawful weapon, contraband, evidence of the offense or of the identity of the offender, or anything that might be used to resist apprehension or to escape.

d. Before deciding whether to order any search of persons or property described in paragraph 4.a. (1), (2), (3) or (4), above, the officer responsible is required to take all reasonable steps consistent with the circumstances to ensure that his source of information is reliable, and that the information available to him is complete and correct. He must then decide whether such information constitutes probable cause as defined above. In making this determination, the responsible officer is exercising a judicial, as opposed to a disciplinary, function.

e. Ordinarily the Commanding Officer, MATSG Lemoore will be the officer responsible for authorizing searches of persons or property described in paragraph 4.a. (1), (2), (3) or (4) above in this command.

Additionally, in accordance with specific authority granted in reference (b), if the Commanding Officer is unavailable and full command responsibilities have been devolved to another (normally the Executive Officer), that person then exercising full command responsibilities is permitted to authorize a search and seizure.

5. Criteria

a. When so acting, the individual empowered to authorize searches will exercise judicial discretion in deciding whether or not to order a search, in accordance with the general criteria set forth above. No search will be ordered without a thorough review of the information to determine that probable cause, where required, exists. Due consideration will be given to the advisability of posting a guard or securing a space to prevent the tampering with, or alteration of spaces, while a further inquiry is conducted to effect a more complete development of the facts and circumstances giving rise to the request for a search.

b. The following examples are intended to assist the Commanding Officer or designated representative in placing the persons or property to be searched within the proper category (set forth in paragraph 4.a., above):

(1) Members of the armed forces and civilians accompanying armed forces in a combat zone in time of war.

(2) All persons, service members and civilians, situated on or in a military installation, encampment, vessel, aircraft, or vehicle.

(3) Automobiles, suitcases, civilian clothing, privately owned parcels, etc., physically located on or in a military installation, encampment, etc., and owned or used by a member of the armed forces or a civilian.

(4) Lockers issued for the stowage of personal effects, government quarters, or other spaces or containers issued to an individual for his private use.

(5) The working spaces of this command, including restricted access spaces, in the custody of an individual or group of individuals where no private use has been authorized (e.g. a wall safe, gear lockers, government vehicles, government briefcases, and government desks).

6. Exception. In circumstances involving vehicles, the interests of the safety or security of the command, or the necessity for immediate action to prevent the removal or disposal of stolen property, may leave insufficient time to obtain prior authorization to conduct a search.

d. Once a search is properly authorized pursuant to this order, it is not necessary to obtain the consent of any individual affected by the search; however, such consent should be requested prior to informing the individual(s) concerned that search authorization has been granted (see enclosure (4)).

e. Frequently, it will appear desirable to interrogate suspects in connection with an apparent offense. It is essential that the function of interrogation be kept strictly separate and apart from the function of conducting a search, pursuant to this order. This order does not purport to establish any regulations or guidelines for the conduct of an interrogation.

f. Personnel conducting a search properly authorized by this order will search only those persons and/or spaces ordered. If in the course of the search, they encounter facts or circumstances which make it seem desirable to extend the scope of the search beyond their original authority, they shall immediately inform the officer authorizing the search of such facts or circumstances and await further instructions.

g. Personnel conducting a search properly authorized by this order will seize all unlawful items which come to their notice in the course of the search, even if their existence was not known or anticipated before the search began. These unlawful items fall within the following categories:

(1) Unlawful weapons (i.e. any weapon, the mere possession of which is prohibited by law or lawful regulation).

(2) Any other evidence of the commission of any offense or the identity of the offender.

(3) Contraband, (i.e., any property, the mere possession of which is prohibited by law or lawful regulation).

(4) Any evidence of a crime, such as;

a. Fruits or products of any offense against the Uniform Code of Military Justice.

b. Instrumentalities by means of which any such offense was committed, or which may be used to effect the escape of any offender.

(5) Any object or instrumentality.

h. Any property seized as a result of a search shall be securely tagged or marked with the following information:

1. The officer determining whether probable cause exists must be impartial. The following activities may give rise to questions concerning his or her neutrality and must be avoided.

(1) Personal involvement by the officer in the gathering of evidence to be used as a basis for probable cause (e.g. approving or directing the use of informants, drug detection dogs, controlled buys, surveillance operations, or other similar activities).

(2) Personally conducting the search.

(3) Presence at the search site.

(4) Other personal bias or involvement in the investigative or prosecuting process against the accused.

m. The officer who is to conduct a search should, when possible, request consent to search from that person whose person or property is to be searched.

n. Per reference (c) consent searches should be conducted as follows; if consent is not given or if it is revoked prior to completion of the search, then the search authorization should be produced.

(1) A request for consent should be made prior to informing that person of the existence of a search authorization.

(2) A person consenting to a search of his or her person or property in his or her control should be informed of the purpose of the search and his or her right to refuse consent.

(3) Consent must be voluntary.

(4) Although consent may be given orally, when possible and practical, it should be in writing and witnessed as set forth in enclosure (4).

(5) The scope of a consent search may be limited in terms of time, place or property by the person granting consent and consent may be withdrawn at any time.

(6) The items which may be seized pursuant to a consent search are the same as those set forth in paragraph 7.g., above.


D. L. PERCY

DISTRIBUTION: A



UNITED STATES MARINE CORPS

COMMANDING OFFICER
MARINE AVIATION TRAINING SUPPORT GROUP
700 AVENGER AVENUE
LEMOORE, CA 93246-5016

IN REPLY REFER TO:

GruO 5500.1B CH-1
SUPP
16 Jan 97

GROUP ORDER 5500.1B CH-1

From: Commanding Officer
To: Distribution List

Subj: MARINE AVIATION TRAINING SUPPORT GROUP (MATSG) SEARCHES
AND SEIZURES

1. Purpose. To issue pen and ink changes to basic Order.
2. Action. Make the following pen and ink changes:
 - a. Page 1, enclosure b, change "1980" to "1984".
 - b. Page 1, paragraph 1, delete "or designated representative of MATSG Lemoore".
 - c. Page 1, paragraph 3, delete "incriminating" and add quotation marks to "a quest for evidence".

N. G. Schlaich
N. G. SCHLAICH

DISTRIBUTION: A

REQUEST FOR AUTHORIZATION TO CONDUCT A SEARCH AND SEIZURE

Instructions: This form will be completed in accordance with the instructions on the reverse.

1. I, _____ (NAME) _____ (Address of Organization)

having first been duly sworn, state that _____

2. I further state that _____

3. In view of the foregoing, the undersigned requests that permission be granted for a search of _____ (the person)

_____ (and) (the quarters or billets) (and) (the automobile)

and seizure of _____ (items searched for)

(Signature, typed or printed name
and organization)

RECORD OF AUTHORIZATION FOR SEARCH

1. At _____ on _____ I was approached
(Time) (Date)
by _____ in his capacity as
(Name)
_____ who, having first been duly
(Duty)
sworn, advised me that he suspected _____
(Name)
of _____ and requested permission to
(Offense)
search his _____
(Object or Place)
for _____
(Specific Items)

2. The reasons stated to me for suspecting the above named
person were: _____

RECORD OF AUTHORIZATION FOR SEARCH

4. A search may be authorized only for the seizure of certain classes of items:

(1) Fruits of a crime (the results of a crime such as stolen objects)

(2) Instrumentalities of a crime (example: search of an automobile for a crowbar used to force entrance into a building which was burglarized)

(3) Contraband (items, the mere possession of which is against the law, i.e. marijuana, etc.)

(4) Evidence of a crime (i.e., blood stained clothing of an assault suspect).

5. Before authorizing a search, probable cause must exist. This means reliable information that would lead a reasonably prudent and cautious man to a natural belief that:

a. An offense probably is about to be, is being, or has been committed.

b. Specific fruits or instrumentalities of the crime, contraband or evidence of the crime exist.

c. Specific fruits, instrumentalities, contraband, or evidence are probably in a certain place.

6. In arriving at the above determination it is generally permissible to rely on hearsay information, particularly if it is reasonably corroborated or has been verified in some substantial part by other facts or circumstances. However, unreliable hearsay cannot alone constitute probable cause, such as where the hearsay is several times removed from its source or the information is received from an anonymous telephone call. Hearsay information from an informant may be considered if the information is reasonably corroborated or has been verified in some substantial part by other facts, circumstances or events. The mere opinion of another that probable cause exists is not sufficient; however, along with the pertinent facts, it may be considered in reaching the conclusion as to whether or not probable cause exists.

7. If the information available does not satisfy the foregoing, additional investigation to produce the necessary information may be ordered.

ENCLOSURE (2)

CONSENT TO SEARCH

I, _____, have been advised that an inquiry is being made in connection with _____.

I have been advised of my right to not consent to a search of (my person) (the premises mentioned below).

I hereby authorize _____ and _____, who (has) (have been) identified to me as _____

to conduct a complete search of my (person) (residence) (automobile)(wall locker) () () located at _____.

I authorize the above listed personnel to take from the area searched any letters, papers, materials, or other property which they may desire. This search may be conducted on _____ (date).

This written permission is being given by me to the above named personnel voluntarily and without threats or promises of any kind.

(Signature)

WITNESSES



UNITED STATES MARINE CORPS

COMMANDING OFFICER
MARINE AVIATION TRAINING SUPPORT GROUP
700 AVENGER AVENUE
LEMOORE, CA 93246-5016

IN REPLY REFER TO:

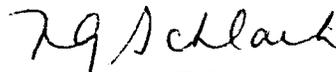
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