



UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE NC 28542-0005

MCIEAST-MCB CAMLEJO 5810.3

SJA

16 JUL 2013

MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE CAMP LEJEUNE
ORDER 5810.3

From: Commanding General
To: Distribution List

Subj: AUTHORITY TO DIRECT AND CONDUCT CERTAIN TYPES OF SEARCHES
AND SEIZURES ABOARD MARINE CORPS BASE CAMP LEJEUNE

Ref: (a) MCIEAST-MCB CAMLEJO 11100.5
(b) M.R.E. 311 and 314-316, MCM, 2012
(c) MCO 5580.2B
(d) JAGMAN 5800.7F
(e) M.R.E. 302(b), MCM, 2012

Encl: (1) OPNAV 5527/16 Permissive Authorization For Search and
Seizure
(2) Record of Authorization for Search

Reports Required: I. Vehicle Impound Report (Reporting
Requirement: EXEMPT-Law Enforcement and
Physical Security Activities)

1. Situation. To provide general guidance regarding the
authority to direct certain types of searches and seizures by
personnel assigned to organizations aboard Marine Corps Base
Camp Lejeune (MCB CAMLEJ).

2. Cancellation. BO 5810.3H.

3. Mission

a. Scope. This Order applies to all areas and all property
within the confines of MCB CAMLEJ, including areas and property
under the control of tenant commands. Additionally,
this Order applies to all persons located within the confines of
MCB CAMLEJ, regardless of the command to which they are
assigned. However, the commanding officers of tenant
organizations and area commanders retain their authority to

DISTRIBUTION STATEMENT A: Approved for public release;
distribution is unlimited.

16 JUL 2013

order searches and seizures when they do so in compliance with this Order. The Area Commander Assignments are detailed in reference (a).

b. Whenever doubt exists as to the proper course of action, all commanders and law enforcement personnel shall seek legal guidance from their organizational Staff Judge Advocate (SJA) before conducting searches.

c. In the absence of guidance in this Order, reference (b) shall control searches and seizures aboard MCB CAMLEJ. Enclosures (1) and (2) shall be utilized as necessary during the conduct of a search and seizure.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. All searches and seizures conducted pursuant to this Order must comply with the following instructions. Nothing in this paragraph shall be construed to confer rights greater than those accorded under current state and Federal law.

(2) Concept of Operations. All Commanding Officers of tenant and subordinate commands aboard MCB CAMLEJ shall comply with this Order.

b. Coordinating Instructions

(1) Consent Searches. When seeking to conduct a search of a person or property, law enforcement personnel and command representatives are encouraged to first ask for consent to search.

(a) Who May Consent. A person may consent to a search of his or her person or the property in the person's possession. A person may grant consent to search property when that person exercises control over that property.

(b) Scope of Consent. Consent may be limited in any way by the person granting consent, including limitations in terms of time, place, or property, and may be withdrawn at any time.

(c) Voluntariness. To be valid, consent must be given voluntarily. Voluntariness is a question to be determined

from all the circumstances. Mere submission to law enforcement personnel performing law enforcement duties or acquiescence to an announced purpose to search is not voluntary consent. The consent must be clear and unequivocal, with no doubt that the individual is freely allowing the search to be conducted.

(2) Probable Cause Searches. Probable cause is defined as reasonable belief that a person has committed a crime. Probable cause to search exists when there is a reasonable belief that the person, property, or evidence sought is located in the place or on the person to be searched. In terms of seizure of items, probable cause merely requires that the facts available to the officer warrant a "man of reasonable caution" to conclude that certain items may be contraband, stolen property or useful as evidence of a crime.

(a) Search Warrant. A search warrant is an express permission to search and seize issued by competent civilian authority.

(b) Authorization to Search. An "authorization to search" is an express permission, written or oral, issued by a competent military authority to search a person or an area for specified property or evidence or for a specific person and to seize such property, evidence, or person. It may contain an order directing subordinate personnel to conduct a search in a specified manner. A search authorization shall be based upon probable cause.

(c) Scope of Authorization. A search authorization may be issued for a search of:

1. Persons. The person of anyone subject to military law or the law of war, wherever found.

2. Military Property. Military property of the United States (U.S.) or of nonappropriated fund activities of an armed force of the U.S., wherever located.

3. Persons and Property Within Military Control. Persons or property situated on or in a military installation, encampment, vessel, aircraft, vehicle, or any other location under military control, wherever located; or

4. Nonmilitary Property Within a Foreign Country. Property owned, used, occupied by, or in the possession of an agency of the U.S. other than the Department of Defense (DoD), when situated in a foreign country.

16 JUL 2013

(d) Power to Authorize. Authorization to search may be granted by an impartial individual in the following categories:

1. Commander. A commander or other person serving in a position designated by the Secretary of the Navy as either a position analogous to an officer in charge or a position of command, who has control over the place where the property or person to be searched is situated or found, or if that place is not under military control, having control over persons subject to military law or the law of war; (e.g., battalion commander) or

2. Military Judge. A military judge or magistrate is authorized under regulations prescribed by the Secretary of Defense or the Secretary concerned.

(e) Power to Search. Any commissioned officer, warrant officer, petty officer, noncommissioned officer, and when in the execution of guard or police duties, any criminal investigator, military police or person designated by proper authority to perform police duties may conduct or authorize a search when a search authorization has been granted.

(f) Probable Cause Determination. A search authorization may be used upon hearsay evidence in whole or in part. A determination of probable cause shall be based on any of the following:

1. Written statements communicated to the authorizing officer;

2. Oral statements communicated to the authorizing official in person, via telephone, or by other appropriate means of communication;

3. Such information as may be known by the authorizing official that would not preclude the officer from acting in an impartial fashion.

(g) Exigencies: A search warrant or search authorization is not required under this rule for a search based on probable cause when:

1. Insufficient Time. There is a reasonable belief that the delay necessary to obtain a search warrant or

16 JUL 2013

search authorization would result in the removal, destruction, or concealment of the property or evidence sought.

2. Lack of Communications. There is a military operational necessity that is reasonably believed to prohibit or prevent communication with a person empowered to grant a search warrant or authorization and there is a reasonable belief that the delay necessary to obtain a search warrant or search authorization would result in the removal, destruction, or concealment of the property or evidence sought.

3. Search of Operable Vehicle. An operable vehicle is to be searched, except in the circumstances where a search warrant or authorization is required by the Constitution of the United States. A vehicle is "operable" unless a reasonable person would have known at the time of search that the vehicle was not functional for purposes of transportation.

(3) Searches Not Requiring Probable Cause. The following is a list of situations in which probable cause is not required to conduct reasonable searches.

(a) Border Searches. Border searches for customs or immigration purposes may be conducted when authorized by Act of Congress.

(b) Searches Upon Entry to or Exit from U.S. Installations, Aircraft and Vessels Abroad. A commander of a U.S. military installation, enclave, or aircraft on foreign soil, or in a foreign or international airspace, or a U.S. vessel in foreign or international waters, may authorize appropriate personnel to search persons or the property of such persons upon entry to or exit from the installation, enclave, or vessel to ensure the security, military fitness, or good order and discipline of the command. A search made for the primary purpose of obtaining evidence for use in a trial by court-martial or other disciplinary proceeding is not authorized by this subdivision.

(c) Searches of Government Property. Government property may be searched unless the person to whom the property is issued or assigned has a reasonable expectation of privacy therein at the time of the search. Under normal circumstances, a person does not have a reasonable expectation of privacy in government property that is not issued for personal use. Wall or floor lockers in living quarters issued for the purpose of storing personal possessions normally are issued for personal use; but the determination as to whether a person has a

16 JUL 2013

reasonable expectation of privacy in government property issued for personal use depends on the facts and circumstances at the time of the search.

(d) Searches Incident to a Lawful Stop. This encompasses traffic stops performed by law enforcement where a valid reason for contact is initiated on behalf of the law enforcement officer.

1. Stops. A person authorized to apprehend under reference (c) and others performing law enforcement duties may stop another person temporarily when the person making the stop has information or observes unusual conduct that leads him or her to reasonably conclude, in light of his or her experience, that criminal activity may be afoot. The purpose of the stop must be investigatory in nature.

2. Frisks. When a lawful stop is performed, the person stopped may be frisked for weapons when that person is reasonably believed to be armed and presently dangerous. A "Terry" frisk or pat-down is to be conducted solely for the purpose of officer safety. Contraband or evidence located in the process of a lawful frisk may be seized. A frisk is not to be abused in the quest for drugs or other contraband.

3. Motor Vehicles. When a person lawfully stopped is the driver or passenger in a motor vehicle, the passenger compartment of the vehicle may be searched for weapons if the officer who made the stop has a reasonable belief that the person stopped is dangerous and that the person stopped may gain immediate control of a weapon. That officer could also articulate reasonable suspicion if he observed the driver or passenger making movement or furtive gestures inside the vehicle in an attempt to hide or conceal a weapon or contraband.

(e) Searches Incident to a Lawful Apprehension. A person who has been lawfully apprehended may be searched.

1. Search for Weapons and Destructible Evidence. A search may be conducted for weapons or destructible evidence, in the area within the immediate control of a person who has been apprehended. The area within the person's "immediate control" is the area which the individual searching could reasonably believe that the person apprehended could reach with a sudden movement to obtain such property.

2. Examination of Other Persons. When an apprehension takes place at a location in which other persons

16 JUL 2013

might be present who might endanger those conducting the apprehension, a reasonable examination may be made of the general area in which such persons might be located. A reasonable examination is permitted if the officers have a reasonable suspicion based on specific and articulable facts that the area to be examined harbors an individual posing a danger to those in the area. Thus, incident to an arrest, officers may look in closets and other spaces immediately adjoining the place of apprehension from which an attack could be immediately launched.

(f) Searches Within Jails, Confinement Facilities, or Similar Facilities. These searches may be authorized by persons with authority over the institution.

(g) Emergency Searches to Save Life or for Related Purposes. In emergency circumstances to save life or for a related purpose, a search may be conducted of persons or property in a good faith effort to render immediate medical aid, to obtain information that will assist in the rendering of such aid, or to prevent immediate or ongoing personal injury.

(h) Searches of Open Fields or Woodlands. A search of open fields or woodlands is not an unlawful search.

(i) Random Vehicle Inspections. The Commanding General (CG), Marine Corps Installations East-Marine Corps Base Camp Lejeune may periodically direct the Provost Marshal Office (PMO) to conduct random inspections of vehicles to locate and seize contraband or unlawfully possessed government property. Such inspections are permitted to determine and ensure the security, military fitness, and good order and discipline of the installation by preventing contraband from being brought aboard the installation, as well as protecting government property from being improperly removed from the installation. The CG may also direct that vehicles be randomly stopped to determine the qualification of the drivers to operate them or to ensure that the vehicles comply with applicable safety standards. Such stops and inspections may be directed to apply to vehicles entering or exiting the installation or at the entryway to any restricted area aboard the installation to include, but not limited to, housing, schools, the hospital, and range areas. The sequence of vehicles stopped and inspected must be truly random (e.g., every vehicle or every fifth or tenth vehicle) and must be obeyed without exception, regardless of the type of vehicle or the rank or identity of the driver or passengers. The order from the CG to the PMO shall be in writing and must specify the time, date, and location of the inspections, the

16 JUL 2013

scope of such inspections, and the random vehicle selection criteria. PMO will not determine the selection criteria. Only the CG may direct random vehicle stops and inspections aboard the installation; however, PMO may be delegated the authority in writing to temporarily suspend the directed inspections for safety and operational purposes (e.g., conditions at the front gate create a traffic hazard on Highway 24).

(j) Inventory of Seized Vehicles. Pursuant to reference (c), vehicles, to include watercraft, may be impounded if determined to be abandoned or if considered evidence in that the vehicle was involved in the commission of a crime (to include stolen vehicles). Under such circumstances, the Law Enforcement Officer (LEO) shall conduct an inventory and document discrepancies and note results on DD Form 2506, Vehicle Impoundment Report. The LEO shall also complete a chain of custody and turn it into the Evidence Custodian per policies found in reference (d). An inventory of a seized vehicle should be conducted pursuant to written procedures established by PMO or the Criminal Investigating Division (CID) Investigations Officer.

(k) Searches of Civilians. Civilians suspected of violating Federal law can be detained by military law enforcement personnel for a reasonable period of time. When civilians are apprehended, military law enforcement personnel may take whatever steps are appropriate to provide for their own safety, including a search incident to arrest. Only the CG, a U.S. Magistrate, or a state judge acting in the place of a U.S. Magistrate can authorize any other search of the person or property of a civilian. Nothing in this subparagraph shall be construed to create any additional rights of defendants greater than those accorded under current Federal law. In all cases in which a civilian is detained beyond the initial apprehension, the Special Assistant U.S. Attorney should be contacted.

(l) Searches of Government Computers and Other Government Electronic Data. On a recurring basis, the Marine Air-Ground Task Force Information Technology Service Center (MITSC) Information Assurance (IA) Branch receives requests for copies of electronic data. Although there is no explicit or implied right to privacy for users of Marine Corps Enterprise Network systems, the MITSC IA is required to exercise due diligence to protect against unauthorized or improper disclosure of Government and personal information. In order to facilitate the timely processing of requested electronic data, while preventing unauthorized or improper disclosure of government or personal information, the following process shall be followed

and electronic data may be released by the Assistant Chief of Staff, G-6 or the IA Manager to:

1. Commanders with Special Court-Martial Convening Authority. Only the data that falls within the purview of the requesting commander shall be provided.

2. Duly Appointed Investigating Officers. Investigating Officers must be assigned in accordance with reference (e). A copy of the Investigating Officer's appointment letter must accompany the request for electronic data. Only data that falls within the scope of the investigation shall be provided.

3. Naval Criminal Investigative Services (NCIS) and PMO

a. NCIS and CID agents are authorized to conduct search and seizure of Government-owned/controlled computers and other electronic media, when such search and/or seizure is required to discover and preserve evidence. Factors to be considered when making a determination to search Government-owned computers and other electronic media and/or seize it as evidence are: the seriousness of the offense(s) under investigation, the potential or probability for loss of evidence if the computer or electronic media is not seized, the impact such seizure will have on an organization's ability to continue its mission, and whether the evidence sought could be obtained by other means in lieu of search and seizure of the Government-owned/controlled computer or electronic media. If time permits, agents and LEOs shall consult with the respective SJA, Regional Trial Counsel, Senior Trial Counsel, or assigned Trial Counsel prior to executing a search or seizure of Government-owned/controlled computers and electronic media.

b. To search and/or seize data from Government-owned electronic sources, CID agents shall submit a written request to the MITSC via the Security and Emergency Services (SES) and the G-6. The Provost Marshal, Deputy, and CID Investigation Officers are authorized to sign such requests on behalf of SES. All requests shall include the corresponding PMO Case Control Number (CCN). NCIS agents shall submit written requests to MITSC via a supervisory special agent and G-6. All requests shall include the corresponding NCIS Case Number. Requests should be reviewed and forwarded expeditiously in order to aid in the rapid completion of investigations. Upon receipt of approved requests, the MITSC shall provide the requested data to the agent. The aforementioned procedures do not apply to

16 JUL 2013

requests for data by CID or NCIS agents requesting data pursuant to a command authorized search warrant, Federal search warrant, court order, administrative subpoena, or grand jury subpoena. In such a case, the agent may communicate directly with the MITSC to retrieve the requested data. If time permits, agents shall consult with the respective SJA, Regional Trial Counsel, Senior Trial Counsel, or assigned Trial Counsel prior to executing the warrant or subpoena.

4. Non-Department of the Navy (DON) LEOs

a. All requests by non-DON LEOs shall be vetted through NCIS, whenever time permits. The NCIS Special Agent in Charge at Camp Lejeune is the primary point of contact for such requests. If time does not permit the coordination of the effort through NCIS, electronic data may be released to agents/officers of other law enforcement organizations if acting pursuant to a Federal search warrant, court order, administrative subpoena, or grand jury subpoena. In any case, release of electronic data must be to properly credentialed agents/officers who are acting within the purview of duly authorized investigations or the execution of a judicial court order (e.g., subpoena or warrant).

b. All requests for data from Government-owned electronic media will be reviewed by the G-6 for completeness. Upon receipt of the order from the G-6, the MITSC will request data retrieval up to 30 days (longer if the person retains a personal folder file (PST)) from the Marine Corps Network Operation Security Center (MCNOSC). After retrieving the data, the MCNOSC will send it to the MITSC, along with a chain-of-custody letter. The MITSC will then provide the requested data and the chain-of-custody letter to the requesting party.

c. Video surveillance footage, such as footage of access control points, secure areas and public areas, need not be requested by formal correspondence and may be requested by NCIS or CID agents via telephone or e-mail correspondence to the appropriate MITSC or G-6 staff. However, the request must be within the operational capacity and scope of authority of the G-6 and the requestor must provide the CCN or nature of the investigation. Reasonable requests shall be granted. Issues concerning the reasonableness of a request will be directed to the SJA.

d. The aforementioned procedures and standards do not apply to searches of computers and other

16 JUL 2013

electronic media not owned or controlled by the Government. Such privately-owned electronic devices and media, to include, but not limited to, cellular phones, personal digital assistants, flash drives, compact discs, secure digital cards, and personal computers may be searched only pursuant to a duly executed, command-directed search authorization, Federal search warrant, court order, administrative subpoena, or grand jury subpoena that specifically contemplates the search of such types of devices or media. However, if a LEO has probable cause to believe that evidence of a crime exists on such devices or media, the LEO may take custody of the device and power it off in order to preserve evidence. After seizure based upon a LEO's probable cause, the LEO should, as soon as reasonably possible, seek a command-directed search authorization from the appropriate command or a Federal search warrant.

(4) Jurisdiction in Base Housing. Under the Privatized Housing Program, housing units are owned and operated by a private property management company, and military tenants sign a lease with the property management company. The Government is not a party to the lease. Privatized housing may be located on or off a military installation, and the type of jurisdiction will dictate the authorities of the commander.

(a) Federal Exclusive Jurisdiction. Only Federal laws apply; law enforcement is the sole responsibility of DoD and the Federal courts.

(b) Concurrent Jurisdiction. Both Federal and state/local laws and regulations apply; law enforcement is the responsibility of either or both Federal and local authorities; the assignment of responsibility for law enforcement is frequently the subject of a written Memorandum of Agreement.

(c) Proprietary Jurisdiction. State and local laws and regulations have full effect; law enforcement is the responsibility of state and local authorities; DoD law enforcement personnel have no legal authority.

5. Administration and Logistics. If there are any questions as to the interpretation of this Order and/or a base order, contact the Base SJA or assigned trial counsel at Legal Services Support Section for clarification.

6. Command and Signal

a. Command. This Order is applicable to MCB CAMLEJ and all personnel found thereon.

16 JUL 2013

b. Signal. This Order is effective the date signed and will remain in effect until revised or when indicated by appropriate authority.

A handwritten signature in black ink, appearing to read "B. T. Palmer", with a stylized flourish at the end.

B. T. PALMER
Deputy Commander

DISTRIBUTION: A/B/C

16 JUL 2013

DEPARTMENT OF THE NAVY	
PERMISSIVE AUTHORIZATION FOR SEARCH AND SEIZURE	
1. ADVISORY	
I, (full name) _____	
after being advised by _____	
that the _____	
is conducting an investigation into the offense(s) of _____	

have been requested to permit a search of my _____	

2. CONSTITUTIONAL RIGHT	
I have been informed of my constitutional right to refuse to permit this search in the absence of a search warrant. In full understanding of this right, I have nevertheless decided to permit this search to be made.	
3. PERMISSION	
This search may be conducted on (date) _____	
by _____	
and I hereby give him/her/them my permission to remove and retain any property or papers found during the search which are desired for investigative purposes.	
4. FREE DECISION	
I make this decision freely and voluntarily and it is made with no threats having been made or promises extended to me.	
a. Date	b. Signature
5. WITNESSES	
a. Signature	b. Signature
6. TIMES OF SEARCH	
a. Start	b. End

OPNAV 5627/16 (DEC 1982)

Enclosure (1)

16 JUL 2013

RECORD OF AUTHORIZATION FOR SEARCH
(see JAGMAN 0170)

RECORD OF AUTHORIZATION FOR SEARCH

1. At _____ [time] on _____ [date] I was approached by _____ [name] in his capacity as _____ [duty] who having been first duly sworn, advised me that he suspected _____ [name] of _____ [offense] and requested permission to search his _____ [object or place] for _____ [items].

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

3. After carefully weighing the foregoing information, I was of the belief that the crime of _____ [had been] [was being] [was about to be] committed, that _____ was the likely perpetrator thereof, that a search of the object or area stated above would probably produce the items stated and that such items were [the fruits of crime] [the instrumentalities of a crime] [contraband] [evidence].

4. I have therefore authorized _____ to search the place named for the property specified, and if the property be found there, to seize it.

Grade	Signature	Title
<hr/>		
Date and Time.		

INSTRUCTIONS

1. Although the person bringing the information to the attention of the individual empowered to authorize the search will normally be one in the execution of investigative or police duties, such need not be the case. The information may come from an individual acting in his/her personal capacity.

2. Other than his/her own prior knowledge of facts relevant thereto, all information considered by the individual empowered to authorize a search on the issue of probable cause must be provided under oath or affirmation. Accordingly, prior to receiving the information which purports to establish the requisite probable cause, the individual empowered to authorize the search will administer an oath to the person(s) providing the information. An example of an oath is as follows: Do you solemnly swear (or affirm) that the information you are about to provide is true to the best of your knowledge and belief, so help you God? (This requirement does not apply when all information considered by the individual empowered to authorize the search, other than his prior personal knowledge, consists of affidavits or other statements previously duly sworn to before another official empowered to administer oaths.)

3. The area or place to be searched must be specific (e.g., wall locker, wall locker and locker box, residence, or automobile).

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 (e.g., 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-controlled substances, etc.); or (4) evidence of crime (example: bloodstained 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, or has been committed;

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

16 JUL 2013

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