



UNITED STATES MARINE CORPS

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BO 5830.9B

BPMO

10 SEP 1995

BASE ORDER 5830.9B

From: Commanding General
To: Distribution List

Subj: NAVAL CRIMINAL INVESTIGATIVE SERVICE (NCIS) INVESTIGATIONS

Ref: (a) SECNAVINST 5520.3
(b) SECNAVINST 5211.5
(c) DoD Instruction 7920.3 (NOTAL)
(d) DoD Memorandum of 25 Mar 87

1. Purpose. To provide guidance and establish procedures to be followed by commanding officers when NCIS representatives conduct investigations within their organizations or which involve personnel of their command.

2. Cancellation. BO 5830.9A.

3. Information. The NCIS is specifically charged with investigating certain major crimes committed in the USMC/USN service as delineated by reference (a).

a. When NCIS assumes responsibility for an investigation of an offense, every effort will be made by the NCIS Special Agent to resolve the major issue(s) which generated the request. During the course of the investigation, the appropriate Commanding General, Assistant Chief of Staff, G-2, Security Officer, Consolidated Public Affairs Officer, Provost Marshal and/or subordinate commanding officer(s), directly concerned with the case and responsible for command action, will be periodically briefed, when appropriate, as to pertinent developments concerning the major issue(s), as well as any minor offenses or administrative discrepancies alleged that might have evolved.

b. As soon as practicable during an investigation, copies of written statements or confessions, when executed by participants in/or witnesses to an offense, will be made available to commanding officers in order that a decision may be made concerning disposition of these individuals, i.e., transfer, retention, disciplinary action, etc. Reports of investigation are forwarded to the appropriate Staff Judge Advocate to assure proper dissemination and receipt of these reports. Naval Criminal Investigative Service Reports of Investigation should only be disseminated to personnel whose official duties require them to have access to the reports. Release of these reports or information contained in these reports to unconcerned parties is a violation of the Privacy Act (reference (b) pertains), and can result in a fine up to \$5,000.00. Naval Criminal Investigative Service Reports of Investigation are the sole property of NCIS.

c. In those instances where a person is suspected of a major violation, details of his/her involvement will be made available to the individual's commanding officer. At this time, a decision must be made concerning the degree of immediate administrative/disciplinary action, ie. confinement, or restriction, that can be taken without compromising the major objectives of the investigation. Specific guidance cannot be set forth to cover all situations and each case must be resolved by the commanding officer only after coordinating with the NCIS Special Agent in a manner consistent with the merits of each individual case.

d. It is desirable that commanding officers of personnel being investigated confer with the NCIS Special Agent during the early stages of an investigation concerning the appointment of a military investigating officer since some NCIS investigations will produce facts which will require the referral of charges and formal pretrial investigations. In many instances,

these required procedures can closely follow the investigation being conducted by the NCIS Special Agent in order to expedite the drafting of charges and specifications and ensure speedy trials. Under no circumstance should a separate investigation be ordered by a commanding officer without first consulting with the NCIS Special Agent handling the investigation and close liaison must be maintained with the NCIS Special Agent in order that the efforts of both investigations are properly coordinated.

e. At the conclusion of an investigation by NCIS Special Agents, the subordinate command will, in addition to pertinent statements and/or confessions already furnished, be furnished an updated summation including additional available facts and information where such is reasonably necessary to initiate action against an accused person or to administratively process a case. It is NCIS policy to make available reports of investigations, in cases where command administrative or disciplinary action is contemplated, and where no governmental interest would be jeopardized by releasing reports. Some reports or portions of reports are exempt from release under the provisions of the Freedom of Information Act; i.e., where a report might disclose the identity of a confidential source, endanger the life or physical safety of law enforcement personnel, contain medical reports/records concerning individuals other than the subject. Reports from other agencies; i.e., local police/FBI, that may be included in an NCIS report may not be released (referred to as the Third Agency Rule). Any questions concerning the release of an NCIS report to a subject or counsel acting on the subject's behalf, should be referred to the local Special Agent in Charge or designated assistant.

f. Reference (c) requires status reports on those individuals involved in unlawful activities which affect programs, operations and resources within DoD. In keeping with that requirement, NCIS will maintain an investigation in an open status until the case is adjudicated (i.e., administrative or judicial action is complete). This data is subsequently provided to the DoD Inspector General.

g. Reference (d) requires submitting fingerprint records of all military suspects investigated by NCIS to the Identification Division, Federal Bureau of Investigation. Offender fingerprint records will be made only on serious offenses and follow-up action, e.g., nonjudicial punishment, taken by commands will also be filed with the FBI.

4. Action. The NCIS Special Agent cannot assume responsibility for administrative and/or legal action subsequent to the completion of an investigation as these are command prerogatives and responsibilities. When investigations are conducted by NCIS Special Agents, commanding officers are not thereby relieved of their applicable command responsibility and prerogatives. Accordingly, the following action by commanding officers is recommended:

a. The appointment of an investigating officer should be considered during the initial phases of an investigation; however, such appointment should be made only when consistent with the restrictive provisions set forth in the paragraph 3d above.

b. An early determination will be made on persons to be held, transferred, confined, held as witnesses, etc., and appropriate action will be taken per established administrative procedures.

c. Prompt administrative and/or disciplinary action will be taken where appropriate.

d. Clarification or assistance will be requested on a timely basis, as required, from the NCIS Special Agent handling the case; the appropriate Assistant Chief of Staff, G-2; Security Officer/Provost Marshal; appropriate Staff Judge Advocate; or other cognizant staff officer or section.

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5. Summary of Revision. This Order has been completely revised containing substantial changes and should be reviewed in its entirety.
6. Reserve Applicability. This Order is applicable to the Marine Corps Reserve.
7. Concurrence. This Order has been coordinated with and endorsed by the Commander, U.S. Marine Corps Forces, Atlantic; Commanding Generals, II Marine Expeditionary Force; 2d Marine Division; 2d Force Service Support Group; and Reserve MAGTF.


J. T. MURRAY
Chief of Staff

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