



## DEPARTMENT OF THE NAVY

TRAINING SQUADRON NINE  
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MERIDIAN, MS 39309-5404

TRARONNINEINST 5800.1B  
N125  
30 Apr 15

### TRARON NINE INSTRUCTION 5800.1B

From: Commanding Officer, Training Squadron NINE

Subj: SEARCHES AND SEIZURES

Ref: (a) Manual for Courts-Martial, 2008  
(b) JAGMAN  
(c) NASMERINST 5800.9 (Series)

Encl: (1) Affidavit for Search Authorization (OPNAV 5580/10)  
(2) Command Authorization for Search and Seizure (OPNAV 5580/9)  
(3) Permissive Authorization for Search and Seizure (OPNAV 5580/16)

1. Purpose. To establish authority and procedures for ordering search and seizure of persons and property.

2. Cancellation. TRARONNINEINST 5800.1A

3. Objective. To ensure every search conducted by members of this command is performed in accordance with reference (c). For purposes of this instruction, "search" is defined as a quest for incriminating evidence.

4. Authority.

a. Reference (a) permits authorization to search by either the Commanding Officer (CO) or an Officer In Charge (OIC) designated by the CO, who has control over the place where the property or person to be searched is situated or found, or a military judge or magistrate if authorized under regulations prescribed by the Secretary of Defense or the Secretary concerned. Scope of authorization for a Probable Cause search exist upon:

Category (1) Persons subject to military law.

Category (2) Military property of the United States or property that falls under the direct control of an agency of the United States.

Category (3) Persons or property situated on or in a military installation, encampment, vessel, aircraft, vehicle, or any other location under military control, wherever located.

Category (4) All other U.S. Government owned or controlled property under CO's jurisdiction.

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

(1) 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;

(2) There is a reasonable 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 search warrant or search authorization would result in the removal, destruction, or concealment of the property or evidence sought.

(3) An operable vehicle is to be searched. For purpose of this rule, a vehicle "operable" unless a reasonable person would have known at the time of search that the vehicle was not functional for purpose of transportation.

c. As to property described in category above, a search may be conducted at any time, by anyone in military authority on the scene, for any reason. Any property seized as a result of such a search will be handled in accordance with paragraph 6. Extreme care should be utilized to ensure the inspection actually is under category (4) and not category (3) or evidence found will be inadmissible. (Category (3) requires a "reasonable expectation of privacy", where category (4) does not.)

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

(1) An offense probably is about to be, is being, or has been committed.

(2) That proposed search will disclose fruits of the offense, instruments with which the offense was committed or which may be used in effecting any escape, contraband or other evidence of the offense or identity of the suspect.

e. Before deciding whether to order any search of persons or property described in Categories (1), (2) or (3) above, the CO must take all reasonable steps consistent with the situation to ensure his information is reliable, complete and correct. He will then decide whether such information constitutes probable cause.

f. Per reference (a), only the following officers are authorized to administer affidavit for search authorization oaths (OPNAV 5580/10):

- (1) Commanding Officer
- (2) Executive Officer
- (3) Legal Officer
- (4) All O-4's or above

5. Criteria.

a. Due consideration will be given to the advisability of posting a guard or securing a space to prevent tampering with or alteration of spaces while gathering information or awaiting permission to conduct a search.

b. The following examples are intended to assist the responsible officer in determining the proper category under which to consider persons or property of which a search is requested (as set forth in paragraph 4(a) above).

Category (1): Is limited to members subject to UCMJ as shown in reference (a).

Category (2): Will normally include such items as automobiles, suitcases, civilian clothing, privately owned parcels, etc., physically located on government property and owned by a member subject to UCMJ.

Category (3): Includes lockers issued for stowage of personal effects, government quarters or other spaces/containers issued to an individual for their private use and in which a reasonable person would expect the right of privacy.

Category (4): Includes all working spaces of this command; including restricted access spaces, in the custody of one or a group of individuals where no private use has been authorized (i.e. a wall safe, gear lockers, government vehicles, government briefcases and government desks, etc.).

6. Action.

a. CO may authorize a search pursuant to this instruction either orally or in writing. In every case, the order shall be specific as to who is to conduct or supervise the search, what property and or persons are to be searched and what information or items are expected to be found on such persons or property. At the time the search is ordered, if in writing or within twelve hours of oral permission, a copy of enclosures (1) and (2) shall be filled out completely and forwarded via the Legal Officer to the CO. If personnel have consented to have their persons and/or property searched, command permission is not required and a copy of enclosure (3) shall be filled out and signed by the party being searched prior to commencing the search. The copy will be forwarded to the CO via the Legal Officer.

b. Whenever possible, searches authorized by this instruction will be conducted by at least two persons, not personally interested in the case, and at least one of whom will be a Commissioned Officer or Chief Petty Officer.

c. Extreme care should be utilized during a search not to taint the legality by which articles are seized by unnecessary questioning of suspects. It is essential that the function of interrogation be kept strictly separate and apart from the conduct of a search pursuant to this instruction.

d. Personnel conducting a search properly authorized by this instruction will search only those persons and/or spaces ordered. It is important to limit the search to the area in which articles being sought could reasonably be found. This does not preclude extending the scope of the search if, in the course of the search, facts or circumstances are encountered which make it desirable to extend the scope of the search beyond original authority. If this occurs, additional authorization shall immediately be sought to search additional persons and/or spaces for the same and/or additional articles.

e. Personnel conducting a search, properly authorized by this instruction, will seize all items which come to their notice in the course of the search which fall within the following categories:

- (1) Fruits or products of any offense against the UCMJ.
- (2) Instruments with which any such offense was committed or which may be used to effect the escape of any offender.
- (3) Any other evidence of the commission of any such offense or identity of the offender.
- (4) Contraband which is defined by any property of which mere possession is prohibited by law or lawful regulation. All such items shall be seized even if their existence was not anticipated at the time of search. However, persons conducting the search should also keep in mind the fact that once items sought are located, the search should immediately cease.

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

- (1) Date and time of search.
- (2) Identification of person or property being searched.
- (3) Location of seized articles when discovered.
- (4) Name of the person ordering the search.
- (5) Signature of person(s) conducting the search.

g. No person conducting a search shall tamper with any items seized in any way, but shall personally deliver such items to the CO. In the event that size or other considerations preclude movement of any seized items, one of the persons conducting the search shall personally stand guard over them until the CO is notified and proper arrangements are made.

h. All persons conducting searches pursuant to this instruction who subsequently come into possession of seized property shall:

- (1) Ensure that it is correctly tagged and marked.
- (2) Physically secure it in a space not open to unauthorized access.
- (3) Verbally report the circumstances to the CO via the Legal Officer at the earliest practicable time.
- (4) Submit appropriate reports as mentioned above. Personnel with seized property as a result of a search shall ensure that property is accounted for continuously from initial acquisition until it is turned over to proper authorities (a copy of enclosure (4) shall be completed for this purpose).

i. Nothing in this instruction shall be construed as limiting or affecting in any way the authority to conduct searches pursuant to a lawful search warrant, when incidental to lawfully apprehending an individual, under circumstances demanding immediate action; when consent is

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freely given by the owner in possession of property (a copy of enclosure (3) should be completed and signed by the owner) and during routine administrative inspections (seabag inspections, locker inspections or vehicle inspections).



C. J. DEMCHAK

Distribution:  
TRARONNINEINST 5216.1 (Series)  
List I

DEPARTMENT OF THE NAVY  
**AFFIDAVIT FOR SEARCH AUTHORIZATION**

UNITED STATES OF AMERICA  
VS.

**Before the**

*(Identify person by title and command)*

**The undersigned, being duly sworn, requests authority to search:**

*(Identify the person and/or describe the premises with particularity and in detail)*

**Believing that there is now being concealed certain property, namely:**

*(Here describe the property)*

**The request of authorization to search and seize is made in connection with an investigation into the offense(s) of:**

**The facts and circumstances known to me tending to establish the foregoing grounds for authorization to search and seize, including comments demonstrating the reliability of the information and/or informat, are as follows:**

*(Attach separate, sworn affidavit if more space needed)*

\_\_\_\_\_  
*Signature of Affiant*

**Sworn to before me, and subscribed in my presence, this**

**day of**

\_\_\_\_\_  
*Signature of Person Administering Oath*

\_\_\_\_\_  
*Rank, Service, Title*



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