



DEPARTMENT OF THE NAVY

TRAINING SQUADRON TEN
250 SAN CARLOS ROAD SUITE H
PENSACOLA FL 32508-5502

IN REPLY REFER TO
TRARONTENINST 5800.14G
N1
10 December 2014

TRAINING SQUADRON TEN INSTRUCTION 5800.14G

Subj: SEARCHES AND SEIZURES

Ref: (a) MCM
(b) JAGMAN Article 0170

Encl: (1) Record of Authorization for Search
(2) Consent to Search

1. Purpose. To establish procedures for conducting searches of persons and property and ensure that every search conducted by this command is lawfully performed.

2. Cancellation. TRARONTENINST 5800.14F

3. Background. Basic requirements and criteria are outlined in reference (a) to ensure individual rights are protected and that evidence obtained from a search will be admissible at criminal proceedings. For purposes of this instruction, "search" is defined as a quest for incriminating evidence. Reference (b) and enclosures (1) and (2) contain suggested forms for recording information pertaining to the authorization for searches and the granting of consent to search. When properly completed, these forms fulfill the requirements that must be met for search authorization.

4. Scope

a. The vast majority of searches will be authorized by the Commanding Officer of NAS Pensacola; however, the Commanding Officer of Training Squadron TEN is empowered by reference (a) to authorize searches of:

(1) All persons subject to the Uniform Code of Military Justice (UCMJ) and others subject to the Commanding Officer's authority.

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

(3) Privately-owned property situated on or in a military installation, or in any aircraft, vehicle, vessel, or in any other location, under the Commanding Officer's control.

(4) U. S. Government-owned property under the Commanding Officer's jurisdiction that has been issued to an individual or group of persons for their private use.

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

b. Evidence seized in searches outlined in subparagraphs 4a(1) through 4a(5) will only be admissible in a subsequent court proceeding if the search was based upon probable cause. The Commanding Officer must have facts and information, not just mere suspicions or speculations provided by others, which would lead a reasonable person to believe: (a) a crime has been committed and that person(s), property, or evidence of a crime that is sought is located in the place to be searched, or (b) that there is a probability that the person(s) might escape or evidence might be hidden or destroyed.

c. The Commanding Officer is required to ensure that the source(s) of information is/are reliable and that all information available is complete and correct. Only after this is determined can the Commanding Officer decide if such information constitutes probable cause as defined in subparagraph 4b, and then order the search. The Record of Authorization for Search form, enclosure (1), is provided to assist in determining probable cause.

d. Only the Commanding Officer may authorize searches of people or property described in subparagraphs 4a(1) through 4a(4). However, if the Commanding Officer is absent and full command responsibilities have devolved to another officer (normally the Executive Officer or Officer in Charge), that officer can authorize searches and seizures.

5. Exception. In circumstances involving vehicles, the interests of safety or security of the command, or the necessity for immediate action to prevent the removal or disposal of evidence, there may be insufficient time to get prior authorization to conduct a search. In such circumstances, any officer of this command on the scene in the execution of military duties is authorized to conduct a search without prior authorization from the Commanding Officer. The officer is

limited by all the requirements outlined in subparagraphs 4(a) through 4(d). The officer must determine that the person or property to be searched can be categorized under subparagraph 4(a), that the information is reliable to the extent permitted by the circumstances, and that probable cause exists. The officer must inform the Command Duty Officer of all the facts and circumstances surrounding the search at the earliest practicable time.

6. Procedures

a. Before actually conducting a search, the owner of the property should be asked for consent to search. Document consent to search in writing using enclosure (2). Consent must be voluntarily obtained to be valid. Consent can be limited or withdrawn at any time. Limitation or withdrawal of consent cannot serve as a basis for probable cause.

b. The Commanding Officer shall ensure that the following oath is administered, if circumstances permit, to the person providing information that may result in a decision to conduct a search: "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?" Once the person providing the information has been duly sworn, the search may be authorized using the following guidelines:

(1) The search authorization may be granted orally or in writing.

(2) The order shall be specific as to:

(a) Who is to conduct the search.

(b) What person(s) or property is/are to be searched.

(c) What item(s) or information is/are expected to be found on such person(s) or property.

c. At the time the search is ordered, or as soon thereafter as practicable, the individual authorizing the search will fill out a Record of Authorization for Search showing the time of authorization, the particular person(s) or property to be searched, the identity of the persons authorized to conduct the search, the items or information that is expected to be found, a complete discussion of the facts and circumstances considered in determining whether to order the search, and what effort, if any

was made to confirm or corroborate these facts and circumstances.

d. The officer conducting the search shall, at the earliest practicable time, forward a written report to the officer authorizing the search, setting forth any items seized as a result of the search, along with complete details, including the location where seizures were made and the location of stowage after seizure. The officer conducting the search must also provide all pertinent information to the Command Duty Officer who shall log it in the Command Duty Officer logbook.

e. Whenever possible, searches authorized by this instruction will be conducted either directly by, or under the supervision of, the Naval Criminal Investigative Service (NCIS) or NAS Pensacola Security Department.

f. Once a search is properly ordered pursuant to this instruction, it is not necessary to obtain the consent of any individual affected by the search; however, such consent should be requested.

g. Often, when the person suspected of an offense is present at a search or is apprehended as the result of a search, it may seem desirable to conduct an interrogation. Prior to such an interrogation, Article 31, Uniform Code of Military Justice, rights must be administered.

h. Individuals conducting a search properly authorized by this instruction will search only those individuals or spaces ordered. If, in the course of the search they discover facts or circumstances that may extend the scope of the search beyond their original authority, they shall immediately notify the Commanding Officer of such and request further instructions. However, illegal items or contraband found in plain view may be lawfully seized.

i. Individuals conducting a search properly authorized by this instruction will seize all items falling within the following categories:

(1) Unlawful weapons, i.e., any weapon that law or lawful regulation prohibits the mere possession of.

(2) Contraband, i.e., any property that law or lawful regulation prohibits the mere possession of.

(3) Any evidence of a crime, e.g., the fruits or products of any offense or instrumentality of which any such offense was committed.

(4) Any object or instrumentality that might be used to resist apprehension or to escape. All such items shall be seized even if their existence is not anticipated at the time of the search.

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

(1) Date and time of the search.

(2) Identification of the person or property being searched.

(3) Location of the seized item when discovered.

(4) Name of person ordering the search.

(5) Signature(s) of the person(s) conducting the search.

k. An inventory of all seized items shall be provided to the individual exercising control over the property.

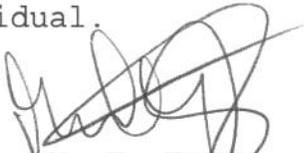
l. No person conducting a search shall tamper with any items seized in any way, but shall personally deliver the items to the senior member of the search team. If size precludes the movement of any seized item, one of the persons conducting the search shall personally stand guard over the item(s) until the person authorizing the search is notified and gives further instructions.

m. All seized items shall remain under positive control in order to prevent any tampering of evidence..

n. In all cases where search authorization is at issue, contact the Naval Air Station Pensacola Staff Judge Advocate, telephone at (850) 452-4684 during normal working hours, or contact the Naval Air Station Pensacola Officer of the Day at (850) 452-4785 after normal working hours.

o. Nothing in this instruction shall be construed as limiting or affecting in any way authority to conduct searches pursuant to a lawful search warrant issued by a court of competent jurisdiction, or pursuant to the freely given consent

of one in the possession of the property, or incident to the
lawful apprehension of any individual.



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Distribution:
TRARONTENINST 5216.2AB
List I

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.

[Name/Grade/Title]

Date and Time

CONSENT TO SEARCH

I, _____, have been advised that inquiry is being made in connection with _____
_____. I have been advised of my right not to consent to a search of [my person] [the premises mentioned below]. I hereby authorize _____ and _____, who [has] [have] been identified to me as _____ [position(s)] to conduct a complete search of my [person] [residence] [automobile] [wall locker] [computer and electronic media, to include a forensic search of all electronic files thereon] [_____] 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. Any computer or electronic media files may be forensically reviewed at a time that is convenient for the government.

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

[Signature]

WITNESSES

Name Signature Date

Name Signature