



DEPARTMENT OF THE NAVY
JOINT BASE PEARL HARBOR-HICKAM
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JBPHH HI 96860-5102

JBPHHINST 5800.7A
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FEB 17 2016

JOINT BASE PEARL HARBOR-HICKAM INSTRUCTION 5800.7

From: Commander, Joint Base Pearl Harbor-Hickam

Subj: SERVICE OF LEGAL PROCESS AND SUBPOENAS, RELEASE OF
OFFICIAL INFORMATION FOR LITIGATION PURPOSES, AND
DELIVERY OF PERSONNEL TO CIVIL AUTHORITIES

Ref: (a) JAGMAN, Chapter 6
(b) SECNAVINST 5820.8A
(c) 32 CFR 97 and 725

1. Purpose. This instruction amplifies the procedures in reference (a) for the service of court documents and for delivery of personnel to civil authorities on board Joint Base Pearl Harbor-Hickam (JBPHH). This instruction also provides guidance for release of official information for litigation purposes.

2. Cancellation. JBPHHINST 5800.7

3. Discussion. It is the policy of the Department of the Navy to cooperate with state authorities unless the best interests of the Navy or Marine Corps will be prejudiced. Reference (a) defines command responsibility concerning such matters as witness subpoenas, subpoena duces tecum (documents subpoenas), service of process, arrest warrants, fugitive arrest warrants and requests under the provisions of the Interstate Agreement on Detainer Act. Reference (b) assigns responsibilities and prescribes procedures when a subpoena or request concerns release of official information for litigation purposes or testimony by DOD personnel for litigation purposes.

4. Action.

a. Service of legal documents.

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(1) Commanding officers should permit service of legal documents upon military members, civilian employees, contractors, or dependents, if such persons are located within their commands. Service will not be made without the commanding officer's consent. Because the action required to effect service depends upon the status of the individual to be served and which state issued the process, commands who receive requests for service of process should consult section 0616 of reference (a) and the JBPHH Staff Judge Advocate.

(2) When duly designated process servers seek to serve legal documents concerning personnel located on JBPHH, they should be referred to Region Legal Service Office Hawaii, (RLSO HI) at (808) 473-4602. RLSO HI personnel will coordinate with the command and the process server to effect service, if the commanding officer permits such service upon his personnel.

(3) Service of legal documents shall normally occur somewhere other than the member's workspace, such as RLSO HI, the command's legal office, security building, or other appropriate location. When practicable, the member should be served in the commanding officer's presence or that of another designated officer.

(4) When service of process is not permitted by the command, a report of such refusal shall be made by telephone, or message if telephone is impracticable, to the Office of the Judge Advocate General, Code 14, or Associate General Counsel (Litigation) as appropriate per appendix A-6-d of reference (a).

(5) If the legal document to be served concerns release of official documents or discussion of official information, see section 4b below.

(6) Lawsuits against personnel arising from actions taken in their official capacity are considered suits against the United States. The Department of the Navy, Office of the General Counsel is the only office authorized to receive service of process on behalf of the United States. In such cases, service of process upon the member concerned is not considered legally sufficient service.

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b. Release of official information.

(1) When commands receive requests for the release of official information or documents, or for military or civilian personnel under their command to serve as expert witnesses or to testify concerning matters related to their employment, a Staff Judge Advocate or assigned counsel, as appropriate, shall be consulted to ensure compliance with reference (b).

(2) Reference (c) provides that a subpoena or a subpoena duces tecum relating to the performance of an employee's official duties can only be served upon the Department of the Navy, Office of the General Counsel in Washington, D.C.; process not properly served is insufficient to constitute a legal demand.

(3) Employees shall only provide official information when given permission in writing in accordance with reference (b) and shall be directed to consult a Staff Judge Advocate or assigned counsel, as appropriate, concerning the permissible scope of testimony.

c. Delivery of personnel.

(1) Commanding officers will assist in the expeditious delivery of a service member, civilian employee, civilian contractor, or a dependent, to civilian authorities when proper credentials and legally sufficient documentation are provided.

(2) When civil authorities seek to apprehend a military member, civilian employee, civilian contractor, or dependent, commanding officers should consult reference (a) and a Staff Judge Advocate. An appropriately executed delivery agreement must be obtained before delivering a military member to civil authorities. This agreement should conform to appendix A-6-b of reference (a).

(3) Delivery of personnel may be refused only in certain circumstances. Refusal to deliver personnel to civil

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authorities requires reports as described in section 0610(b) of reference (a).

(4) When a command receives a request pursuant to the Detainer Act for delivery of a service member who is currently serving a court-martial sentence in Naval Consolidated Brig, Detachment Miramar, a Staff Judge Advocate shall be consulted immediately.



S. KEEVE

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11 Jan 16

MEMORANDUM

From: LT Murphy, SJA, Joint Base Pearl Harbor-Hickam
To: Chief Staff Officer, Joint Base Pearl Harbor-Hickam

Subj: MEMORANDUM OF CHANGES

1. The following information provided below is a summary of changes to JBPHHINST 5800.7.

a. Corrected reference (a) to SECNAVINST 5820.8A.

b. Changed the cancelled instruction.

c. Corrected the name of the Interstate Agreement on Detainer Act.

d. Changed the language of paragraph 4.a(1) to reflect that COs should permit service upon military members, not may permit service.

e. Changed the language in paragraph 4.a(1) to reflect it should be the JBPHH Staff Judge Advocate who is consulted.

f. Updated the phone number for the POC at RLSO HI in paragraph 4.a(2).

g. Recommended the RLSO as an appropriate place to serve people in paragraph 4.a(3).

h. Changed language in paragraph 4.a(4) to reflect that the command is the one who not permit service of process.

i. Corrected grammar to "employee's" in paragraph 4.b(2).

j. Corrected paragraph 4.b(3) to reflect that the permission must be given in writing according to reference (b).

K. MURPHY