



DEPARTMENT OF THE NAVY

COMMANDING OFFICER
NAVAL BASE SAN DIEGO
3455 SENN RD
SAN DIEGO CA 92136-5084

NAVBASESANDIEGOINST 5820.1A
N05M
21 Apr 06

NAVBASE SAN DIEGO INSTRUCTION 5820.1A

Subj: SERVICE OF CIVIL AND CRIMINAL PROCESS, SUBPOENAS,
WARRANTS AND REPOSSESSION OF PERSONAL PROPERTY

Ref: (a) JAGMAN, Chapter VI

Encl: (1) Delivery Agreement

1. Purpose. To outline procedures for service of civil and criminal process, subpoenas, warrants and repossession of personal property on board Naval Base San Diego (NBSD).
2. Cancellation. NAVSTASDIEGOINST 5820.1.
3. Background. Commanding Officer (CO) NBSD is authorized to permit service of civil and criminal process, subpoenas, repossession of personal property and warrants of Federal or State courts upon U.S. Navy personnel, their family members, civilians or contractors located within their commands. The CO will permit the service, except in limited circumstances where the accused has been retained for military prosecution, or when extraordinary circumstances exist. In all cases of service, CO's permission will be obtained prior to service of process and nature of process will be explained to person involved. The Command Judge Advocate (CJA) office is the appropriate designated location where the process server/law enforcement authorities and service member can meet privately, in order that the process of serving/delivering of personnel may occur with qualified legal representation.
4. Action. Per reference (a), the following is effective and will be observed with regard to service of civil and criminal process, subpoenas, repossession of personal property and warrants.

a. The CJA is designated the representative of CO, NBSD in matters pertaining to service of subpoenas, civil and criminal process, repossession of personal property and warrants aboard NBSD. The CJA will be responsible for coordination of requests for service of process and subpoenas, and will ensure the nature of process is explained to the person concerned. In all cases

of service of process, individuals will be advised to seek legal counsel.

b. All requests or attempts to serve the aforementioned documents aboard NBSD will be referred to the CJA prior to allowing such service.

c. All staff personnel are directed to inform the CJA in event they receive a subpoena or service of process in connection with their official duties, and deliver all such process and pleadings to the CJA.

d. No person attached to NBSD will submit to an interview or provide a written or verbal statement with respect to any claim, incident, civil or criminal litigation without first obtaining permission of the CO or CJA. This requirement does not apply to actions requested by the Naval Criminal Investigative Service (NCIS) or NBSD Security Department personnel.

e. Requests for production of official records pursuant to a court order or court subpoenas will be accomplished under supervision of the CJA and coordinated with custodian of record involved.

5. Procedure for Service of Process. To the extent practicable, in order to ensure compliance with requirements of this directive and reference (a), all service of process (e.g. subpoenas, warrants, court orders, etc.) aboard NBSD will take place in the CJA's Office.

6. Procedure for Delivery of Members or Civilians to Authorities

a. All Cases. The CJA shall be consulted before delivery is effected. The normal procedure is for the CO to authorize delivery of the member to the CJA Office during working hours, and NBSD Security Office after working hours where, upon display of proper credentials and warrants, arrest will take place and necessary paperwork completed.

b. Cases Involving Felony State Warrants. NCIS will be contacted for case tracking and to document incident in Defense Criminal Investigative Index.

c. Agreement Required Before Delivery of State Authorities. When delivery is authorized, and before making delivery, a command shall receive a written agreement conforming to enclosure (1). The State official completing agreement must show authority to comply by the State.

d. Delivery When Member's Outside Territory of Requesting State. May only occur after the CO authorizes (upon compliance of parties with delivery agreements, waiver of extradition, and/or fugitive warrants).

e. Request for Member Physically On board U.S. Naval Vessel. Only the CO has authority to permit arrest of a Sailor. Procedures shall follow subparagraph 6.a. above.

7. Procedure for Repossession of Personal Property On Base.

a. May be permitted at discretion of the CO, providing documents purporting to authorize repossession and procedures for repossession comply with State law. The person whose property is being repossessed should be asked if he/she wishes to relinquish the property voluntarily.

b. Repossessions Involving Civilian Employees. In cases of property owned by civilian employees of the Department of the Navy or civilian contractors or their employees, the CO may direct disputed property be removed from installation until dispute is resolved.

8. Procedures for Civilian Search Warrants on board NBSD or Naval Vessels

a. Civilian search warrants are not effective on board U.S. Navy vessels. Immediately contact NCIS and local CJA to assist enforcement officials in presenting information to CO, who is only official with power to authorize search. Civilian law enforcement shall not be permitted to assist in conducting search, which should be conducted by NCIS, Shipboard Security, or Master-at-Arms.

b. On board Naval Base. Civil search warrants shall be coordinated with the CO. In areas of exclusive Federal

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jurisdiction, guidance in subparagraph 8.a above applies. Other areas of the base shall only be searched after briefing CO and in conjunction with NCIS or Base Security.



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DELIVERY AGREEMENT

In consideration of delivery of _____,
(name of person delivered)

United States Navy (United States Marine Corps), to

_____, at _____, for

trial upon the charge of _____, I

hereby agree pursuant to the authority vested in me as

_____ that _____, United
(name of person delivered)

States Navy (United States Marine Corps) will be transported to
the State of _____ without expense to him or the United

States and that the Commanding Officer of the _____

will be notified immediately of the outcome of the trial and

that the said _____, will be returned to the
(name of person delivered)

_____, or to such place as the Secretary of the Navy

shall designate, or transportation issued thereto, without

expense to the United States or to the person delivered

immediately upon dismissal of the charges or completion of the

trial in the event he is acquitted, or immediately upon

satisfying the sentence of the court in the event he is

convicted and a sentence imposed, or upon disposition of the

case, provided that the Department of the Navy shall then desire

his return.

Name, Organization, Date

Enclosure (1)