



UNITED STATES MARINE CORPS  
I MARINE EXPEDITIONARY FORCE  
U. S. MARINE CORPS FORCES, PACIFIC  
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I MEFO 5802.1C  
SJA  
NOV 7 2014

I MARINE EXPEDITIONARY FORCE ORDER 5802.1C

From: Commanding General  
To: Distribution List

Subj: SEARCH AND SEIZURE

Ref: (a) Manual for Courts-Martial (2012 Edition)  
(b) JAGINST 5800.7F (JAGMAN)  
(c) MCO P5580.2B (Marine Corps Law Enforcement Manual)  
(d) United States v. Kalscheur, 11 M.J. 373 (C.M.A. 1981)

1. Situation. To publish guidance and instruction for Commanders regarding the search and seizure of personnel and property of I Marine Expeditionary Force (I MEF) Command Element (CE) and organizations under the command of I MEF. This Order does not create any rights for service members greater than those afforded under the Constitution of the United States and the rules applicable to trial by courts-martial. Furthermore, this Order does not intend to restrict or limit any lawful action that may be taken by persons acting within the scope of their duties.

2. Cancellation. I MEFO 5802.1B.

3. Mission. To ensure that every search and seizure is performed in accordance with applicable laws and any evidence seized will be admissible in any later judicial proceeding.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Applicable Law. Search and seizures will be conducted in accordance with the provisions of law summarized in Military Rules of Evidence 311 - 316 of reference (a), Section 0170 of reference (b), and Section 2300 of reference (c).

(2) Applicable Forms. Section 0170 and the following appendices from Chapter I of reference (b) will be used as guides when applicable:

(a) Suspect's Rights and Acknowledgement/Statement,

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distribution is unlimited.

Appendix A-1-v;

(b) Record of Authorization for Search, Appendix A-1-w; and

(c) Consent to Search, Appendix A-1-x.

(d) Under subparagraph 12103.3 of reference (c), the Evidence/Property Custody Receipt, OPNAV Form 5580/22 (6-00), is designed to establish the necessary control and maintenance of the chain-of-custody of evidence while under the control of the Provost Marshal's Officer (PMO)/ Marine Corps Police Department (MCPD).

(3) The Nondelegation of Authority Rule. As stated in references (a) and (d), a commander cannot delegate his authority to authorize search and seizures based upon probable cause. However, another officer may properly authorize the search and seizure if and only if full command responsibility has devolved upon him.

(4) Limitation on Commander's Authority to Search Places or Areas. In most cases, a commander may not properly order a probable cause search of a place or an area which he does not control. For example, the Commanding Officer, I Marine Expeditionary Force Headquarters Group (I MHG) has no authority to order a probable cause search in a barracks under the control of the Commanding Officer, Headquarters Battalion, 1st Marine Division.

(5) The Dual Authority Rule. In most cases, more than one commander may properly order a search of a particular area, place, or person. For example, authority to conduct a probable cause search of a barracks room aboard Marine Corps Base, Camp Pendleton that is occupied by a member of the 9th Communication Battalion may be properly granted by either the Commanding General, Marine Corps Base, Camp Pendleton, the Area Commander, or the Commanding Officer, 9th Communications Battalion (i.e., the unit commander who has been assigned control of the barracks to be searched).

b. Subordinate Element Missions

(1) Commanders will review their procedures of command authorized search and seizures to ensure that all searches and seizures are conducted per this Order and applicable law. Commanders will ensure that all duty officers know the

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applicable procedures to follow when search and seizures are requested after normal duty hours.

(2) Commanders of organizations embarked on ship will ensure that their procedures for command authorized search and seizures do not conflict with procedures established by the ship's Commanding Officer.

(3) Commanders will forward to the Commanding General, attention the I MEF Office of the Staff Judge Advocate (SJA), copies of their existing order, if any, regarding search and seizures within 30 days of receipt of this Order.

c. Coordinating Instructions. N/A.

5. Administration and Logistics. Distribution of this Order will be made by electronic copy to MSC SJAs and I MEF Staff Principals.

6. Command and Signal

a. Command. This Order is applicable to I MEF Subordinate Commands.

b. Signal. This Order is effective the date signed.

  
M. J. GOUGH  
Chief of Staff

DISTRIBUTION: I, II

Copy to: CDO, I MHG