



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
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MCO 5830.6  
POS  
30 May 95

MARINE CORPS ORDER 5830.6

From: Commandant of the Marine Corps  
To: Distribution List

Subj: USE OF MILITARY PERSONNEL AS UNDERCOVER AGENTS AND THE  
COOPERATIVE WITNESS (CW) PROGRAM

Ref: (a) UNSECNAV Memo of 16 Dec 87 (NOTAL)  
(b) SECNAVINST 5520.3B  
(c) SECNAVINST 5820.7B  
(d) SECNAV msg 291819Z Jun 92 (NOTAL)

1. Purpose. To establish policy and provide guidance to commanders regarding the use of military personnel as undercover agents for Naval Criminal Investigative Service (NCIS) investigations and off-base joint military/civilian law enforcement drug investigations.

2. Background

a. Commanders are encouraged to continue to take decisive action to prevent crime and the trafficking and use of illicit drugs. References (a) through (d) authorize the NCIS to conduct criminal investigations for the Department of the Navy. This authority permits on and off-base investigations that are related to the:

(1) Enforcement of the UCMJ.

(2) Commander's inherent authority to maintain law and order on a military installation or facility, or

(3) Protection of DoD personnel, equipment and official guests.

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b. NCIS is permitted to use Navy and Marine Corps personnel in the CW Program as undercover agents during its own investigations and during civilian law enforcement drug investigations if the off-base illegal drug activity has a direct impact on military personnel and preparedness. Management and operational jurisdiction over the CW Program rests exclusively with the NCIS.

c. This CW Program is distinct and separate from the classified CW Program per reference (d).

3. Use of Military Personnel. Per reference (a), the use of military personnel as CW's in off-base joint NCIS/civilian law enforcement drug investigations is as follows:

a. The use of military personnel is permitted in the CW Program in pursuit of specified illegal drug trafficking affecting the military community.

b. All operations conducted pursuant to this authorization must be personally approved by the Special Agent in charge of the cognizant NCIS field office. This official must certify for each undercover operation in which military personnel are to be used that:

(1) Civilian assets are unavailable or impractical for use.

(2) The operation targets major or unusually heavy illicit drug trafficking in a particular locale; and,

(3) It is reasonably believed that the drugs involved are intended for use by members of the Naval service or for introduction onto a military installation, and that the civilian traffickers are dealing directly with military personnel.

c. Military personnel used in these operations must be provided training in entrapment, emergency contact procedures,

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and safety procedures; will not be subjected to unacceptable risks concerning their personal safety; and will have executed a declaration of cooperation.

d. Unless barred under the direct ground combat definition and assignments rule, there shall be no prohibition on the use of female Naval personnel of either service in NCIS operations involving undercover operations.

e. Video, audio, or physical surveillance is mandatory in these operations.

f. Military personnel used in this undercover capacity may not participate in searches, seizures, arrests, or other action likely to subject civilians to the exercise of military power that is regulatory, prescriptive, or compulsory in nature.

g. Appropriate protection must be provided military personnel used in these operations in the event of compromise or the receipt of threats.

h. Evidence gathered concerning criminal activity of civilian personnel will be made available promptly to the civilian authorities for prosecutive purposes.

i. Use of military personnel may not adversely affect national security or military preparedness.

#### 4. CW Program Coordination/Authorization Guidelines

a. Military personnel assigned to Marine Corps installations may not be used as a CW without authorization of the commander.

b. The authorization process will be conducted as follows:

(1) Installation commanders will receive a briefing from their local NCIS component prior to authorizing assignment of military personnel as CW's.

(2) If the CW is a member of a unit commanded by a general officer other than the installation commander, approval of the individual's commanding general is also required.

(3) The commanding general of the tenant unit and the installation commander will be specifically asked, when they are briefed by NCIS, whether they want NCIS to brief a subordinate commander or others as deemed appropriate.

(4) NCIS will brief the subordinate commander on his or her military member only. Installation commanders will receive an informational briefing when personnel of other services who are members of tenant units on that installation are being used.

(5) NCIS will brief the senior Marine officer with immediate jurisdiction over a Marine CW when the Marine is assigned to a Navy installation.

(6) Local NCIS offices will brief the following information to commanders when requesting authorization:

(a) Start time and estimated duration of the operation.

(b) Rank, service, unit, sex, MOS, and duty assignment of the CW.

(c) Summary of the CW's training and motivation.

(d) Information regarding the general scope of the CW operation and other information deemed appropriate.

c. Information regarding the identity of CW's and related operations shall be limited to those with an identified need-to-know. Care will be used to prevent inadvertent disclosure of this information.

d. Marines serving or having served as military police should be considered for assignment as CW's in preference to personnel from other occupational fields.

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e. To promote mutual support, close coordination of CW operations between NCIS and the local Marine installation Provost Marshal is important.

f. This Order does not pertain to or limit consideration of information provided by individuals who have not been prompted or encouraged to act on behalf of law enforcement officials.

g. Nothing in this Order should be construed to discourage command support for the use of Marine CW's in NCIS investigations of UCMJ violations.

#### 5. Reporting Requirements

a. The responsible officials identified in paragraph 4b(1)-(5) will be briefed regularly by the NCIS on the status of CW's, when significant activity takes place in those operations in which military personnel are being used as CW's, and when a CW is terminated from such duties.

b. When a CW is comprised or threatened, the local NCIS office will immediately notify the responsible installation commander or senior Marine on Navy installations. The installation commander or senior Marine shall immediately report that fact and any action taken or contemplated to the CMC (MMEA) which will coordinate with the CMC (POS-10) for life in danger transfers.

c. NCIS Headquarters will report to the CMC (POS-10):

(1) Upon receipt, information that a CW has been comprised or threatened.

(2) Prior to the tenth day of each month, the information contained in paragraph 4b(6)(a)-(d) on Marines and military personnel assigned to Marine installations being used as CW's in joint military/civilian drug operations.

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(3) Prior to the fifteenth day of the month following the end of each fiscal quarter, at a minimum, the following information will be provided:

(a) Total number of Marines and military personnel on Marine installations registered for use as CW's during that quarter.

(b) Total number of Marines and military personnel on Marine installations registered for use as CW's for the fiscal year to date.

(c) Number of males/females registered during the quarter.

(d) Breakdown of case categories CW's are registered to target during the quarter, including what categories any registered females are to target.

(e) Breakdown of CW's registered during the quarter by installation.

6. Reserve Applicability. This Order is not applicable to the Marine Corps Reserve.

  
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of the Marine Corps

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