



DEPARTMENT OF THE NAVY
COMMANDER NAVY REGION SOUTHWEST
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SAN DIEGO, CA 92132-0058

IN REPLY REFER TO:

COMNAVREGSWINST 5820.2D
Code N05
JAN 28 2002

COMNAVREGSW INSTRUCTION 5820.2D

Subj: IDENTIFICATION AND SUPPORT OF PERSONNEL CONFINED IN
MEXICAN PRISONS IN AREAS BORDERING CALIFORNIA

Ref: (a) SECNAVINST 5820.4G
(b) Navy Comptroller Manual, para. 046361
(c) U.S. Navy Regulations, para. 0833
(d) SECNAVINST 1640.9B, Section 8207 & 8211
(e) JAGMAN, Chapter VIII

Encl: (1) Guidelines and information for Commanders, Commanding
Officers and Officers-in-Charge
(2) Handout for personnel visiting Mexico
(3) List of support items for prisoners
(4) List of pertinent telephone numbers

1. Purpose. To provide general information and to promulgate instructions for action to be taken in connection with U.S. Navy and Marine Corps personnel and their dependents and civilian employees of the Department of the Navy (herein referred to as personnel) confined in Mexican jails.

2. Cancellation. COMNAVBASESANDIEGOINST 5820.2C.

3. Scope. This instruction applies to all naval personnel, commands and activities within the geographic area of California, Arizona and Nevada (including personnel attached to afloat units homeported or otherwise visiting the area.)

4. General Information

a. Mutual understanding and cooperation between the Department of the Navy, U.S. Consul General, Tijuana, Mexico and the military and civil officials of Baja California, Mexico has existed for many years. It is important this relationship continue and that incidents likely to jeopardize this relationship be avoided.

b. Reference (a) sets forth reporting requirements and provides guidelines for the protection of personnel who are subject to foreign jurisdiction, the provision of counsel fees and expenses in foreign tribunals, and the provision of care and treatment of personnel confined in foreign penal institutions.

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Also, it assigns the responsibilities of Designated Commanding Officer (DCO) for Navy and Marine Corps personnel confined in the Western Mexican border area to Commander, Navy Region Southwest (CNRSW). As DCO, CNRSW is responsible for establishing procedures to identify personnel incarcerated and to ensure they are provided legal counsel, care, and treatment as appropriate. Unless transferred by proper authority, confinees remain the continuing responsibility of the commands to which they were attached at the time of incarceration.

5. Action

a. All commanders, commanding officers and officers-in-charge should be familiar with the information contained in this instruction to avoid or minimize any incidents which could become an embarrassment to the U.S. Government. General guidance is contained in enclosure (1). Commanding officers/ officers-in-charge are responsible for the health, welfare and morale of their personnel confined in Mexican prisons and therefore should ensure necessary liaison is established between parent command and the confinee within the parameters of this instruction.

b. Navy and Marine Corps commands within California, Arizona and Nevada are requested to indoctrinate personnel reporting aboard on the information contained in enclosure (2) and present this information to personnel as part of general military training on an annual basis.

c. Information presented in enclosures (1) and (2) is primarily directed towards incidents which occur in the Tijuana/Ensenada, Baja California, Mexico area. Because substantial personnel visit this area, specific tasks have been assigned to Commanding Officer, Naval Base, San Diego to assist personnel having difficulties. Commanding Officer, Naval Air Facility, El Centro is tasked with establishing local procedures for the Mexicali, Mexico area to identify personnel arrested, jailed, or otherwise detained by Mexican officials. Per reference (a), areas bordering Texas and New Mexico are the responsibility of the Chief of Naval Education and Training. More distant areas within the interior of Mexico are the responsibility of Defense Attaché, United States Embassy, Mexico.

d. Counsel Fees and Expenses. Reference (a) establishes the criteria governing the provision of counsel fees and other legal expenses to United States service personnel and, in extraordinary cases, their dependents and civilian employees of the Department of the Navy confined in foreign institutions. In general, counsel fees and expenses for service personnel may be provided in cases when the sentence which is normally imposed includes confinement or when an appeal is made from a proceeding in which

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there has apparently been a denial of the substantial rights of the accused. The confinee must select his own counsel from the current list of attorneys approved by the local U.S. Consul. Whenever possible, the officer acting as a U.S. contracting officer shall enter into a written contract with the selected counsel prior to the counsel's accruing fees and expenses. Commanding General, Marine Corps Base, Camp Pendleton, California; Commanding General, First Marine Division, Camp Pendleton, California; Commanding General, Marine Corps Recruit Depot, San Diego, California; and Commanding Officer, Naval Air Facility, El Centro, or their designated representatives (preferably a judge advocate where available or a supply officer) are designated contracting officers for personnel under their command or in their areas of cognizance. Commander, Navy Region Southwest, Staff Judge Advocate will normally act as U.S. contracting officer for all others. In no case will the expenses under contract include the payment of fines or civil damages. Funds expended for these purposes are chargeable to the confinee's command in accordance with reference (b). When practicable, appropriate liaison should be undertaken by the contracting officer with the confinee's commanding officer prior to entering into a contract.

e. Care and Treatment of Personnel Confined in Mexico.

(1) General. Reference (a) provides that the designated commanding officer will ensure or arrange for, when necessary and feasible, the provisions of medical and dental treatment, health and comfort items, supplemental food and clothing (in kind and quantity not to exceed that furnished in U.S. military confinement facilities) to personnel confined in foreign penal institutions. This complements the general provisions of reference (c). Reference (a) further contains provisions for a physical examination for a confinee at the earliest possible time subsequent to initial incarceration and establishes requirements for visitation of the confinee by the confinee's commanding officer or his representative.

(2) Support to Confinees. Although the commanding officer of the confinee is required to fund the cost of health and comfort items and supplemental food supplies, Commanding Officer, Naval Base, San Diego and Naval Air Facility, El Centro will establish procedures for the purchase and delivery of these items to the confinees. Commanding officers of confinees should coordinate any other support requirements (medical care, commanding officer and chaplain visits, legal assistance, etc.) with the two cognizant commanding officers as necessary. Enclosure (3) establishes support requirements for confinees incarcerated in specified confinement facilities. Unless otherwise authorized by CNRSW, support to confinees shall not

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exceed that provided to prisoners confined in naval confinement facilities. Provisions for health and comfort items in naval confinement facilities is governed by reference (d) which should be considered as the general guide in issuing health and comfort items to prisoners in Mexican jails. Commanding officers designated to purchase and deliver provisions are authorized to evaluate specific requests for food and health and comfort items for the maintenance of the confinee's general health and welfare. Any extraordinary expenditure should be coordinated with the confinee's commanding officer.

(3) Continued Support to a Confinee. Unless the confinee (or the sponsor of the confinee) is transferred to another command, the responsibility for providing support continues with the confinee's commanding officer at the time of confinement. This responsibility may become unduly burdensome, especially for operational and afloat units. The confinee's commanding officer, accordingly, may seek appropriate personnel action to transfer the confinee to another command.

f. Diplomatic or Consular Assistance. Personnel who are U.S. citizens have a right to U.S. Consular assistance and support. In every case when such a person is confined in the border areas of Mexico, Senior Shore Patrol Officer, Navy Region Southwest, upon notification by the cognizant command (identified in paragraph 5.c above), will immediately advise the U.S. Consul, Tijuana, of all pertinent information about the case. Personnel who are not U.S. citizens are not entitled to U.S. Consular assistance and support. However, Commander, Navy Region Southwest will advise USDAO, Mexico City as appropriate. Regardless of the citizenship of the confinee, support items are deemed to be U.S. Government property, and their loss through intentional or negligent acts by foreign officials is considered to be a matter properly under the cognizance of U.S. Consular representatives. Any difficulties concerning actual delivery of health and comfort items, or other support to a confinee, due to pilferage, extortion or any other reason, should be reported to Commander, Navy Region Southwest, Code N5.

g. Trial Observers. It has been the experience of this command that resolution of legal issues and the presentation of substantial evidence, which would occur in open court in U.S. criminal proceedings, takes place outside the presence of the accused in Mexican criminal trials through the filing of documents directly with the judge. For this reason, the presence of a trial observer in Mexico is deemed to be impractical. The contracting officer will ensure that retained civilian counsel provide appropriate status reports are filed with the Staff Judge Advocate, Commander, Navy Region Southwest, San Diego as appropriate, particularly in trials of felony charges. The

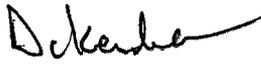
officer can effectively obtain information on the status of the case by ensuring a continuing dialogue with the Mexican lawyer. A provision in the contract requiring a status report at every stage of the proceeding will ensure cooperation by the attorney.

h. Medical and Dental Care. Qualified Navy personnel should give confinees an annual medical and dental examination. A corpsman should examine the confinee upon the confinee's allegation of illness or disease. If a physical condition requires the attention of a doctor or dentist, the commanding officer designated to provide support should liaison with the Commanding Officers of Branch Medical Clinic, Naval Station, San Diego or Naval Dental Center Southwest for assistance as appropriate.

i. Monthly Visitation Reports. Monthly Reports of Visits, required by paragraph 4-7 of reference (a), will be submitted to CNRSW Code N05, by the commanding officer providing support to the confinee.

j. A list of pertinent telephone numbers is found in enclosure (4).

6. Inquiries. Inquiries concerning these established procedures may be directed to the Office of the Staff Judge Advocate, Navy Region Southwest or the Staff Judge Advocate of the appropriate Navy or Marine Corps command designated herein.


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GUIDELINES AND INFORMATION FOR
COMMANDERS, COMMANDING OFFICERS AND
OFFICERS-IN-CHARGE

1. Background. It is the policy of Commander, Navy Region Southwest to protect, to the maximum extent possible, the rights of Navy/Marine Corps personnel, their dependents and civilian employees of the Department of the Navy (hereinafter referred to as personnel) subject to criminal jurisdiction in western Mexican border towns. When visiting Mexico, personnel are subject to the jurisdiction and laws of Mexico. There is no status of forces agreement between the United States and Mexico and consequently personnel have no special status while visiting Mexico.

2. Liaison with Mexican Officials.

a. Personnel assigned to the shore patrol sub-station currently maintained at the international border at San Ysidro are designated as Mexican liaison representative. Contact is maintained by the Mexican liaison representatives with the local jails in Tijuana including La Mesa and Ensenada, to ascertain whether personnel are being detained and, as appropriate, to assist in the return of those personnel to their respective commands. The services available from the Mexican liaison representatives are as follows:

(1) Upon identification of personnel confined in a Mexican jail in Tijuana, the Mexican liaison representative will contact the member's command and report the location of the member and all known facts concerning the member's arrest or detention.

(2) If deemed advisable, the liaison representative will escort a command representative to the Mexican jail where the member is detained to assist the member in obtaining his release or otherwise. (Note: All command visitors to personnel so detained must travel in Mexico in civilian attire.)

(3) Frequently, members arrested and detained for minor offenses (drunk in public, breach of the peace, etc.) are released upon the payment of a small fine. The Mexican liaison representative can assist the member in obtaining (from friends, relatives, etc.) money to pay the fine. U.S. Government funds may not be expended to pay the fines of personnel. In cases of personal injury or property damage caused by members, however, U.S. Government funds may be available under the Foreign Claims Act (10 U.S.C. para. 2734) and reference (e). In such cases, the Claims Department, Naval Legal Service Office Southwest should be contacted immediately at (619) 556-7268/7261.

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(4) For personnel charged with major offenses (drug offenses, crimes of violence, etc.), the Mexican liaison representative will assist in communicating with the Mexican attorney selected by the confinee to represent him. Such members are usually incarcerated for an extended period of time, and the Mexican liaison representative will continue to visit them at either the Tijuana jail or La Mesa Prison on a daily basis, and will also provide them with supplemental food items and health and comfort items as needed.

b. In cases involving personnel confined in the Mexicali area, Commanding Officer, Naval Air Facility, El Centro will assist by using members of his command in a manner similar to that used by San Diego Shore Patrol.

c. Immediately following release from Mexican confinement in the Tijuana/Ensenada area, all personnel shall report in person to the Shore Patrol Liaison Office at San Ysidro for completion of documentation and recovery of Armed Forces Identification Card.

3. Serious Criminal Offenses. Military members (and in unusual cases, and with JAG approval, dependents and civilian employees of the Department of the Navy) arrested and confined in Mexico for serious criminal offenses are able under reference (a) to request funding for a Mexican attorney to represent them at their criminal trials. The Mexican liaison representative will provide confinees a U.S. Consulate approved list of attorneys from which they can select the attorney they desire. The cognizant contracting officer will conduct the necessary liaison and negotiation with the Mexican attorney and monitor the progress of members' trials. Pursuant to reference (a), the command to which a member is assigned at the time of his confinement in Mexico is responsible for providing the accounting data used to effect payment of the attorney. Advice to contracting officers concerning appropriate legal fees may be obtained from the Staff Judge Advocate, CNRSW.

4. Inquiries on Unauthorized Absences. Personnel charged with unauthorized absence often offer as an excuse illegal detention in Tijuana or other Mexican towns. The Mexican liaison representative may be contacted to verify the correctness of such allegations.

5. Emergency Medical Treatment. Commands receiving information that military personnel need to be medically evaluated should contact the Mexican liaison representative and request assistance in obtaining the necessary clearance.

6. Complaints of Mistreatment of Personnel. Any complaints by personnel allegedly mistreated by Mexican officials should be referred through official channels to Commander, Navy Region Southwest, senior shore patrol officer, for investigation and report as deemed appropriate. Generally, Commander, Navy Region Southwest, will refer such complaints to the American Consulate, Tijuana for appropriate action.

GOING TO MEXICO?
BE SMART - MAKE IT A SAFE AND ENJOYABLE VISIT

1. Automobiles

- Don't drive unless necessary.
- Don't take a rented car into Mexico.
- Do buy Mexican insurance if you drive; your U.S. policy, almost without exception, is not good in Mexico.
- Do remember that even a minor accident can result in your being imprisoned in a Mexican jail until money for damages and criminal penalties is available.

2. Personal Conduct

- Don't go to Mexico in uniform.
- Don't buy, sell, or have with you even a small amount of marijuana or other illegal drug.
- Don't get drunk.
- Don't buy alcohol or enter a bar if you are under 18.
- Do stay out of fights and arguments.
- Don't argue with shopkeepers, bartenders, and businessmen.
- Don't take property belonging to someone else.
- Don't carry weapons, including knives, going, coming, or while there.
- Do stay out of jail by observing the above.

3. Personal Safety

- Do take the least money and personal property (watches, jewelry, etc.) necessary.
- Do not pick up or associate with strangers.
- Don't get involved in sexual contact.

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- Don't interfere with police in the performance of their duties.
- Don't wander from the main streets.
- Don't be on the street late at night.
- Don't drink water from a tap or public supply.
- Don't purchase food from street vendors.
- Do select a clean place to eat.

4. Help. IF YOU DO GET INTO TROUBLE, call U.S. Navy Shore Patrol Liaison, San Ysidro: (619) 428-2427; the U.S. Consulate, Tijuana: (619) 557-6681; Naval Air Facility, El Centro: (619) 958-8525 or Senior Shore Patrol: Commercial (619) 556-1860, DSN 526-1860.

5. Remember. You are a guest of a foreign country and have left most of your rights as a U.S. citizen in the U.S.

LIST OF SUPPORT ITEMS FOR PRISONERS

Initial Issue Items: As required depending on length of confinement, may include the following items, the cost of which is not to be charged against the monthly health and comfort limit of \$25.00, unless the confinee is in a pay status:

towels
pillow and pillow cases
bed sheets
blankets
handkerchiefs
padlocks
clothing from lucky bag

The above mentioned items may be replaced as necessary. The below listed health and comfort items provided as necessary to prisoners are not to exceed \$25.00 per month. Prisoners in a pay status will be charged for health and comfort items.

Not to Exceed

1 disposable ink pen
20 envelopes
60 sheets of stationary
4 carton cigarettes or equivalent tobacco material
4 disposable safety razors

As Necessary

laundry soap
deodorant
tube tooth paste or powder
bath soap
shaving cream
toilet paper
tube hair shampoo
laundry bag (as needed)
nail clippers
bath sandals
shoe shining gear
face cloth

Any other health and comfort items considered necessary by the commanding officer evaluating the need of the prisoners to maintain personal hygiene. Health and comfort items shall be requested, supplied and receipted for on a Request for Health and

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Comfort Supplies (DD Form 504). Neither the initial supply nor resupply should consist of a standard assortment of articles that includes some, which the prisoner does not use or need.

Food per month

Persons incarcerated in La Mesa or Tijuana will be provided three box lunches; delivered daily with vitamin supplements as deemed necessary by a U.S. Navy medical officer, if they so desire. Commanding officers are authorized to substitute "C" rations at the rate of three "C" ration meals a day when appropriate. However, long term use of "C" rations alone is discouraged.

Persons confined are authorized to order fresh food, if cooking and cold storage facilities are available, to the limit of \$100.00 per month, supplemented by two cases of "C" rations.

LIST OF PERTINENT TELEPHONE NUMBERS

Commander, Navy Region Southwest, San Diego, California, Office of the Staff Judge Advocate: (619) 532-1418; DSN 526-1418.

Commanding General, Marine Corps Recruit Depot, San Diego, California, Office of the Staff Judge Advocate: (619) 524-8700 DSN 524-8700.

Commanding General, First Marine Division, Camp Pendleton, California, Office of the Staff Judge Advocate: (760) 725-5975/5980 DSN 365-5975/5980.

Commanding Officer, Naval Base, San Diego, California, Office of the Staff Judge Advocate: (619) 556-2787; DSN 526-2787.

Commanding Officer, Naval Air Facility, El Centro, California: (760) 339-2477; DSN 958-2477.

Senior Shore Patrol Officer, Naval Base, San Diego, California: (619) 556-1859; DSN 526-1859.

Border Shore Patrol Office, San Ysidro, California: (619) 428-2427/1318.

Office of the Navy Judge Advocate General (International Law): DSN 227-9161.

United States Consulate, Tijuana, Mexico: (Direct Dial): (619) 231-8414.

Navy Food Services Systems Office, Mechanicsville PA. (For inquiries regarding issuance of survival rations to confinees): (717) 790-5921; DSN 430-5921.

Navy Medical Clinic: (619) 532-6475

Naval Dental Center: (619) 532-8200