

## SAN DIEGO POLICE DEPARTMENT PROCEDURE

**DATE:** October 16, 2015

**NUMBER:** 6.22 – PATROL

**SUBJECT:** RELEASING MILITARY PERSONNEL ON A VOLUNTARY PROTECTIVE CUSTODY TURNOVER

**RELATED POLICY:** [6.22](#)

**ORIGINATING DIVISION:** OPERATIONAL SUPPORT

**NEW PROCEDURE:**

**PROCEDURAL CHANGE:**

**SUPERSEDES:** DP 6.22 – 05/29/2012

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### **I. PURPOSE**

This Department procedure establishes guidelines for the proper handling and disposition of military personnel taken into custody as the result of an arrest.

### **II. SCOPE**

This procedure applies to all sworn members of the Department.

### **III. BACKGROUND**

The United States Court of Military Appeals has ruled that the taking of military personnel into "protective custody" amounts to an arrest and that, unless the person wants to be returned to his/her unit, a "protective custody" turnover is unlawful. As a result of this ruling, the military will not accept a "protective custody" turnover unless it is a "voluntary protective custody" with the consent of the military personnel detained.

### **IV. PROCEDURES**

A. Generally, arrests of military personnel shall be handled in the same manner as arrests of non-military persons.

- B. Exceptions to this would be “voluntary protective custody” turnovers in cases where no judicial follow-up is sought (i.e., drunk in public arrests). Department of Defense (DOD) Police have assumed primary jurisdiction of “voluntary protective custody” turnovers of all naval personnel. Officers may transport naval personnel agreeing to a “voluntary protective custody” turnover to the closest naval installation. DOD Police will assume custody and transport to their respective commands. DOD Police can be reached 24-hours a day at (619) 524-6999.
- C. Voluntary protective custody turnovers of all military personnel arrested at the San Ysidro or Otay Mesa Ports of Entry can be facilitated through the Border Shore Patrol, located in the Customs Building, San Ysidro Port of Entry. The Border Shore Patrol office can be reached at (619) 428-2427 or (619) 428-1318. The duty officer carries a cell phone and can be reached 24-hours a day at (619) 572-1584.

Note: Border Shore Patrol will not accept voluntary protective custody turnovers of military personnel arrested outside the immediate border area.

- D. Military authorities will not take any official action against military personnel for non-military criminal offenses. Officers should consider this when deciding whether to provide arrested military personnel with the option of voluntary protective custody turnover.
- E. When military personnel under arrest decline to be turned over to their respective commands, they should be handled the same as non-military persons. If, for example, under similar circumstances a civilian would be released at the scene, the same disposition should be made with military personnel.
- F. A military member who is Absent Without Leave (AWOL) or a deserter should be released to DOD Police or their respective military commands unless non-military criminal charges require otherwise.
- G. Officers making an arrest or detention of military personnel shall complete an Arrest/Detention report (ARJIS-8) consistent with any other field arrest or detention.

## **V. MILITARY INSTALLATIONS**

Officers shall transport military personnel who agree to a voluntary protective custody turnover to their respective military commands. Military personnel may be transported and released to military authorities 24-hours a day at the following locations:

- A. All Navy personnel in the area fall under the jurisdiction of Southwestern Navy Region. Regardless of the command involved, DOD Regional Dispatch is the primary point of contact for all naval personnel issues. They may be contacted at (619) 524-6999. For all Navy personnel arrested in the vicinity of the international border, officers may contact Border Shore Patrol (Refer to Section V. B., for further information). For personnel assigned to other branches of the military, the contacts numbers are provided below.
- B. Border Shore Patrol, San Ysidro Port of Entry (located in the Customs Building), can be contacted at (619) 428-2427 or (619) 428-1318. They will only take custody of those arrested in the immediate border area. The duty officer carries a cell phone and can be reached 24-hours a day at (619) 572-1584.
- C. Provost Marshal, Marine Corps Recruit Depot, Building 614 can be contacted at (619) 524-4202. They will only take custody of military personnel assigned to MCRD.
- D. NEW Marine Corps Air Station, Miramar, Security Office can be contacted at (858) 577-4068. They will only take custody of military personnel assigned to this duty station.
- E. United States Coast Guard, Senior Duty Officer, 2710 North Harbor Drive can be contacted at (619) 557-5897. They will only take custody of Coast Guard personnel assigned to this duty station.

## **VI. NAVAL CRIMINAL INVESTIGATIVE SERVICE LIAISON AGENT**

- A. Naval Criminal Investigative Service (NCIS) special agents can provide assistance and expertise to the San Diego Police Department.
- B. NCIS Special Agents should be notified and used as a resource in felony cases involving suspects who are active duty Navy or Marine Corps personnel. They should also be notified of death cases (except fatal traffic collisions) involving military personnel or deaths occurring in San Diego's military housing areas. This notification should be made as soon as possible after the identification of military involvement.
- C. NCIS Special Agents can assist with locating military personnel who are involved in criminal investigations. They have access to personnel, financial, and medical records for all active duty military and dependents (if treated in military facilities).
- D. During normal business hours, NCIS Special Agents can be reached by telephone at (619) 556-1364. After hours, the duty Special Agent can be reached via the DOD Dispatch Supervisor at (619) 524-1226.