



16215  
04 February 1985

From: Commanding Officer, USCG LORAN Station Kure Island  
To: Commander, Fourteenth Coast Guard District (dl)

Subj: CUSTOMS REGULATIONS ON KURE ISLAND

1. A recent incident has stimulated the need to produce policy for the enforcement of customs regulations on Kure Island. While it is not the desire for the station personnel to pursue customs inspections or other searches for each logistic flight which arrives on Kure Island, I do desire to determine the proper laws and regulations that guide us should we ever need to perform such duties.
2. Prior to the arrival of a recent Coast Guard logistics flight I received a phone call from the duty officer at AIRSTA Barbers Point. Evidently, when the plane was being loaded an aircrewman noticed what appeared to be cigarette-rolling papers drop out of the personal baggage of a passenger--a civilian tower inspector. This information was not brought to the attention of the aircraft commander until after the planes departure. Barbers Point now desired for our unit to conduct a search of the entire plane, cargo, and all personnel upon arrival. While this information certainly did not provide me with "probable cause" to single out that individual for a search, it did provide me an impetus to conduct a 'routine' customs inspection of the baggage of all personnel reporting Kure Island on that particular flight. As a result, the inspection revealed no contraband, etc.
3. Had such an inspection revealed marijuana or any other illegal substance, would we have been substantiated in our inspection? Or had we merely used the customs inspection as a method to single out that particular individual for a search? To prevent such a potentially-volatile situation from developing again I wish to determine what my authority as commanding officer of this isolated station is. Under what circumstances and to what extent can I conduct a customs inspection or an actual search of persons and baggage arriving on a C-130? I have previously addressed this topic in a rapiddraft letter to D14 (dl) dated 29 AUG 84 but have not yet received any response. In my rapiddraft I included the only copy of an outdated Kure Instruction on the subject (dtd 1979). While this directive is not currently effective, it may provide some insight into the policy.
4. Any assistance you are able to provide will be appreciated.

  
D.C. ELY

Copy: CCGD14 (oan)

*where is the  
rapid draft?*

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|---|-------------------------|-----------------------------------|
| DEPARTMENT OF<br>TRANSPORTATION<br>U. S. COAST GUARD<br>CG-3883 (Rev. 4-80) | <b>RAPIDRAFT LETTER</b> | MAY BE TYPED<br>OR<br>HANDWRITTEN |
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SEP 7 '84

INSTRUCTIONS

ORIGINATOR - Use for routine correspondence not requiring action, review, or comment by officers in the chain of command, other government agencies or civilian commercial firms. Send original and blue copy to addressee. Retain yellow copy for file.

ADDRESSEE - Reply hereon, returning original to originator. Retain blue copy for file.

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| TO:<br><br>Commander (dl)<br>Fourteenth Coast Guard District<br>300 Ala Moana Blvd<br>Honolulu, HI<br>ATTN: CDR COLE | STAFF SYMBOL/SSIC NO.<br><br>16215<br><br>DATE<br>29 AUG 84 |
|--|---|

Subj: CUSTOMS REGULATIONS ON KURE ISLAND

Ref: (a) PHONCON CDR COLE (dl)/LTJG ELY (Kure) 29 Aug 84

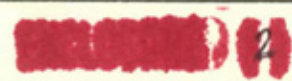
1. As requested in reference (a), enclosed please find a copy of the "current" KURE INSTRUCTION on the subject regulations. These guidelines are outdated (1979) and do not reflect current policy. If possible, could you provide any guidance towards what customs laws/policies are to be enforced by the Coast Guardspeople on LORSTA Kure Island? Any and all assistance would be appreciated.

  
 D. C. ELY

Encl: (1) KUREINST 5510

|     | Act          | Info     |
|-----|--------------|----------|
| RP  |              |          |
| RC  | <i>A-Rep</i> |          |
| SC  |              |          |
| RB  |              |          |
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| CWG |              | <i>D</i> |
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| PO  |              |          |
| RO  |              |          |

|  |  |
|--|--|
| FROM:<br><br>• Commanding Officer<br>USCG LORAN Station Kure Island<br>FPO San Francisco, CA 96619 | DO NOT USE<br>FOR<br>CLASSIFIED CORRESPONDENCE |
|--|--|





Subject: KURE ISLAND CUSTOMS SEARCH

Date 29 January 1984  
5800

From: LCDR Stephen R. Campbell

Reply to  
Attn. of (d1)/7111

To: File

1. At 1000 this date, I received a call from LTJG Ely, CO of LORSTA Kure Island, regarding a search of luggage. He had received a call from AIRSTA Barbers Point that the C-130 log flight had a person on board with what appeared to be cigarette wrapping papers. This was discovered when the person's luggage accidentally opened as he was boarding the aircraft. The aircraft commander had requested a search at Kure Island when the aircraft landed. The aircraft was enroute to Kure Island at this time. It also had persons on board bound for Midway Island.

2. I advised LTJG Ely that I do not believe sufficient probable cause exists for a individual search. However, he could conduct a customs search of all luggage entering Kure Island. He would use his his authority as a customs officer and the provisions of Kure Instruction 5510 of 6 September 1979. I also advised that he should not check luggage of those continuing on to Midway. If any contraband is found he should follow the SOP as to what he should do.

3. I told him to call (oil) or myself should he need additional guidance.

STEPHEN R. CAMPBELL

Encl: (1) KUREINST 5510 of 6 Sep 79

Copy:  
CCGD14(oil)



# Memorandum

Subject CUSTOMS INSPECTIONS ON KURE ISLAND

Date 25 MAR 1985  
16202

From District Legal Officer

Reply to  
Attn: (d1)/7110

To Chief, Intelligence and Law Enforcement Branch

1. CO, LORSTA Kure Island requested guidance from me on customs searches on Kure Island. My initial research indicates we need a memorandum of understanding (MOU) with the Customs Service to clearly set out when the Coast Guard can do a customs search.
2. Various statutes enable Coast Guard personnel to exercise the authority of a customs officer. See 14 U.S.C. 143 and 19 U.S.C. 1401. COMDTINST 16202.2A distributes a U.S. Coast Guard/U.S. Customs interagency agreement. Under that agreement the Coast Guard has primary responsibility at sea outside customs waters; the Customs Service has primary responsibility on shore. Both agencies share responsibility within customs waters.
3. Under the agreement, enforcement of the customs laws at Kure Island is the responsibility of the U.S. Customs Service. My advice to the CO is not to exercise any customs authority absent a MOU with Customs. Informal discussions with Customs here indicates they normally would not search an interisland flight, e.g., our C-130 log flights, even though it crosses a border.
4. A specific MOU for Coast Guard enforcement at Kure Island could be quickly done. LCDR Campbell is available to help with legal advice.

A handwritten signature in cursive script, appearing to read "Stephen R. Campbell".

STEPHEN R. CAMPBELL  
Acting

Encl: (1) COMDTINST 16202.2A



DEPARTMENT OF TRANSPORTATION  
UNITED STATES COAST GUARD

MAILING ADDRESS:  
Commanding Officer  
USCG Loren Station Kure  
FPO San Francisco 96619

KURE INST 5510  
6 September 1979

KURE INSTRUCTION 5510

Subj: Customs Regulations; policy concerning

Ref: (a) Kure Island Unit Organization Manual  
(b) Chap. 7, Postal Instructions (OPNAVINST 5112.1A)

1. PURPOSE. The purpose of this instruction is to set forth policy and guidelines concerning customs regulations, in particular the conducting of custom checks of incoming and outgoing items from Kure Island.

2. DISCUSSION. Kure Island's isolated situation, with all logistics conducted via CG C-130 aircraft, allows for an effective, positive and relatively effortless Customs Inspection program. Reference (a) generally states that a Customs Inspector shall be designated for ensuring that all U.S. Customs regulations are enforced, and reference (b) gives specific guidance to the Postal Clerk for the observance of his duties as such. However, it is necessary for more specific guidelines for subject inspections be promulgated.

3. ACTION. Effective immediately, the following guidelines for Customs Inspections are to be observed:

a. A Chief Petty Officer of this unit shall be designated in writing by the Commanding Officer as the Senior Customs Inspector, and shall carry out the following duties:

- 1) He shall inspect all items leaving the C-130 aircraft. All personnel departing the aircraft with any items shall be required to show the contents of those items. Inspection of arriving supplies may be performed when the SK checks them in as a routine responsibility. Mail shall be inspected as outlined in paragraph b.
- 2) No persons will be allowed to leave the runway area until they have been cleared by the Customs Inspector.
- 3) All items leaving Kure Island shall be inspected prior to the aircraft's departure. It is the individual's responsibility to ensure his belongings have been checked prior to boarding the aircraft. Personal effects being shipped for PCS transfer shall be inspected immediately prior to banding of the rotation boxes. Arriving rotation boxes shall be opened by the owner in the presence of the Customs Inspector.
- 4) Any indication of a discrepancy (contraband, theft, undeclared items, etc.) shall be brought immediately to the attention of the Commanding Officer.

KURE INST 5510  
6 September 1979

5) Any persons failing to cooperate with this policy, if unattached to the unit, shall not be allowed to depart the aircraft.

b. The Unit Postal Clerk, who is also designated in writing by the Commanding Officer, shall be a senior petty officer and shall carry out the following duties concerned with Customs Regulations:

1) All outgoing parcels shall be delivered to the Postal Clerk unwrapped for inspection. The parcel shall then be wrapped in the presence of the postal clerk and presented to him for mailing.

2) All incoming parcels are subject to inspection and if of a suspicious nature shall be turned over to the Commanding Officer for further action.

3) Any discrepancies found during the postal inspections shall be reported immediately to the Commanding Officer.

c. All persons are individually responsible for their compliance with appropriate U.S. Customs Regulations and station policy.

4. Effective date. This instruction is effective upon receipt.

  
M.D. FARRELL

Green



DEPARTMENT OF TRANSPORTATION  
UNITED STATES COAST GUARD

COMMANDER (d1)  
Fourteenth Coast Guard District  
Prince Kolaniana'ole Federal Bldg.  
300 Ala Moana Blvd.  
Honolulu, Hawaii 96850  
Phone: (808) 546-7110

5800/MW  
OCT 01 1982

From: Commander, Fourteenth Coast Guard District  
To: Commanding Officer, Coast Guard LORAN Station  
Kure Island

Subj: Inspection and Search Guidelines

Ref: (a) Your ltr 5800 dtd 28 May 1982

1. Reference (a) requested guidelines on proper procedure to employ when conducting searches and inspections at your unit. The following information is offered in response to the questions raised in reference (a).

2. As Commanding Officer, Coast Guard LORAN Station Kure Island, you have clear authority under military law to conduct inspections of your unit. An "inspection" is an examination of all or any part of your unit, including an examination conducted at entrance and exit points, conducted as an incident of command, the primary purpose of which is to determine and ensure the security, military fitness, or good order and discipline of your unit. Thorough discussion of this inspection power is contained in Tab A to Appendix IV-E to ANNEX LIMA, Fourteenth Coast Guard District OPLAN. For additional information on inspections see Rule 313 of the Military Rules of Evidence, contained in Chapter 27 of the Manual for Courts-Martial, and the analysis of that Rule contained in appendix A18 to the Manual for Courts-Martial.

3. An inspection can include an examination of the whole or any part of your unit. An inspection could include an examination of barracks rooms and an examination of lockers in those rooms. The areas of the unit to be inspected and the scope of the inspection are within the sound discretion of the commanding officer.

4. The examination should be scheduled well in advance of the date on which it is to be conducted. Inspections may be scheduled to take place on any specific date or day or on the occurrence of specific events beyond the usual control of the commanding officer, such as the arrival or departure of a C-130 or other aircraft from your unit. Rule 313 does not require that personnel at your unit be given preliminary notice of the inspection. However, you and your Executive Officer, or other people to be involved in the inspection should plan the date or

event which will trigger the inspection, put that schedule in writing, and place it in your safe prior to the date of the inspection.

5. You have indicated that on previous inspections of assigned rooms personnel were advised of their rights before the inspection was started. They were then asked if they had any contraband and given the opportunity to turn it over to the inspector. If they did not comply, then the room was searched. This is not the proper method of carrying out an inspection. It raises serious legal questions about the voluntariness of the individual's actions or consent when confronted with this type of choice. In addition, there is no need to read individuals their rights as a matter of course during an inspection. The rights should be read only if evidence is uncovered during the inspection which leads you to suspect them of a particular offense. The inspection of the area should simply be carried out in accordance with the guidelines you have established beforehand concerning the scope of the examination.

6. As Commanding Officer of Coast Guard LORSTA Kure Island, you have the authority to inspect all personnel and property within your control. This would include authority to inspect aircraft, aircraft personnel, and their personal belongings upon their arrival or during their stay on board your unit. While no additional authority is necessary for you to conduct such an inspection, it may nevertheless be advisable to inform or consult other commands concerning your plans if their personnel or aircraft may be subject to your inspection.

7. Reference (a) discusses an inspection held on 4 May 1982, and mentions that the legal office had advised you that evidence found during the inspection would not be admissible in disciplinary proceedings. This does not mean that evidence found during all inspections is inadmissible. Evidence found during inspections can be used in disciplinary proceedings if the inspection was one of two types: (1) a previously scheduled inspection, using procedures discussed in paragraph 4 above; or (2) an inspection based on a reasonable suspicion that some type of contraband is present on your unit which adversely affects the security, military fitness, good order, or discipline of your command. Your inspection on 4 May 1982 was not previously scheduled. Also, based on the information available to this office, it did not appear that there were enough facts available to create a "reasonable suspicion" as that term is used in law, sufficient to justify the immediate need to inspect the particular area in question. A reasonable suspicion must be more than a "hunch", and must be supported by some articulable facts. Because not everyone agrees on what constitutes reasonable suspicion under a given set of facts, there is a greater possibility that evidence found during this type of inspection



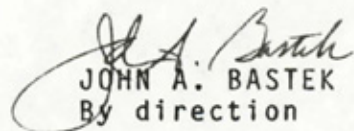
(d1)  
5800/MW  
OCT 01 1982

may be ruled "inadmissible." For this reason, we encourage the use of previously scheduled inspections as the better command tool for ensuring the security, military fitness, good order and discipline of your unit. If you follow the proper procedures, evidence found during your previously scheduled inspections can be used in disciplinary proceedings.

8. The previously scheduled inspections discussed above must not be confused with a probable cause search. The inspection is conducted to insure the security and good order of the unit. It does not have as its primary purpose the collection of evidence for use in disciplinary proceedings. An inspection cannot be used as a subterfuge to attempt to find evidence against particular individuals in situations where probable cause does not exist. One of the major reasons for having the inspection scheduled well beforehand is to avoid the possibility that it might be used as a last minute subterfuge to search without probable cause.

9. A probable cause search will in most cases be based on an authorization issued by the commanding officer. The command authorization must be based on information presented under oath to the commanding officer which establishes probable cause. Additional information on probable cause searches, including the search authorization process and a definition of probable cause, is contained in Tabs B through E, Appendix IV-E to Annex LIMA, Fourteenth Coast Guard District OPLAN.

10. This office would be happy to review any proposed LORSTA Kure Instruction on this issue prior to promulgation. If you have additional questions concerning inspections or probable cause searches, please contact us for assistance.

  
JOHN A. BASTEK  
By direction

Copy:  
CCGD14(oil)  
CG AIRSTA BARBERS POINT