SCRIPT FOR TELEPHONIC SEARCH AUTHORIZATION

**MJ:** This is \_\_\_\_\_\_\_\_\_\_\_\_\_\_, a military judge authorized to issue search authorizations. With me on this conference call is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the applicant for a telephonic search authorization. This call is being recorded with the consent and knowledge of all parties. An application for search authorization (has)(has not) been completed. *[If the application has not been completed, the judge should explain why.]*

**MJ:** (Applicant), please state your rank, full name, and duty assignment.

**APP:** This is (Name)(Rank), and my present duty assignment is (Place).

**MJ:** I will now administer the oath to you prior to taking your affidavit. Do you swear (affirm) that the statements in this affidavit are the truth, the whole truth, and nothing but the truth (so help you God)?

**APP**: (responds)

**MJ:** I have received a Search Authorization and Search form purportedly prepared by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Did you complete these forms and is the information in these forms true and accurate to the best of your knowledge and belief?

**APP:** (responds)

**MJ:** First, what is the location and description of the premises, object or person you wish to search.

**APP**: (provides description) *[the applicant should read this verbatim from the previously completed search authorization.]*

**MJ:** What property do you wish to seize from the person or property previously described?

**APP**: (provides description) *[the applicant should read this verbatim from the previously completed search authorization.]*

**MJ:** What facts do you have relevant to a determination that there is probable cause to believe that the property you wish to seize is located on the person or premises to be searched?

**APP**: (provides description) *[the applicant should read this verbatim from the previously completed search authorization.]*

**MJ:** Did you receive any of the information you just provided me from a confidential, reliable informant?

**APP:** Yes/No

*If an informant was involved –*

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| **MJ:** Why do you wish to keep the informant anonymous?  **APP:(**states reasons) *[e.g., informant wishes anonymity, it is the applicant's experience that to reveal informants' identity subjects them to abuse, destroys their utility to law enforcement, and dissuades others from volunteering information.]*  **MJ:** What specific information did the informant give you to indicate that the item(s) to be seized are in a particular place?  **APP**: (responds)  **MJ:** Why do you believe that the informant is reliable?  **APP:** (states reasons) *[e.g. how long has the applicant known the informant; has the informant provided information in the past; has the informant always proved true and correct; has the informant ever given false or misleading information; has the informant identified narcotics in the presence of the applicant; what have been the results of the prior information--number of arrests for felonies, number of convictions for felonies, number of cases awaiting trial, what types of narcotics have been seized, etc. The military judge should also be provided with as much background information as possible regarding the knowledge of the circumstances held by the informer in order to justify any conclusion that probable cause exists to effect a search.]* |

**MJ:** What type of training or experience have you had in investigating (type of offense) and/or identification of (type of property, *e.g.,* type of drugs).

**APP:** (responds)

**MJ:** Is there any other information that you believe may provide grounds for the seizure of the property described earlier?"

**APP:** Yes/No.

**MJ**: Has any previous request for search authorization involving the same person and property been denied?

**APP**: Yes/No.

**MJ:** Is night service requested?

**APP**: Yes/No. (If yes, state justification)

*[Note: Night service means that the military judge authorizes the search to take place between 2200 and 0600. It is granted when there is a danger the subject may be alerted to the upcoming search, or that the evidence will be transferred, sold, or destroyed. The applicant should state a reasonable basis supporting a night search]*

**MJ:** I find that probable cause (exists)(does not exist) for the issuance of a search authorization for the previously described property.

*If the military judge is unable to sign the search authorization and provide it to the applicant for execution, read the following:*

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| **MJ:** Do you have a copy of the telephonic search authorization form?  **APP:** Yes.  **MJ:** Have you filled in the description of the person or premises to be searched and the property to be seized exactly as set out earlier in this telephonic application procedure?"  **APP:** Yes.  **MJ:** Read back the search authorization to me in its entirety.  **APP:** (Reads search authorization.)  **MJ:** (Directs any necessary corrections.) At this point, I direct you to sign my name and rank in the space provided. Next sign your name and rank immediately below mine. Fill in the block for date and time of issuance. The date and time of issuance is \_\_\_\_\_\_\_\_\_\_\_\_. |

MJ: The verbatim record of this application proceedings is incorporated by reference into the search authorization. This ends the recorded proceedings."