

INFORMATION PAPER

SUBJECT: SOFA Briefing for Personnel Subject to Japanese Police Interrogations

1. In accordance with SOFA Article XVII, Paragraph 6(a) “The military authorities of the United States and authorities of Japan shall assist each other in the carrying out of all necessary investigations into offenses.” If SOFA personnel are in US control, the SOFA briefing is usually performed by SJA Office personnel from the Foreign Criminal Jurisdiction (FCJ) division. However, when SOFA personnel are arrested or under the control of Japanese law enforcement officials, commanders are responsible to ensure appropriate US personnel respond as soon as possible (normally no later than two hours after the initial notification of arrest) to provide SOFA briefings to USFJ personnel arrested or detained by Japanese authorities. In these circumstances the SOFA briefing can be performed by US military police, command representatives, or civilian supervisors. The SOFA briefing is provided as early as possible so SOFA personnel can participate in the interview or interrogation with full knowledge of their rights and obligations under Japanese law, including the US-Japan SOFA, its Agreed Minutes and related agreements.

2. Form letter notifications have been prepared to assist with providing the SOFA briefing. The forms differ according to the status of the person being interviewed; members of the U.S. Armed Forces, dependents, civilian employees of the U.S. armed forces, and civilian component contractors. The form briefing covers the rights afforded to suspects under the SOFA, the Constitution of Japan, and the Japanese Code of Criminal Procedure.

3. Procedures:

a. On notification of arrest/detention and interrogation by Japanese police of a SOFA member, request the Japanese officials to halt the interview/interrogation to provide access to provide the SOFA briefing.

b. Download and print the appropriate SOFA briefing forms, (attached): Print all four letters if the status of the SOFA member is unknown.

c. On arrival, ask Japanese officials for the Japanese offense under investigation and maximum possible punishment. Enter this information on the appropriate blanks on the form.

d. Read the entire form to the SOFA member being briefed, and obtain the signature of the SOFA person briefed on the form. [If the SOFA person is unwilling or unable to sign the briefing, the person providing the briefing will sign and date the briefing and include a comment on the briefing regarding the person's inability or unwillingness to sign.]

e. Return the original copy to the SJA Office, FCJ Division. A copy may be provided to the SOFA member.

4. References:

a. USFJ Instruction 31-203, Law Enforcement Procedures in Japan, 30 June 2004.

b. USFJ Instruction 51-101, Counsel Fees and Approved Attorneys List, 1 June 2001.

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