

# INTERNATIONAL LAW FOR ARMY IN JAPAN - INFORMATION SERIES

## NUMBER 3

### SOFA BRIEFINGS

#### 1. Reference materials:

a. USFJ INSTRUCTION 31-203, LAW ENFORCEMENT PROCEDURES IN JAPAN, 22 SEPT 2011

b. SOFA Briefing Kit

c. SJA Designation of U.S. Command Representatives

The requirement, responsibility, and procedures for providing a SOFA Briefing are contained in USFJ Instruction 31-203. Essentially, a SOFA Briefing must be given to USFJ personnel suspected of committing a crime under Japanese law prior to them being interviewed by Japanese law enforcement. The SOFA Briefing is a boiler plate fill in the blank script which is an attachment to USFJ Instruction 31-203. There are four SOFA Briefing scripts - Military Members, Civilian Component (U.S. Civilian employees), Contractor Employees, and Dependents.

USFJ Instruction 31-203 establishes geographical areas of responsibility for law enforcement functions for the various service components in Japan. With regard to Okinawa, the Army only has geographical responsibility for the Yomitan area. The Air Force has responsibility for Okinawa City, some of Chatan, and Kadena Town, and the Marines basically have everywhere else on Okinawa. The responsibility for providing a SOFA briefing is the Commander having the responsibility for the area "where the alleged offense occurred". Therefore, if a Soldier was arrested in Naha, under the USFJ Instruction, the Marines should provide the SOFA briefing and if a Marine was arrested in Yomitan, the Army would provide the SOFA briefing. In practice, often the service component to which the person belongs provides the SOFA briefing.

Here are the USFJ 31-203 requirements for when a SOFA Briefing must be given:

#### 4.2. Service Component Commanders

4.2.4.1. Ensure appropriate 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 within the respective areas using appropriate forms in Attachments 4 through 7.

4.2.4.1.1. Telephonic briefings may be made so long as a personal briefing is provided shortly thereafter. Telephonic briefings are especially applicable for locations outside the two hour response time frame.

4.2.4.1.2. NPA and Ministry of Justice officials confirmed that, if requested by U.S. forces, they will halt an on-going interview or interrogation to provide U.S. authorities access at any time, to include providing the aforementioned SOFA briefing. Accordingly, U.S. officials should ensure that 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 U.S.-Japan SOFA, its Agreed Minutes, and related agreements.

7.3.7. USFJ personnel apprehended by USFJ law enforcement officials in the presence of Japanese police as set forth in paragraph 9.2.2. will be taken to the nearest Japanese police station for a preliminary interrogation, if so requested by the Japanese authorities. Apprehended individuals will be provided the applicable SOFA briefing prior to being questioned by Japanese authorities at the police station.

8.7.2.2.1. U.S. law enforcement personnel or command representatives will retain custody of the individual while escorting the person to the Japanese police station for the initial interrogation, if so requested. The individual will be provided the applicable SOFA briefing prior to being questioned by Japanese authorities at the police station.

9.2.2. When both U.S. Armed Forces and Japanese law enforcement personnel are present on the scene where any violation of law has occurred, the arrest of the members of U.S. Armed Forces, the civilian component, or their dependents should be made by the U.S. law enforcement personnel and such arrested persons should be brought to the nearest Japanese police station. Apprehended individuals will be provided the applicable SOFA briefing prior to being questioned by Japanese authorities at the police station.

9.2.3.1. When members of the U.S. Armed Forces, the civilian component or their dependents are arrested by the Japanese authorities, the arresting officers will immediately notify the nearest Provost Marshal of the U.S. Armed Forces that such arrest has been made.

9.2.3.1.1. Through the practice of the parties, this has come to require notification any time a SOFA person is taken to a Japanese police station be it for a “voluntary interview” or as a result of an actual arrest and detention. The SOFA person will be provided the applicable SOFA briefing prior to being questioned by Japanese authorities at the police station.

9.2.3.1.2. Any delays in reporting such taking to a Japanese police station must be reported immediately to the local law enforcement agency and SJA office.

Here is the requirement for who gives the SOFA briefing and how the SOFA Briefing should be given:

9.3. **SOFA Briefings.** In the event that Japanese authorities decide to interview or interrogate the SOFA person in their custody, it is critical that a SOFA briefing be given prior to the interview or interrogation, if at all possible.

9.3.1. **Commanders having response responsibility for the area where an alleged offense occurred shall ensure that the first command official, i.e., law enforcement, legal, or chain of command, to arrive at the location where a SOFA person is being held will provide a SOFA briefing.** If necessary, telephonic briefings may be made so long as a personal briefing is provided shortly thereafter.

9.3.1.1. SOFA briefings attached to this instruction will be used. Ensure the appropriate SOFA briefing is administered, i.e., Armed Forces, Dependents, Civilian, or Contractor (Attachments 4-7).

9.3.1.2. The briefer will obtain the signature of the SOFA person briefed and return the original copy to appropriate installation officials. In the event the SOFA person briefed is unable or unwilling 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 the briefing after it was completed.

9.3.2. NPA and Ministry of Justice officials confirmed that, if requested by the U.S. forces, they will halt an on-going interview or interrogation to provide U.S. authorities access at any time, including providing the aforementioned SOFA briefing. Accordingly, U.S. officials should ensure 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 U.S.-Japan SOFA, its Agreed Minutes and related agreements.

9.4.3. Because of the vagaries of interpretation and translation of a foreign language, all USFJ personnel interviewed or interrogated by Japanese authorities will be advised by appropriate USFJ authorities during SOFA briefings that they should not sign a written statement unless the person so interviewed or interrogated understands the language in which the statement is written (See Reference 19.23.)

Here are the USFJ Defined Geographical Areas of Responsibility:

5. **Areas of Responsibility.** Areas of responsibility are established to facilitate U.S. forces rapid response to incidents involving U.S. forces members. (See Figure 1).

5.1. For areas or installations under U.S. control, the parent command or site commander has primary responsibility for law enforcement matters within the area

under their control, but may enter into support agreements with other commands as needed to provide adequate response and protection.

5.1.1. Installation commanders within the geographical area assigned to a commander listed in paragraph 5 will coordinate and maintain liaison with Japanese law enforcement agencies within the local area.

5.2.1. **10th Support Group Area, Okinawa.** The area bounded by west coast of the island from Torii Station south to the Hija River, east along the river to Highway 58, north along Highway 58 to the intersection just north of the Aloha GC, then northwest in a straight line to the Nagahama Dam, continuing northwest to the coast. Follow the coast westward to Bolo Point/Zampa Misaki and then follow the coast south to Torii Station (Figure 3).

5.4.4. **18th Wing Area, Okinawa.** The areas in Okinawa that fall within both directions of the following boundary: From the intersection of Highways 58 and 23, east along Highway 23 to Highway 85, southeast along Highway 85 to Highway 24, east on Highway 24 to Highway 330, northeast along Highway 330 to Highway 329, north along Highway 329, except for the Taiyo Golf Club (MCBJ responsibility), to Highway 6, straight along a line running approximately northwest to the southern intersection of Highways 6 and 58 near Yamada village, then southwest along Highway 58 to the Hija River, west along the southern bank of the river to the west coast, south along the coast to the Sunabe Seawall and Minato, then east to the intersection of Highways 58 and 23 (Figure 3).

5.5. **Marine Corps Bases Japan.** General responsibility includes all areas in Okinawa that fall outside the boundaries defined in paragraphs 5.2.1. and 5.4.4., areas on mainland Japan from Yamaguchi prefecture to Shizuoka prefecture, and the island of Shikoku.

More detailed information on conducting a SOFA briefing is contained in the SOFA Briefing Kit, which is a locally produced product.

The SOFA Briefing scripts are also available at under administrative law at the following site:

<http://www.usagts.jp.pac.army.mil/installation/legal.aspx>

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