

**31 DECEMBER 1996**



**Law**

**INTERNATIONAL HOLD/INVOLUNTARY  
RETENTION STATUS**

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This instruction prescribes the procedures for placing USAF personnel in International Hold (IH) or Involuntary Retention Status (IRS). It implements AFPD 51-7, *International Law*. It applies to all Air Force military personnel and units in the Republic of Korea (ROK). This instruction is subject to the Privacy Act. Authority for solicitation or use of member's SSAN is 10 USC 8013. Use of SSAN for IH/IRS is mandatory to ensure member is not permitted to depart the ROK in violation of the provisions of the US/ROK Status of Forces Agreement (SOFA).

**SUMMARY OF REVISIONS**

This instruction is updated to conform to changes in AFI 51-703 and USFKR 1-44. All uses of the masculine pronouns refer to both males and females.

**1. References.** Article XXII, US-ROK SOFA, USFKR 1-44, and AFI 51-703.

**2. Responsibilities.** All personnel tasked by this instruction will establish internal procedures to ensure compliance.

**3. Definitions:**

3.1. International Hold is an action which precludes the departure from the ROK of USAF military personnel who are subjects of, or material witnesses to, incidents over which the ROK has criminal jurisdiction under the SOFA.

3.2. Involuntary Retention Status is an action which precludes the departure from the ROK of USAF military personnel who are subjects of, or material witnesses, to incidents over which the USAF has jurisdiction under the Uniform Code of Military Justice (UCMJ) or who are subjects of other administrative actions or investigations.

3.3. A SOFA incident is any act which could result in a claim of criminal jurisdiction by the ROK under Article XXII of the US-ROK SOFA.

**4. Authority to Impose/Remove IH and IRS.** IH may be imposed or removed by the Judge Advocate (JA), USFK, or his designee IAW USFKR 1-44. IRS may be imposed or removed by the Commander, Seventh Air Force, or his designee. Designees of the Seventh Air Force Commander are the commanders of the 51st Fighter Wing, 8th Fighter Wing, their Staff Judge Advocates (SJA), and the Staff Judge Advocate of Seventh Air Force

**5. Procedures for Imposition of IH.** After occurrence of a SOFA incident involving a USAF member, in addition to procedures established IAW USFKR 1-44, the following will be accomplished:

5.1. The Chief, Security Police, or the commander of the appropriate AFOSI detachment will:

5.1.1. Obtain all available information concerning the incident.

5.1.1.1. Execute a USFK SOFA Form CJ-1, *US Notice of Incident, Arrest and Receipt*, by the close of business the following duty day. If the alleged offense occurred on the weekend, notify the appropriate authorities within 72 hours after learning of the incident.

5.1.2. Within five duty days, send in writing to the servicing SJA:

5.1.2.1. The name, grade, SSN, DEROS, and organization of the individual.

5.1.2.2. A concise summary of the facts and circumstances of the incident.

5.1.3. In cases where the individual's DEROS is imminent (within 15 days of the date of the incident), the information required by paragraph 5.1.2. will be reported verbally, with the required written report forwarded not later than five duty days thereafter.

5.2. The individual's unit commander will:

5.2.1. Accept custody of the individual by executing (or having executed) a custody receipt, USFK SOFA Form CJ-2, *Custody Receipt and Request*, or CJ Form 4-R, *Official Duty Certification and Receipt*, as appropriate, for military members, or CJ Form 3, *Civilian Request to be Taken Into Custody by US Military Authorities*, for civilians.

5.2.2. Be responsible for ensuring the continued presence of the individual in the ROK.

5.2.3. After IH has been initiated by the USFK JA and the commander has been notified of this action, the commander will personally:

5.2.3.1. Inform the individual he is in IH status.

5.2.3.2. Issue the individual a written order not to leave the ROK until IH has been removed, and have the individual receipt for the order according to the format at Appendix J of USFKR 1-44.

5.2.4. Unit commanders at installations without an SJA will contact their servicing SJA by telephone or message immediately after notification of the incident.

5.2.5. The unit commander, first sergeant, or charge of quarters will not process a leave request for a member in IH or IRS without prior permission of the SJA.

5.3. The servicing SJA will:

5.3.1. Review the summary provided under paragraph **5.1.2.** and determine whether the individual should be placed in IH. If determined necessary, request IH be imposed by FKJA IAW USFKR 1-44.

5.3.2. When necessary, initiate an IRS by notifying 51 MSSQ/MSPU, in writing, according to **Attachment 4.** Forward a copy of the notification to the individual's unit commander, who will then notify the individual.

5.3.3. Maintain a file of all actions taken to request IH/IRS, including a copy of the summary prepared under paragraph **5.1.2.2.**

5.4. The servicing MSSQ/MSPU will:

5.4.1. Use **Attachment 3** to acknowledge receipt of the SJA's notification of IH, and forward it within one duty day to all action and information addressees. Maintain a current roster of personnel in IH status, a copy of which will be provided monthly to the appropriate SJA and SPS/CC, as well as Air Mobility Command personnel at terminals. The roster will include the individual's name, rank, SSAN, DEROS, DOS, and organization.

5.4.2. Upon receipt of notification, the servicing MSSQ/MSPAR will identify and separately maintain the individual's Unit Personnel Records Group and ensure the individual's status is properly coded in the system.

## **6. Special Procedures for Imposition of IH on USAF Military Personnel on Leave, TDY, or not Assigned to In-Country USAF Units.**

6.1. The Air Force installation commander or his designated representative will accept custody of individuals who become involved in SOFA incidents who are on leave, TDY or not assigned to an in-country USAF unit. The local SJA will immediately notify the individual's unit commander and the local MSSQ that custody responsibility has been assumed by the Air Force. The local SJA will coordinate with the individual's host unit to effect necessary administrative actions. If the unit commander so notified is in the ROK, he will immediately initiate the action prescribed in paragraph 6.1.1. If the unit commander is not in the ROK, then the local Chief, Security Police will ensure the actions in paragraph **5.2.** are accomplished.

6.2. The Air Force installation commander or his designated representative who accepts custody of an individual will take the following actions as appropriate:

6.2.1. If the individual is TDY, take custody of all TDY orders and commercial airlines tickets. Notify the Traffic Management Office (TMO) to preclude the individual from obtaining replacement tickets.

6.2.2. If the person is on leave, take custody of his leave orders, passports and other documents authorizing travel by means of commercial transportation.

## **7. Special Notification Required on Personnel on IH Who are Scheduled for Departure from the ROK.**

7.1. Unit commanders will notify the SJA at ten days in advance, if possible, if a US military witness to a SOFA incident is due to depart the ROK. The SJA will inform the local ROK investigative authorities of the projected departure at least ten days prior to the departure, if possible. ROK authorities have agreed to notify US authorities at least two days in advance of the scheduled departure date if

they consider it necessary to secure the witness' possessions. When possible, maximum use will be made of depositions and statements of witnesses according to the ROK Criminal Code and the procedures established by Agreed View Number 8. (Agreed Minutes to Article XXII, SOFA.)

7.2. Unit commanders will notify their SJA and MSSQ at least 10 days before the scheduled DEROS from the ROK of all subjects of unresolved SOFA incidents. The SJA will determine if retention of the individual beyond his scheduled DEROS is necessary. If necessary, the MPF will submit all necessary requests for retention as prescribed by AFI 36-2110, Table 11.

**8. Availability of Subjects and Witnesses on IH.** Unit commanders are responsible for ensuring the subjects and/or witnesses involved in SOFA incidents are available and in attendance at the taking of any deposition or any trial proceedings conducted by the ROK authorities. Delays may be obtained only IAW USFKR 1-44. USAF military personnel who are suspects will be accompanied by an official US representative appointed IAW USFKR 1-44.

### **9. Procedures for Removal of IH.**

9.1. When IH has been removed by the USFK/JA, the SJA will notify the servicing MSSQ/MSPU and the individual's unit commander to effect removal of IH. **Attachment 3** will be used.

9.2. The commander will notify the individual of the removal of IH.

9.3. The servicing MSSQ/MSPU will follow the notification procedures described in paragraph **5.4.** in advising appropriate agencies of removal of IH.

### **10. Procedures for Imposition of IRS.**

10.1. When a member is the subject of or a witness to a UCMJ incident, or is the subject of other administrative actions or investigations, the member's unit commander will:

10.1.1. Obtain all available information concerning the incident or investigation.

10.1.2. Prepare in writing and forward to the servicing SJA:

10.1.2.1. Identification data to include name, grade, SSN, DEROS, and organization of the individual concerned.

10.1.2.2. A concise summary of the facts and circumstances of the incident or investigation.

10.1.3. Consult the SJA to determine the necessity of placing the individual in IRS.

10.1.4. Upon receipt of the notification that a member has been placed in IRS, inform the member by written order that he is on IRS and that he will not leave the ROK until the Involuntary Retention (IR) is removed. The member will acknowledge receipt of the order in writing.

10.2. The SJA will:

10.2.1. Review the summary and other related information and determine whether the individual should be placed in IRS. Such action usually would be appropriate where the individual's DEROS was within two months or where TDY or leave was anticipated. Other circumstances, such as an anticipated lengthy investigation, might warrant IR.

10.2.2. When appropriate, initiate IR on the individual in order to ensure his presence in the ROK until the incident or investigation has been resolved by notifying the servicing MSSQ/MSPU,

using **Attachment 4**. Such action should be taken after consultation with the unit commander. In the event of a disagreement, the installation commander will determine the appropriateness of IR action. A copy of the notification will be forwarded to the individual's commander.

10.2.3. Maintain a file of all actions taken to initiate IRS, including a copy of the summary prepared by the unit commander as per **10.1.2**.

10.3. The servicing MSSQ/MSPU will:

10.3.1. Use **Attachment 2** to acknowledge receipt of notification of IRS, and forward it within one duty day. Maintain a current roster of personnel in IRS, a copy of which will be provided monthly to the appropriate SJA. The roster listing will include the individual's name, grade, SSN, DEROS, DOS, and organization.

10.3.2. Upon receipt of notification, identify and separately maintain the individual's Unit Personnel Records Group.

## **11. Procedures for Removal of IRS.**

11.1. When IRS has served its purpose, the SJA or installation commander will use **Attachment 4** to notify the servicing MSSQ/MSPU and the individual's unit commander to remove the IRS. The installation commander should consult with the SJA before removing IRS.

11.2. The unit commander will notify the individual of the removal.

11.3. The servicing MSSQ/MSPU will follow the notification procedures described in paragraph **10.3** in advising appropriate agencies of removal of IRS.

**12. Custody of USAF Military Personnel by US Army or Navy Authorities.** Upon notification that US Army or Navy authorities have custody of a USAF military person who may require imposition of IH or IRS, the Air Force official receiving the notification will immediately notify the individual's unit commander, who will initiate the procedures set forth in paragraphs **5** and **10**.

## **13. Special Procedures for Non-USAF Person in USAF Custody.**

13.1. Civilians. Procedures governing action to be taken in cases involving civilians are contained in USFKR 1-44 and AFI 51-703.

13.2. Other US Armed Forces Personnel. USAF officials receiving custody of military personnel of any other branch of the US Armed Forces will immediately notify the appropriate service authorities through designated SP liaison channels.

RONALD W. IVERSON, Lt General, USAF  
Commander

**Attachment 1****FKJA-IA MEMORANDUM IMPOSING INTERNATIONAL HOLD  
HEADQUARTERS, UNITED STATES FORCES, KOREA**

UNIT #15237

APO AP 96205-0010

REPLY TO ATTENTION OF: FKJA-IA (27-50b)

MEMORANDUM FOR (Servicing SJA)

SUBJECT: International Hold on (Member's Name)

1. Reference USFKR 1-44, paragraph 6m, dated 10 May 94.
2. International Hold is hereby imposed on the subject individual, who was involved in a SOFA incident.
3. The subject individual should not be allowed to depart from the Republic of Korea as he is being investigated for possible charges by the ROK authorities. The US-ROK SOFA requires the US to maintain his custody until the completion of all judicial proceedings. The nature of the custody imposed by you must be such as to ensure the following:
  - a. He is available to appropriate ROK authorities upon reasonable request for his presence at pretrial investigations, at the trial itself, and at any appellate proceedings.
  - b. His whereabouts are known at all times.
  - c. He will not interfere with the orderly administration of justice (e.g., no intimidation or subornation of witnesses, or interference with the collection or preservation of evidence).
4. Contact your servicing Military Personnel Flight to ensure the member's status is properly coded in the system. Also contact your servicing ITO or TMO to ensure that any port call reservations are canceled while international hold is in effect.

5. Any attempt by the member to leave the Republic of Korea must be immediately reported by telephone to the International Affairs Division, Office of the Judge Advocate, HQ, USFK (Tel: 723-8707/8968), and the Joint Police Information Center, Office of the Provost Marshal, HQ, USFK (Tel: 738-8070/3688).

6. Request written confirmation, in the format shown at USFKR 1-44, Appendix K, signed by the individual, be forwarded this HQ, ATTN: FKJA-IA as soon as possible.

FOR THE JUDGE ADVOCATE

(Signature Block)

Chief, International Affairs Division

CF:

FKPM-O, UNIT #15237, APO AP 96205-0010

EMBASSY, ATTN: PASSPORT SEC, UNIT #15550, APO AP 96205-0001

AMERICAN CONSULATE BR, ATTN: AM CITIZEN SVCS, UNIT 15485, APO AP 96259-0002

COMMANDER

51 SPS/SPOLM (BORDER CLEARANCE), APO AP 96278

8 SPS (CUSTOMS/BORDER CLEARANCE), APO AP 96264

631 AMS, APO AP 96278

25 TRANS (MC), ATTN: ANATCO, UNIT #15264, APO AP 96205-0037

**Attachment 2**

**FKJA-IA MEMORANDUM TO REMOVE INTERNATIONAL HOLD  
HEADQUARTERS, UNITED STATES FORCES, KOREA**

UNIT #15237

APO AP 96206-0010

REPLY TO ATTENTION OF: FKJA-IA (27-50b)

MEMORANDUM FOR (Unit Commander)

SUBJECT: International Hold Removal on (Member's Name)

Pursuant to USFKR 1-44, paragraph 6m(4), dated 10 May 1994, the international hold previously imposed on the subject individual is hereby removed.

FOR THE JUDGE ADVOCATE:

(Signature Block)

Chief, International Affairs Division

CF:

FKPM-O, UNIT #15237, APO AP 96205-0010

EMBASSY, ATTN: PASSPORT SEC, UNIT 15550, APO AP 96205-0001

AMERICAN CONSULATE BR, ATTN: AM CITIZEN SVCS, UNIT #15485, APO AP 96259-0002

COMMANDER,

51 SPS/SPOLM (BORDER CLEARANCE), APO AP 96278

8 SPS (CUSTOMS/BORDER CLEARANCE), APO AP 96264

631 AMS, APO AP 96278

25 TRANS (MC), ATTN: ANATCO, UNIT #15264, APO AP 96205-0037

**Attachment 3**

**MEMORANDUM TO IMPOSE OR REMOVE IH**

MEMORANDUM FOR (Servicing MSSQ/MSPU)

(Unit Commander)

FROM (Servicing SJA)

SUBJECT: (Imposition) (Removal) of International Hold

The following personnel have been (placed on) (removed from) International Hold (IH) by USFK-JA. Investigation of and/or action against such personnel as a subject or a witness to a SOFA incident under the SOFA, has been (initiated) (terminated).

Coordination with this office before any TDY, leave, DOS, PCS, or other absence of the above individual(s) is (no longer) required.

[Your attention is directed to 7 AFI 51-701 for guidance on processing IH. The unit commander will personally advise the individual that he is on IH status, issue a written order not to leave the ROK until the IH has been removed, obtain written acknowledgment of receipt of the enclosed USFK-JA letters, and cancel any pending leave or TDY request or approval.]

Acknowledge receipt of this notification and return to this office.

FOR THE COMMANDER

Staff Judge Advocate

1st Ind, (Servicing MSSQ/MSPU)

TO: Unit Commander

JA

Receipt acknowledged. The above listed personnel were (placed on) (removed from) IH on:

Chief, Personnel Utilization Section

cc:

AFOSI

Commander, all Ports of Embarkation

SPS/CC/LE/SPOL

MSPAR/MSPQ

2nd Ind (Unit Commander)

TO: JA

I took the appropriate actions in regards to the above named personnel.

Unit Commander

1 Use only when placing a member on IH.

**Attachment 4**

**MEMORANDUM TO IMPOSE OR REMOVE IRS**

MEMORANDUM FOR (Servicing MSSQ/MSPU)

(Unit Commander)

FROM (JA)

SUBJECT: (Placement) (Removal) of Involuntary Retention Status

The following personnel should be (placed on) (removed from) IRS. Investigation of and/or action against such personnel as subject(s) and/or witness(es) under the Uniform Code of Military Justice, or other administrative provisions, have been (initiated) (terminated).

Coordination with this office prior to any TDY, leave, DOS, PCS, or other absences of the above individual(s) is (no longer) required.

Acknowledge receipt of this notification below and return to this office.

FOR THE COMMANDER

Staff Judge Advocate

1st Ind, (Servicing MSSQ/MSPU)

TO: Unit Commander

JA

Receipt acknowledged. The above listed personnel have been (placed on) (removed from) IRS on:

Chief, Personnel Utilization Section

cc:

AFOSI

Commander, All Ports of Embarkation

SPS/CC/LE/SPOL

MSPAR/MSPQ