



Security

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This manual provides guidance for security forces personnel to use during security forces activities. . It provides procedures for search and seizure, apprehending and detaining subjects, rights advisements, interviewing, report writing and testifying. Maintain and dispose of records created as a result of processes prescribed in this AFMAN in accordance with AFMAN 37-139, *Records Disposition Schedule*. Refer recommended changes and conflicts between this and other publications to HQ AFSFC/SFOP, 1720 Patrick Street, Lackland AFB, TX, 78236, on the AF Form 847, **Recommendation for Change of Publication**. It applies to military, civilian and contract personnel as well as military personnel assigned from other US military branches assigned or attached to Air Force Units. This manual applies to the Air National Guard (ANG). ANG units will consult State Judge Advocates for state requirements. This manual is not a substitute for consulting with the Staff Judge Advocate for changes in law that may affect the activities of Security Forces as outlined in this manual.

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Chapter 1

SEARCH AND SEIZURE

1.1. Search, Seizure, Search Authorization and Conducting a Search.

1.1.1. Search. A search is an examination of a person, property or premises to uncover evidence of a crime or criminal intent, such as stolen goods, burglary tools and weapons. Only to be used in limited circumstances, a “stop and frisk” search is an examination of a person to uncover items which may be used to harm security forces members or others in the area. See *Terry v. Ohio*, 392 U.S. 1.

1.1.2. Seizure. A seizure is the taking of items by authorities, for evidence at a courts-martial or other judicial or administrative proceedings. Property that is the object of a search and subject to seizure includes:

1.1.2.1. Property of the United States held by persons believed to have gained the property illegally.

1.1.2.2. Contraband, which is defined as anything illegal for an individual to possess.

1.1.2.3. Stolen or other property, the possession of which has resulted from the commission of a crime (considered "fruits of a crime").

1.1.2.4. Property used to commit a crime, which is considered tools of a crime. For example, a vehicle used to commit a felony is a tool of a crime and may be subject to seizure.

1.1.2.5. Weapons or property that might be used by a person in custody to affect an escape or inflict injury.

1.1.2.6. Everything that is of evidentiary value. Such property is subject to lawful seizure when listed in a search authorization, search warrant or when it is the object of a lawful search. All property subject to search and seizure may be seized without further authority whenever seen in plain view during the course of any legal activity. Such items may be seized when observed whether in the course of a search or not.

1.1.3. Search authorization (authorization to search). AF Form 1176, **Authority to Search and Seize**, is the official Air Force search authorization form. A search authorization is a written or verbal order issued by competent military command authority to an authorized person to conduct a search. (See paragraph 1.2.) Search authorizations are based upon probable cause and describe the person, place or thing to be searched and specific objects being sought. When practical, a search authorization should be shown to the concerned parties at the scene. A search warrant is an authority to search issued by civilian authorities. Since search authorizations and search warrants refer to different concepts and are subject to different rules, personnel must maintain the distinction between them. The terms are not interchangeable.

1.1.3.1. Probable cause to search exists when there is a reasonable belief that the person, property, or evidence sought is located in the place or on the person to be searched. A search authorization may be based on hearsay evidence in whole or in part. Further guidance on probable cause determination is found in M.R.E. 315.

1.1.3.2. Search Affidavit: An affidavit is a statement of “Probable Cause” supporting your request for Authorization to Search and Seize. This affidavit must be completed by the person requesting

search authority and must be read word-for-word to the Staff Judge Advocate (SJA). After coordinating with the SJA the affidavit is read word-for-word to the military magistrate or commander with the authority to authorize the search. This will ensure each party was given identical information. The best practice, following initial coordination with the SJA, is to read the affidavit to the SJA and military magistrate or authorizing commander, in person or through a conference call. In cases where time is critical (i.e., to prevent loss of evidence), the person requesting the search authority can verbally relay the “probable cause” information and complete the affidavit within 24 hours. The affidavit must still contain the same information that was relayed to the SJA and the military magistrate or authorizing commander.

1.1.4. Conducting a search. Any search must be conducted in places where objects sought could reasonably be found. For example, if searching a room for a portable TV measuring approximately 25 inches by 30 inches, confine the search to those areas where the TV could be located, looking inside a small drawer would be unreasonable. A person who conducts unreasonable or illegal searches may be subject to criminal prosecution and civil action for damages. The search ends when the object being sought is located. Investigators or security forces members must know when searches are lawful. A security forces member may search:

1.1.4.1. With a previously obtained search authority as specified in [1.2](#).

1.1.4.2. Incidental to lawful apprehension of a person subject to the Uniform Code of Military Justice (UCMJ) or when detaining civilians for lawful cause. This search is limited to the person apprehended and his/her immediate area. This search is conducted to protect the apprehending/detaining authority as well as to prevent the loss or destruction of evidence.

1.1.4.3. When immediate action is required to prevent the disposal of evidence. Searches may be made, in an emergency, to prevent the disposal or destruction of contraband or stolen property. A security forces member should always attempt to obtain a search authorization. The local Staff Judge Advocate (SJA) should be contacted for specific guidance and local procedures for search and seizure.

1.1.4.4. When a consent to search is given, such consent should be obtained in writing on AF Form 1364, **Consent for Search and Seizure**. Ensure the individual reads his/her absolute right to give consent to a search, that they can limit the search by time or by location and they can cancel the search at any time. Ensure the individual understands that, if he/she does consent to a search, anything found in the search can be used against him/her in a criminal trial or in any other disciplinary or administrative proceeding. Ensure the individual understands that, if he/she does not consent, a search cannot be made without a search authorization, search warrant or other authorization recognized by law. When the AF Form 1364 is not available, written consent may be given in any format or on any available material. Such written consent may be valid provided it indicates it was freely and voluntarily given and indicates the time, date, persons and places to be searched. It is always wise to obtain an AF Form 1176, **Authority to Search and Seize**, when time permits. (NOTE: The law does not require the advisement of Article 31 or 5th Amendment rights to persons who voluntarily give permission for a search).

1.2. Authority for Search and Seizure. Authority for search and seizure is dependent upon the location in which a search is conducted and/or the person to be searched. This authority usually depends on whether the search is on base, off base, outside the United States or in U.S. Postal channels.

1.2.1. Power to authorize. Authorization to search may be granted by an impartial individual in two categories:

1.2.1.1. A commander or other person serving in a position designated by the Secretary concerned as either a position analogous to an officer in charge or a position of command, who has control over the place where the property or person to be searched is situated or found, or, if that place is not under military control, having control over persons subject to military law or the law of war. M.R.E. Rule 315 (d)(1).

1.2.1.2. A military judge or magistrate prescribed by the Secretary of Defense or the Secretary concerned. M.R.E. Rule 315 (d)(2). AFI 51-201, paragraph **3.1.**, sets forth the requirements of the Military Magistrate Program. It states that the commander of the lowest organizational level having command over an Air Force installation, who is either a special courts-martial convening authority (SPCMCA) or general courts-martial convening authority (GCMCA), or, at AFRES bases and stations, the senior Air Reserve Technician commander, may appoint in writing up to two officers of judicial temperament to serve as military magistrates for the installation. A military magistrate is authorized to issue search and seizure authorizations based upon probable cause. The magistrate exercises authority concurrently with the installation commander.

1.2.2. On base search authority. Although squadron commanders may authorize a search within their squadron areas, the common practice is to get search authority from the installation commander or military magistrate. The installation commander or military magistrate can order a search within any area of the base.

1.2.3. Off base search authority (CONUS). If a security forces member desires to conduct an off base search in the home of a member subject to the UCMJ, strict compliance with State or Federal laws is required. Security forces members cannot personally obtain search warrants to search off base quarters of military personnel. The installation commander's authority to search does not apply off base. Search warrants for off base searches may be obtained and executed by civil authorities and, in some circumstances, Air Force Office of Special Investigations (AFOSI) agents. Civil authorities must show why the warrant should be issued, must state the place to be searched and must specify items which are being sought in the search. Security forces members may participate in an off base search, if requested to assist by the civil authorities, subject to the limitations of the *Posse Comitatus Act* (18 U.S.C. § 1385). If a member subject to the UCMJ gives written permission for a security forces member to search their quarters, a search may be conducted without a search warrant. Use AF Form 1364, *Consent for Search and Seizure*, to document this permission.

1.2.4. Search authority outside the United States. On base searches overseas are conducted in the manner previously described for on base searches. Searches of off base military personnel's homes and property depends on local agreements between the U.S. and the host nation where American personnel are stationed. The commander of an Air Force installation issues procedures for off base searches in a foreign country, with the advice of the local SJA. Off base searches of persons not subject to the UCMJ are strictly the concern of local authorities unless otherwise stated in local directives or agreements.

1.2.5. Search and seizure in postal channels. Searches in postal channels require very specific handling. Contact the SJA for further guidance.

Chapter 2

APPREHENDING AND DETAINING SUBJECTS

2.1. Apprehension on Military Installations. Rules for Courts-Martial (RCM) 302(c) and Article 7b, UCMJ, gives security forces the authority to apprehend any persons subject to the UCMJ, regardless of rank. Security forces personnel may apprehend any person subject to the UCMJ if that person has reasonable grounds to believe an offense has or is being committed and the person being apprehended committed or is committing it.

2.1.1. Reasonable grounds means there must be the kind of reliable information that a reasonable, prudent person would rely on, which makes it more likely than not that something is true. A mere suspicion is not enough, but proof which would support a conviction is not necessary. A person who determines probable cause may rely on the reports of others. (R.C.M., Rule 302(c) Discussion).

2.1.2. Title 18, United States Code, and the US Constitution authorize the detention of civilians for offenses committed on a military installation. Since civilians are not normally subject to the UCMJ, refer civilian violators to a US Magistrate for judicial disposition or to the local civil authorities having jurisdiction.

2.1.3. Installation CSF, with the advice of installation SJA, will establish local procedures for handling civilian offenders.

2.1.4. The installation commander or appointed magistrate authorizes apprehensions in private dwellings. If you are going to someone's on-base quarters solely to apprehend a suspect for a crime, Supreme Court and military court cases require you first get authorization to apprehend from an appropriate commander. The same rule also applies if the suspect is in someone else's quarters, but not other locations. This action is documented on an AF Form 3226, **Authority to Apprehend in Private Dwelling**. *NOTE:* This procedure is not required during emergencies or circumstances requiring immediate action.

2.2. Off Installation Patrols. Security forces performing patrol duties off the installation have the authority to apprehend military personnel. Off installation patrols should use civilian law enforcement officials to identify all suspected military violators in civilian clothing if possible. Develop policies and procedures for patrol activity conducted off installation in consultation with local law enforcement officials and the SJA.

2.2.1. Overseas. The installation commander may authorize off installation patrols. Coordinate with the MAJCOM SJA before authorizing off installation patrols. Security forces maintain the authority to apprehend military personnel on or off the installation in an overseas environment. The authority to detain civilians on a US military installation varies in each host nation. Bilateral agreements and directives must specify such limitations.

2.3. Terms Explained. Because most apprehensions in the Air Force are made by security forces, security forces personnel must understand when and how to apprehend and restrain persons in custody. In this section, we will discuss the terms, procedures and precautions associated with apprehension and restraint. This knowledge will enable personnel to exercise authority correctly.

2.3.1. **Apprehension.** Apprehension is the taking of a person into custody. Any officer, warrant officer, noncommissioned officer (NCO) or other person designated by proper authority to perform guard, police or criminal investigation duties may apprehend a violator.

2.3.2. **Custody.** Custody is the restraint of free movement. An apprehension occurs when a security forces member tells a suspect they are under apprehension. Once apprehended and in the custody of the person who effected the apprehension, security forces control the movements of an offender. Protect the health and welfare of all apprehended suspects.

2.3.3. **Physical Restraint.** Physical restraint is the loss of free movement that results from being taken into custody. It may or may not involve the use of force. Even if force is not used, security forces members must be able to apply force if needed to make an apprehension. The use of force depends on whether the offender submits to the apprehension and must remain proportional to the level of resistance encountered.

2.4. Searches. Immediately upon apprehending/detaining a suspect, conduct a search or a simple frisk of the suspect for weapons and any evidence that the suspect could remove or destroy. This emphasizes the safety of the security forces and the apprehended individual. The apprehending security forces member makes the decision to frisk (without handcuffs) or to search (handcuffed). Base this decision on the situation at hand. The situation may also warrant a search of the area under the suspect's immediate control.

2.5. Spontaneous Utterances. Situations will arise when an individual contacted by security forces personnel will voluntarily offer an incriminating statement. A common example occurs when a suspect, upon initially being contacted and informed of the purpose of the contact, offers a voluntary statement prior to the administration of any rights advisement. Another example is the statement made by a suspect after being detained while being transported in a government vehicle. The admissibility of these statements is determined on a case-by-case basis and is governed by a variety of factors including whether the statement was spontaneous, unsolicited and freely made prior to any attempt at interrogation. Such volunteered statements are not automatically barred but will be subject to close scrutiny.

2.6. Rights Advisement. Advise suspects of their right against self-incrimination according to the UCMJ, Article 31 (military personnel), or the US Constitution, Fifth Amendment (civilian personnel). Use the AFVA 31-231, **Advisement of Rights**, for verbal advisement (usually on-scene) or the AF Form 1168, **Statement of Suspect/Witness**, for documented proof of rights advisement (usually prior to taking a written statement). Rights advisement is discussed in detail in [Chapter 3](#).

2.7. Use of Force. Comply with AFI 31-207, *Arming and Use of Force by Air Force Personnel*, during apprehension and detention of suspects. Always use the minimum force necessary when placing a suspect under apprehension. Use handcuffs, chemical irritant projectors, batons and firearms only when specifically trained in their use. In addition, security forces members must strictly adhere to USAF standardized employment procedures.

2.7.1. **Handcuffs.** The courts consider handcuffing a use of force; therefore, security forces members must carefully analyze each situation to ensure personnel use the minimum level of force to protect themselves and others from injury. During an apprehension, apply handcuffs to ensure control of the apprehended individual during detention and search, at the apprehension site and during transport. When applying handcuffs, use a reasonable level of force necessary to achieve control of a resisting detainee. Inform unresisting detainees of the handcuffing procedure and give them the opportunity to

cooperate. Use handcuffs as a precaution against an apprehended person who may become uncooperative or violent, to prevent escape or to ensure personal safety.

2.7.2. Chemical and inflammatory agents. Use authorized chemical agents like mace and inflammatory agents such as pepper spray as an intermediate level use of force within the United States and its territories and possessions.

2.7.3. Police club and riot baton. The installation CSF, with consent of the installation commander, determines the need and use of the police club and riot baton. If the CSF decides to authorize the use of the police club, the following guidelines apply:

2.7.3.1. Do not use the PR-24 police baton.

2.7.3.2. If the CSF considers the police club necessary for normal wear, then consider the unobtrusive, collapsible type.

2.7.4. Firearms. Security forces personnel routinely bear firearms in the performance of their duties. AFI 31-207 contains specific criterion for their authorization and use. When responding to an incident where an individual may meet an armed adversary, place firearms at the ready position. Use realistic and safe exercises to develop the sound judgment required in situations that may involve the use of deadly force. Supervisors and exercise participants must follow the safety considerations outlined in AFI 31-207.

2.8. Transporting Apprehended or Detained Persons. Search or frisk all persons in custody for weapons and contraband before placing them in a security forces vehicle and transporting them. Handcuff suspects prior to transport. Always use installed seatbelts. For additional information, refer to Chapter 9, AFMAN 31-222, *Security Forces Use of Force Manual*.

2.8.1. When transporting a suspect, notify the respective control center of the departure time and destination arrival time (along with odometer readings) for inclusion in the control center blotter.

2.9. Apprehension Considerations. Because most apprehensions in the Air Force are made by security forces, they must understand not all situations require an apprehension. Security forces may exercise discretion utilizing the principles of fairness and reasonableness. Most minor violations require only an on-the-spot correction or warning, incident report or traffic ticket. The decision to apprehend depends on the facts and circumstances of the offense, judgment and experience. Once a decision is made to apprehend, the objective is to remove the suspect from the area with minimum delay. For this reason, make an apprehension without hesitation or argument.

2.9.1. When to apprehend: Apprehensions are based on probable cause, which means a reasonable belief that a person committed an offense. If the facts and circumstances indicate a person committed an offense, then apprehension is justified.

2.9.1.1. By observation. Sometimes, the security forces member personally sees an offense. Disorderly conduct and traffic violations are examples. Planned offenses usually are not committed while security forces are in the area. When a security forces member observes an offense that requires apprehension, act immediately.

2.9.1.2. By report. Many complaints are received at security forces operations by telephone or in person. A patrol may be dispatched to investigate and make necessary apprehensions or the complaint may be referred to the investigation section, depending on the need for immediate action.

2.9.2. Approach. Two factors to keep in mind when approaching a suspect to effect an apprehension are position and attitude.

2.9.2.1. Position. When approaching a suspect, move toward the person from a direction most advantageous to the security forces member. When addressing a suspect, the individual naturally tends to face the person speaking. If the security forces member plans to question the person or check identification, stay far enough away that the suspect cannot kick or strike the security forces member in one motion. The assisting security forces member should stand to one side to help from a position of advantage.

2.9.2.2. Attitude. Security forces members with aggressive, belligerent or domineering attitudes provoke violence, create ill-will and reflect discredit upon the security force's organization. Politeness is not a sign of weakness; it is the most effective way to deal with people. A smooth, courteous and efficient approach and a firm, but friendly, conversational tone usually calms all but the most violent offenders.

2.9.3. Evaluation. The security forces member must evaluate the attitude and physical condition of a suspect before deciding the course of action.

2.9.3.1. Attitude of suspect. Don't be fooled into a false sense of security by a suspect's cooperative attitude. There is always a chance a suspect may become hostile. Therefore, keep alert so personnel can react immediately to any situation.

2.9.3.2. Physical condition. Always check a suspect for injuries that may need medical attention. This is particularly important if the suspect has been in a fight or has consumed intoxicants. An apparently minor injury could be serious and the few minutes for medical attention can prevent serious injury or death. Also, concern on the part of the security forces could negate allegations of negligence.

Chapter 3

RIGHTS ADVISEMENT

3.1. The 5th Amendment. The 5th Amendment to the United States Constitution specifies that "a person shall not be compelled to furnish evidence or be a witness against himself." This means compulsory self-incrimination is prohibited. Supreme Court decisions give us the basis of rights advisement requirements. Through the years, court decisions have clarified and expanded rights advisement procedures. In *Miranda v Arizona*, 384 U.S. 436, the U.S. Supreme Court ruled that individuals subject to custodial interrogation by law enforcement personnel must be informed of their Constitutional rights.

3.2. Article 31, Uniform Code of Military Justice (UCMJ). In the civilian system, a suspect is not entitled to Miranda rights unless he or she is in custody. This typically occurs when the suspect is arrested. Under Article 31, UCMJ, it is not necessary for a military member to be apprehended for Article 31 rights to apply. Under the UCMJ, authorities must always inform a suspect of his or her Article 31 rights. Article 31 rights are administered prior to questioning and must precede interrogation of any kind. Article 31 is more expansive than the 5th Amendment in protecting military members' rights. It states:

3.2.1. "Article 31 states, no person subject to the UCMJ may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him."

3.2.1.1. Self-incrimination is defined as an action by a suspect or accused which would tend to prove the suspect's guilt in an offense. It may be a statement that the suspect committed an offense, but it is not limited to this. Especially in military law, acts other than verbal or written statements are protected by the rules against self-incrimination. In addition, a person's right not to make a statement extends even to statements that are not incriminatory in that a statement by an accused that appears to contain no incriminating material may by the time of trial prove to be incriminating.

3.2.1.2. Compulsion is any kind of mental or physical force that causes a person to do something against his/her will. The suspect must not be threatened, tricked or cajoled into waiving any rights; nor can he/she be promised anything to waive his/her rights.

3.2.2. Article 31 (b) states, "No person subject to this chapter may interrogate or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial." Prior to any interrogation or statement request, M.R.E. Rule 305 (c) and (d) requires that an accused or a person suspected of an offense be:

3.2.2.1. Informed of the nature of the accusation. The explanation of the nature of the offense should include the crime involved, the place of the incident and the date of the incident (example: Theft of government typewriters from Building 20352A, Kirtland AFB, NM, 1 Jun 91). It should not normally disclose the identity of witnesses or sources, specific detailed testimony or facts. It is not considered adequate to simply advise the suspect the investigation concerns a specific case type such as larceny, misconduct, etc.

3.2.2.2. Advised of the right to remain silent;

3.2.2.3. Advised that any statement made may be used as evidence against the accused or suspect in a trial by courts-martial.

3.2.2.4. Advised they have a right to legal counsel and to have a lawyer present during the interview. As a result of court decisions, a person accused or suspected of an offense has a right to consult a lawyer before being questioned and a right to have a lawyer present during any questioning; and that, if they are unable to afford a lawyer, one will be appointed for them, at their request. Under military law, this applies to military members, with the further provision that a military lawyer will be provided on request regardless of whether the member is able to afford a lawyer. See M.R.E. Rule 305 (d) for more detailed counsel rights and warnings.

3.2.2.4.1. The Air Force Judge Advocate General has instructed SJAs that, in foreign countries, U.S. Government employees, non-appropriated fund employees (who are not foreign nationals) and military family members will be afforded the same assistance as military personnel, including designation of military counsel, if desired.

3.3. When to Advise. Individuals suspected of committing a crime must be advised of their rights. Determine whether or not an individual is a suspect by all known surrounding circumstances, not just by opinion or belief. If, in questioning a witness, the security forces member seeks responses that could be incriminating, they should advise the individual of his/her rights. When there is doubt, consult with the servicing SJA.

3.4. Rights Advisement Procedures. While there is no requirement that Article 31 (military) or the Fifth Amendment (civilians) be read verbatim to an accused, it is essential that the applicable rights provision be clearly stated before the suspect is questioned. Rather than attempting to advise a suspect of his/her rights from memory (that may be called into question during a courts-martial), it is best to use the appropriate advisement of rights (Article 31, UCMJ, or 5th Amendment) directly from AFVA 31-231. Rights advisement must be given to all suspects regardless of any explanation or statement by the suspect that he/she understands his/her rights. (Example: Even though a security forces member under investigation states he/she understands his/her rights and therefore does not need advisement, the investigating security forces member must still follow the procedure of formal rights advisement). Advise the individual of his/her rights in the same manner prior to any re-interview or questioning concerning any offense that would not be covered by the original advisement and remind of the original rights advisement.

3.4.1. In lieu of using the AFVA 31-231 for rights advisement, the advisement can be given directly from the AF Form 1168, **Statement of Suspect/Witness/Complainant**. This statement is read, dated, completed and signed by the suspect before the actual questioning occurs. If the suspect declines to sign the AF Form 1168 (but does not request an attorney), the advisement of rights should be witnessed and the AF Form 1168 annotated to reflect the fact that the subject was so advised and refused to sign the form, but verbally consented to the interview. The form should be dated and signed by the interviewer and the witness. AF Form 1168 contains both the military and civilian rights advisement.

3.4.1.1. Before any statement obtained from a suspect during an interrogation may be admissible in court, prosecution must establish that the suspect waived his/her right to remain silent. The AF Form 1168 provides written documentation the prosecution may offer as evidence at courts-martial. The form also helps establish the suspect was properly advised of his/her rights.

3.4.2. Do not begin the interview until the suspect specifically states he/she understands and waives his/her rights. For example, if after the advisement of rights, the suspect states he/she does not want to

answer questions or make a statement, but would like to ask some questions, the suspect should be allowed to ask the questions or otherwise make unsolicited comments. The interviewing security forces member may make direct replies to such questions, but will not pose any questions or prolong the conversation in any way. The point of discussion should be to either proceed with the interview under the advisement or terminate the interview. If the suspect subsequently waives his/her rights, the interview may begin. If the suspect initially exercises the right to remain silent or exercises that right at any time during an interview, the interview must be terminated. Similarly, if the suspect initially exercises the right to counsel or exercises that right at any time during the interview, the interview must cease until counsel is present. See M.R.E. 305. Although this is the general rule, there are limited exceptions. In every case, the investigator should not reinitiate an interview with the suspect without first coordinating the interview with the SJA.

3.4.3. If the suspect (the juvenile or parent, in cases involving juveniles) states he/she wants a lawyer, the interview must stop. The suspect must have an opportunity to contact and consult with a lawyer and to have a lawyer present during any subsequent questioning.

3.4.4. In cases involving juveniles (nonmilitary individuals under the age of 18), after proper advisement of rights and consent to be interviewed is granted, the interview should be done in the presence of at least one parent – both if possible. If neither parent can be present during the interview, two security forces personnel will be present during the interview. Also, if neither parent is present, the security forces member making contact with the parent(s) must inform the parent(s) that the juvenile has a right to counsel prior to the interview.

3.4.5. In cases involving the opposite sex, refer to the procedures as identified in paragraph **4.5.1**.

3.4.6. In foreign countries, consult the servicing SJA to determine the proper procedure for advising foreign nationals of their rights prior to an interview.

3.5. Understanding Advisement of Rights. It is not only required that suspects be informed of their rights, but it is also imperative that security forces ensure suspects understand their rights. Evidentiary problems may result if statement is taken from a suspect who is so intoxicated or unable to speak English fluently so that he/she is unable to understand his/her rights advisement.

Chapter 4

INTERVIEWING

4.1. The Interview. An interview is the questioning of a person who has or, is believed to have, information of official interest to the interviewer. In an interview, the person being interviewed gives an account of his/her knowledge of an incident that is of interest to the interviewer. After the person gives his/her account of an incident the interviewer should review the information and clarify any points which are in contradiction to previously obtained information; or, are just unclear or vague.

4.2. Interrogations. An interrogation is the questioning of a person(s) suspected of having committed an offense or of a person who is reluctant to make a full disclosure of information in his/her possession and pertinent to an investigation. A person suspected of committing an offense must be advised of their rights.

4.3. Interview Purposes.

- 4.3.1. To gain information in order to establish the facts of a crime and to develop background information on specific crimes and/or offenses.
- 4.3.2. To verify or corroborate previously learned information.
- 4.3.3. To identify any additional witnesses and to eliminate suspects.
- 4.3.4. To identify perpetrator(s) and accomplice(s).
- 4.3.5. To secure additional evidence.
- 4.3.6. To discover details of other offenses.

4.4. Human Factors. Because human factors influence the outcome of an interview, the investigator must understand the interviewee's motivation, fears and mental make-up.

4.4.1. Perception of Memory. The quality of the information received by the investigator during the interview or interrogation will be affected by the interviewee's ability to recall correctly and then transmit facts accurately to the investigator. Many things may influence the perception of events but the most common causes of mistakes made in recalling information are:

- 4.4.1.1. Weakness of the interviewee's ability to see, hear, smell, touch or taste.
- 4.4.1.2. The location of the interviewee in relation to the incident.
- 4.4.1.3. Lapse of time between the incident and the interview.

4.4.2. Prejudice. Interviewees are sometimes influenced by one prejudice or another. Information should be gathered in detail instead of generalities to prevent prejudices from influencing the disclosure of information given by the interviewee.

4.4.3. Reluctance to Talk. Some interviewees may be reluctant to disclose information to the investigator. There are many reasons for this but some of the more common are:

- 4.4.3.1. Fear of involvement. Some persons, not being familiar with police methods, may fear the police. The fear of publicity or the fear that the subject or suspect may seek reprisals against them or their families, often keeps them from divulging information.

4.4.3.2. Inconvenience. Many persons feel that getting involved in an incident may require a great deal of time and do not want to get involved for this reason.

4.4.3.3. Resentment toward the police. Persons may have had previous negative experiences with the police and because of that, take a suspect's side and refuse to divulge information.

4.4.4. Personality conflicts between the investigator and the interviewee. The investigator should recognize personality conflicts between the investigator and interviewee do occur. If this occurs, the investigator should not take it personally, but should let another investigator do the interview.

4.5. Witnesses to Interview.

4.5.1. Members of the opposite sex. When an investigator interviews an individual of the opposite sex, another security forces member of the same sex, as the interviewee should be present to witness the interview. If a security forces member of the same sex is not available, a second member or investigator should be a witness to the interview.

4.5.2. Juveniles. As in the case of the interview of members of the opposite sex, a witness should be available. If the parents of a juvenile cannot be present, at least one other security forces member or investigator should be present to witness the interview.

4.5.3. If available, another security forces member or investigator should always be present, directly or indirectly, at all witness, victim and suspect interviews.

4.6. Who Security Forces Interview or Interrogate.

4.6.1. Victims. A victim is normally interviewed to develop facts in an investigation. Because the victim may be emotionally upset, the interviewer should be careful information received is not distorted by the interviewee. One may interview a victim at his/her home, place of business or hospital. The interviewer may interview in a place of his/her choosing or at a place the victim has chosen. The interviewer may find it necessary to interrogate a victim as in the case of the victim trying to distort property claims against the government.

4.6.2. Witnesses. A witness is a person, other than a suspect, that has information pertinent to the investigation being conducted. Witnesses may come forward on their own, but sometimes must be sought out by the investigator. Normally, the witness will have information about how an offense was committed, who committed the offense or when the offense was committed.

4.6.3. Complainants. A complainant is a person who reports an incident. A complainant may be the victim, a witness or both.

4.6.4. Suspects. The suspect is one who is suspected of being involved in committing an offense. If the suspect is not willing to come forward and tell his/her story, he/she should be interrogated. Prior to interviewing (interrogating) a suspect, the suspect must be advised of his/her rights.

4.7. Conducting the Interview.

4.7.1. Preparing. Sometimes the investigator will have to conduct an interview on the spot without adequate time to prepare. However, when adequate time to prepare is available, the investigator should thoroughly prepare, prior to the interview. Preparation steps can include:

4.7.1.1. Familiarity with the case. The investigator should, as much as possible, become familiar with the who, what, when, where, how and why of a case.

4.7.1.2. Background of the interviewee. When time permits a background check should be conducted prior to the interview. Facts of particular interest to the investigator could be:

4.7.1.2.1. Age, nationality, race and place of birth.

4.7.1.2.2. Present or former rank.

4.7.1.2.3. Education level, present duty position and former occupation.

4.7.1.2.4. Habits and associates to include hobbies and other off-duty activities.

4.7.1.2.5. Prior offenses committed.

4.7.1.3. Information sought. The investigator, prior to the interview, should decide what information he/she hopes to obtain during the interview. It may be helpful to devise a list of questions the security forces member would like to have answered during the interview. The list will prevent the investigator from having to recall a witness, complainant or suspect because he/she did not ask appropriate questions in the initial interview. (This is not to say that witnesses, complainants, etc., should not be recalled, if further questioning is needed at a later date due to additional or unclear information).

4.7.2. Planning - Time and Place of Interview. It is always best to interview persons as soon as possible, after an incident to preclude the interviewee from forgetting facts surrounding the incident. However, sometimes it may be best to wait and interview a person at a later date in a logical sequence. The investigator, in the case of a cooperative witness, should try and interview the witness at the witnesses' convenience. Interviews should be conducted at reasonable times of the day and be of reasonable duration. A witness may be interviewed at the scene, in his/her home, at his/her place of business or in the investigator's office. With uncooperative witnesses or suspects it is best to interview or interrogate in the established interview room. The interview room should be plainly furnished with a table and chairs and not contain pictures or other objects such as a clock that would distract the suspect. The interviewer should not have a phone in the room, but should have appropriate forms available. ARTICLES SUCH AS WEAPONS SHOULD NOT BE LEFT IN THE INTERVIEW ROOM. It is recommended that a "Do not disturb" sign be placed on the door to preclude unnecessary intrusions during the interview.

4.7.3. Introduction and Identification. At the start of an interview, the investigator should identify himself/herself and, if applicable, show the interviewee his/her credentials. All administrative data applying to the interviewee should be gathered at this time. The introduction allows the investigator to "size-up" the interviewee and give the interviewee time to relax and get in the proper frame of mind. The investigator then should open with a general statement about the investigation without divulging pertinent information or specific facts.

4.7.4. Approaches for Witnesses.

4.7.4.1. Direct approach. When the interviewee is unable or unwilling to give information freely, this approach is used. The approach involves the investigator asking direct questions to elicit responses.

4.7.4.2. Indirect approach. As opposed to the direct approach, the indirect approach is used with the cooperative witness or suspect. The investigator asks a general question and allows the interviewee to tell the story. The interviewer becomes a "listener" instead of a "questioner".

4.7.4.3. Alternating approach. A combination of both, used by alternating between them.

4.7.5. Conducting an Interview. The investigator should establish rapport with the witness or suspect. This is done by relating to the suspect or witness through their likes, such as sports. The interview should remain somewhat friendly, but businesslike and professional. The interviewee should be made to feel that the information given is important and should be allowed to tell the story without continual interruption. The investigator should avoid antagonizing the interviewee. Special care should be given to ensure the investigator controls the interview at all times.

4.7.6. Special Considerations.

4.7.6.1. Victims. The investigator must keep the emotional state of the victim in mind especially victims of violent crime. If the victim is emotionally upset, terminate the interview and reschedule it for a later date when the victim is emotionally capable of handling the interview. Interviewing a victim in this state of mind can lead to obtaining distorted facts. When interviewing a victim, it is best to display concern and consideration for the victim so the victim feels as if he/she has come to the right place. This show of concern may also put the victim off-guard, if the victim is being less than truthful.

4.7.6.2. Photographs and sketches. Photographs and sketches are extremely useful in the interview. The photograph or sketch may be used to refresh the witnesses memory or help the witness explain relationships of people and things at the scene. Care should be taken to ensure all photographs and sketches are preserved and properly identified for further use in court.

4.7.7. Recording The Interview. Special consideration should be given to the taking of notes as the interviewer may need to refer to them months after the interview. Notes should contain the case number, date of interview, person interviewed and the time of the interview. All pertinent data should be recorded to facilitate memory at a later date. Prior to using electronic recording devices consult the local SJA. Security forces members will not use wiretapping or eavesdropping equipment. Request for use of such equipment must be processed through AFOSI. Equipment primarily designed to conduct wiretap/eavesdrop operations is not authorized for security forces.

4.8. Closing the Interview.

4.8.1. Upon completion of the interview the investigator should display his/her appreciation for the cooperation of the interviewee.

4.8.2. Make no promises to the interviewee in regards to confidentiality.

4.8.3. Following interviews with Air Force personnel who are the subject of an investigation, security forces will release the individual to his/her first sergeant, commander, or supervisor. The release must include person-to-person contact between the security forces member and the unit representative, be immediate, and be in writing. DD Form 2708, **Receipt for Inmate or Detained Person**, will suffice for this purpose.

4.8.4. If any individual appears to be emotional, distraught, or stunned following any interview, the interviewee will not be allowed to depart alone. The interviewee can only be released to his or her first

sergeant, commander, supervisor, or their designee. They will help ensure the individual receives the necessary support to safely handle his or her personal crisis.

4.9. Evaluation of Information. After the interview, the investigator should carefully evaluate the information received. This can be done by comparing it to previously received information or specifics which were observed at the scene of the crime. The attitude, as well as the emotional state of the interviewee, may also aid in the evaluation of information.

4.10. Interviewing Civilians. Interviewing civilians is contingent on the jurisdiction of the installation. Interviews of civilians are normally limited to those that are voluntary on the part of the interviewee. If a civilian is suspected of an offense, the SJA must be contacted before proceeding with the interview. If a civilian refuses to be questioned, simply make a written memorandum indicating the facts in the situation. NOTE: Weingarten Rights, under federal law, employees who are members of a recognized bargaining unit are given certain statutory rights. One of these rights specifically impacts upon the manner in which Security Forces may conduct an investigation. A civilian employee who is interviewed by Security Forces personnel during the course of an investigation, who reasonably believes that he/she might be disciplined, and who requests union representation is entitled to have a union representative present during the interview. There is no duty to inform the individual of this right. The individual must be a member of a recognized bargaining unit for the right to attach. Once this is established, however, and the individual makes a request in any form for union representation, the individual must be given an opportunity to contact the union prior to any interrogation. The union representative has the right take an active part in the investigatory interview including the right to confer privately with the employee prior to answering questions and have questions clarified prior to answering. Questions regarding the status of the individual as a bargaining unit employee or possible delays caused by the temporary unavailability of the representative designated by the union should be referred to the SJA.

4.11. Obtaining Statements. Whenever possible, obtain a written statement (AF Fm 1168, **Statement of Suspect/Witness/Complainant**) from an interviewee. In addition, if the statement may have value as evidence, the statement should be sworn to and witnessed.

Chapter 5

REPORT WRITING

5.1. Report Writing. The effectiveness of the security forces is judged largely by the report of investigation. If an otherwise satisfactory investigation is poorly reported the reputation of the security forces organization suffers. The investigative member is a small part of the working team; and unless his/her information is available to other members of the team, proper action cannot be taken in the case. Information is of little use when confined to a notebook or memory; if it is not communicated to others it fails its purpose.

5.2. Purposes of Report Writing. A report of investigation is an official record of all pertinent information disclosed by the investigation. It is prepared by the security forces member or security forces investigator and forwarded. Reports are accomplished for the following purposes:

- 5.2.1. Provides an official record of relevant information.
- 5.2.2. Provides commander, SJA or trial counsel with the facts surrounding an alleged offense.
- 5.2.3. Identifies alleged perpetrator(s), witnesses and complainants.
- 5.2.4. Identifies the location of the incident and the type of incident.
- 5.2.5. Identifies evidence and the location at which it was found.

5.3. Writing the Report. A report of an incident is an objective statement of the security forces findings. When writing a report, always consider the following factors:

- 5.3.1. Preparing to write the report. Prior to actually writing the report, all notes should be organized. Classify and evaluate all items of evidence and background information. Once all items pertinent to the investigation have been evaluated and classified, the security forces member is ready to write the report.
- 5.3.2. Arrangement. Arrange the report to present a word picture in a chronological manner.
- 5.3.3. Style. Reports of investigation must be clear, concise and grammatically correct, to include neatness, proper spelling and accurate punctuation. Quotations may be used if the writer cites the source within the report. Avoid the use of slang and informal language unless they are a direct quote.
- 5.3.4. Content. The incident report should contain all facts pertinent to the investigation. Every relevant detail that tends to prove or disprove facts surrounding the alleged offense must be included in the report. Never exclude material which may be relevant simply because it is felt the particular material would not be admissible as evidence at a trial. Reports should include favorable, as well as unfavorable, information pertinent to the investigation and describe any mitigating circumstances in the case. Identify each person mentioned in an investigative report by last name (capitalized), first name, middle initial, grade, SSN, sex, organization, duty phone, date of birth and position occupied.
 - 5.3.4.1. For civilian or military family members, insert the sponsor's grade, name, SSN, organization and duty phone in parenthesis after the family members name.
 - 5.3.4.2. Use the last name (capitalized) only, each succeeding time the name appears.
 - 5.3.4.3. Use the first and middle initials for persons who have the same last name.

5.3.5. Verification. The information obtained should be verified by as many witnesses and sources as practical. Information in reports is verified by statements from individuals having actual knowledge of the facts. The report should reflect observations by the security forces of the relevant facts, statement or conditions, including any documentary or physical evidence.

5.3.6. Completeness. Ensure that the contents of the report completely and accurately, answer the questions who, what, where, how, when and why. Brevity is important in report writing, but never sacrifice accuracy and completeness to obtain brevity. Use standard English and whenever possible avoid using police jargon.

5.3.7. Forms. Reports are processed on AF Form 3545, **Incident Report**, or the AF Form 1315, **Accident Report**, as appropriate.

5.3.8. The Jencks Act is a federal law dealing with evidence. It requires that all field notes, rough drafts and statements made by SF members and any witnesses, victims or the suspect be saved. Case notes, statements, photographs, sketches and other items connected with the report will be attached to the report for safekeeping.

Chapter 6

TESTIFYING

6.1. The Importance of Testifying. The final and most important test of a security forces member's effectiveness will be his/her appearance in courts-martial, pretrial investigations and discharge boards. The preparation of a case is made with the ultimate goal of presentation. The precautions taken at the crime scene, preservation of evidence, questioning of witnesses and suspects and the detailed incident report will all come together at the trial or hearing. Through adequate preparation, appropriate attitude and the actual testimony, personnel will assist in securing a just decision. NOTE: Prior to testifying and preparing for court or hearing appearances, security forces members must consult with the Staff Judge Advocate office.

6.1.1. Preparation. Prior to being interviewed by counsel and testifying, arrange and review original notes, sketches and photographs to recall all details of the case and be ready to use them while testifying. Careful study of all materials and facts prior to speaking about them will prevent error, confusion and inconsistencies, which may lead to a loss of poise and composure and, thus, undermine credibility.

6.1.1.1. Review the report so the presentation will be consistent. Find out from counsel, when possible, what will be asked, how it will be asked and how the security forces member should present the testimony so that it will be admissible. Report any irregularities about the formalities of the investigation of the accused (such as the search) to the trial counsel before the trial.

6.1.1.2. Check personal appearance when preparing to testify. First impressions are gained as a witness is called to the stand and the attention of the court is constantly directed at the security forces member throughout his/her testimony. Although the uniform to be worn may be specified, personnel must be correctly and neatly dressed.

6.1.2. Attitude. The ultimate goal is to see justice done and the truth revealed.

6.1.2.1. To be convincing as a witness and be successful in avoiding attacks directed toward revealing bias, prejudices, interest and lack of truthfulness, personnel should show no interest whatever in conviction or acquittal of the accused.

6.1.2.2. The best way to show no interest when called to testify is to avoid having an interest in the first place. Always testify freely and frankly.

6.1.3. Testimony. Skill, tact, poise and self-confidence are essential when presenting testimony.

6.1.3.1. Speak in a natural, unaffected tone. The security forces member's speech should be business-like, clear and loud enough for all concerned parties to hear. Answers should be directed to the fact-finder. Avoid using police jargon during testimony. Always be frank and courteous and assume an erect but comfortable posture. Slouching or carelessness in posture may suggest an indifference to the issue at hand.

6.1.3.2. Be certain to understand each question before attempting to answer it. If unsure of what is expected, ask to have the question repeated or explained. Always confine answers to the question being asked. Don't ramble or volunteer unnecessary information.

6.1.3.3. Don't argue with counsel or any party to a trial or hearing. Never lose composure or testify to anything not known. If the answer is not known, say that.

6.1.3.4. Personal knowledge. Testify to only those matters of personal knowledge. Only if asked directly are opinions, suspicions or conclusions given. In most cases personnel will limit their testimony to what they themselves heard, saw, smelled, tasted, did and said.

6.1.3.5. Notes and Memoranda. Witnesses may refer to notes and memoranda to recall facts that have become hazy or been forgotten. Reference to notes is usually permitted if individuals request permission to do so. Coordinate use of notes and memoranda with the attorney calling you as a witness.

6.2. Forms Adopted. AF Form 1168, Statement of Suspect/Witness/Complaint, AF Form 1176, Authority to Search and Seize, AF Form 1315, Accident Report, AF Form 1364, Consent for Search and Seizure, AF Form 3226, Authority to Apprehend in Private Dwelling and DD Form 2708, Receipt for Inmate or Detained Person.

CHARLES F. WALD, Lt General, USAF
DCS, Air and Space Operations

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

Joint Publication 1-02, *DoD Dictionary of Military and Associated Terms*

AFPD 31-2, *Law Enforcement*

AFI 31-201, *Security Police Standards and Procedures*

AFI 31-206, *Security Police Investigations*

AFH 31-218, Vol 1, *Law Enforcement Mission and Procedures*

AFI 31-207, *Arming and Use of Force by Air Force Personnel*

AFVA 31-231, *Advisement of Rights*

Manual for Courts-Martial, (2000 ed.)

Title 18, *United States Code, Section 1382*

US Army FM 19-20, *Law Enforcement Investigations*

Abbreviations and Acronyms

AF—Air Force

AFB—Air Force Base

AFI—Air Force Instruction

AFMAN—Air Force Manual

AFOSI—Air Force Office of Special Investigations

AFSFC—Headquarters, Air Force Security Forces Center, Lackland AFB, TX

AFVA—Air Force Visual Aid

CONUS—Continental United States

CSF—Chief of Security Forces

DoD—Department of Defense

DoDD—DoD Directive

ESBI—Educational Study Block Index

HQ—Headquarters

HQ AFOSI—HQ Air Force Office of Special Investigations

MCM—Manual for Courts-Martial

M.R.E.—Military Rules of Evidence

NCO—Noncommissioned Officer

OCONUS—Outside of Continental United States

OPR—Office of Primary Responsibility

R.C.M.—Rules for Courts-Martial

SF—Security Forces

SJA—Staff Judge Advocate

SSN—Social Security Number

TDY—Temporary Duty

UCMJ—Uniform Code of Military Justice

US—United States

USAF—United States Air Force

USC—United States Code