

**BY ORDER OF THE COMMANDER
UNITED STATES AIR FORCES
EUROPE-AIR FORCES AFRICA**

**UNITED STATES AIR FORCES
EUROPE-AIR FORCES AFRICA
INSTRUCTION 51-402**

29 SEPTEMBER 2020

Law



**SERVICE OF LEGAL PROCESS
WITHIN UNITED STATES FORCE
INSTALLATIONS IN THE UNITED
KINGDOM**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

ACCESSIBILITY: Publications and forms are available on the e-Publishing website at www.e-Publishing.af.mil for downloading or ordering.

RELEASABILITY: There are no releasability restrictions on this publication.

OPR: Det 1, HQ USAFE

Certified by: Det 1, HQ USAFE
(Col Mark Allison)

Supersedes: USAFE-AFAFRICA51-507,
26 January 2015

Pages: 6

This instruction implements Air Force Policy Directive (AFPD) 51-4, *Operations and International Law* and Air Force Instruction (AFI) 51-402, *International Law*. This instruction is consistent with AFI 51-301, *Civil Litigation* and USAFE Instruction 51-706, *Exercise of Foreign Criminal Jurisdiction Over United States Personnel*. By this instruction, the United States Country Representative for the United Kingdom (UK USCR) establishes a uniform procedure for the service of legal process on United States (US) personnel within the boundaries of US Installations. This instruction is applicable to all elements of the US Force, permanently stationed or on temporary duty (TDY) in the UK. This publication applies to Air Force Reserve Command (AFRC) units and to the Air National Guard of the United States (ANGUS). Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with (IAW) Air Force Instruction (AFI) 33-322, *Records Management and Information Governance Program*, and disposed of IAW Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS). Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Forms 847 from the field through the appropriate functional chain of command. This publication may be supplemented, but all direct Supplements must be routed to the OPR of this publication for coordination prior to certification and approval. The authorities to waive requirements in this publication are identified with a Tier number (T-0, T-1, T-2, T-3) following the compliance

statement. See AFI 33-360, *Publications and Forms Management*, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the Publication OPR for non-tiered compliance items.

SUMMARY OF CHANGES

This document has minor administrative changes to include updating dates of applicable references in [Attachment 1](#).

1.	Scope.	2
2.	General.	2
3.	Procedure to be followed.	2
4.	Restriction.	4
Attachment 1— GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION		5

1. Scope. This instruction provides guidance regarding the service of criminal and civil legal process (“service of process”) against US personnel within US Force installations in the UK. “US personnel” is defined as US military personnel, regardless of nationality; civilians who are US nationals and are serving with, employed by, or accompanying the US military forces; and their family members. References to “US personnel” in this instruction include individual persons meeting this definition. This instruction does not apply to attempted service of process against the US Government (USG), to include against any USG department or agency, subordinate unit or organization, or USG personnel in their official capacity. For civil litigation matters and attempted service of process against the USG, refer to AFI 51-301, *Civil Litigation*, Chapter 5.

2. General. UK authorities have the authority to serve process on US personnel both on and off installations occupied by the US Force in the UK. As further detailed in this instruction, US military authorities assist in the service of process by locating the US personnel sought and providing a place for service to be made.

3. Procedure to be followed.

3.1. Criminal Process.

3.1.1. Service of Criminal Process by Process Server.

3.1.1.1. When a process server enters an installation, he or she must contact, or be referred to the the Office of the Staff Judge Advocate (SJA). During non-duty hours, the on-call judge advocate will be available.

3.1.1.2. The Office of the SJA will arrange a date, time and location for service of process with both the process server and the US personnel to be served. The Office of the SJA will advise the US personnel served whether legal assistance is available. (T-2).

- 3.1.1.3. If possible, service of process should be made at the legal office and in the presence of legal personnel. The Office of the SJA should make a copy of the process or prepare a memorandum of its contents. The copy or memorandum should reflect the name and location of the court for appearance, the date and time of appearance or answer, and the nature of the charge **(T-2)**.
- 3.1.1.4. Offices of the SJA should be aware that under arrangements with the UK courts, bailiffs are authorized to serve arrest warrants for non-payment of fines.
- 3.1.2. Service of Criminal Process by Mail.
- 3.1.2.1. If a US organizational unit receives process by mail, the unit must immediately contact the Office of the SJA and provide it with the process documentation.
- 3.1.2.2. Upon receipt of the process, the Office of the SJA must follow the guidance detailed above in **paragraphs 3.1.1.2** and **3.1.1.3**. Additionally, the Office of the SJA must advise the person or entity attempting to issue the process that US military and civilian personnel are not authorized to serve such process, nor accept service on a person's behalf. **(T-2)**.
- 3.1.3. Additional Factors Involving Criminal Process. After service has been completed, the Office of the SJA must consider the following factors, taking action as required in accordance with the cited references:
- 3.1.3.1. The Office of the SJA must notify the unit commander of the US personnel served, and other interested offices (e.g., USAFE-UK/JA and Military Personnel Flight (MPF)). **(T-2)**.
- 3.1.3.2. The Office of the SJA and MPF must coordinate and determine whether the US personnel served must or should be placed on international hold. Per agreement with British authorities, US service members subject to criminal proceedings are not authorized to leave the UK prior to the matter being resolved. US civilians and dependents will also be restricted from travel at US Government expense until criminal proceedings against them are completed (see USAFEI 51-706, Appendix Q). All problems encountered in implementing this requirement should be referred to USAFE-UK/JA. **(T-1)**.
- 3.1.3.3. The Office of the SJA must analyze the summons to determine whether US or UK authorities have the primary right to exercise jurisdiction over the case or whether to actively seek a waiver of jurisdiction in accordance with Article VII of the NATO Status of Forces Agreement (NATO SOFA). **(T-1)**.
- 3.1.3.4. If authorized and requested by the US personnel served, the Office of the SJA must appoint a Military Legal Advisor (MLA) in accordance with AFI 51-402. **(T-1)**.
- 3.1.3.5. The Office of the SJA must determine whether Counsel Fees are authorized in accordance with AFJI 51-706, *Status of Forces Policies, Procedures and Information*. **(T1)**.
- 3.1.3.6. If required, the Office of the SJA must assign an appointed Trial Observer (TO) in accordance with AFJI 51-706 and USAFE Instruction 51-706. **(T-1)**.

3.2. Civil Process.

3.2.1. The Office of the SJA must follow the same procedures for civil process as for criminal process as detailed above in **paragraphs 3.1.1** and **3.1.2**. The Office of the SJA must consider the factors detailed above in **paragraph 3.1.3**, to the extent applicable and relevant.

3.2.2. The Office of the SJA must examine the civil process to determine if the matter should be reported in accordance with AFI 51-301 (for Air Force personnel), or in accordance with AR 27-40, *Litigation*. **(T-1)**.

4. Restriction. US military and civilian personnel must not accept service of process on behalf of US personnel. Additionally, US military and civilian personnel are not authorized to serve process on US personnel on behalf of a third-party. **(T-1)**.

MARK K.CIERO, Colonel, USAF
Director Detachment 1, Headquarters United States
Air Forces in Europe

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

AFPD 51-4, *Operations and International Law*, 24 July 2018
AFI 51-301, *Civil Litigation*, 2 October 2018
AFI 51-402, *International Law*, 6 August 2018
AFI 33-360, *Publications and Forms Management*, 1 December 2015
AFI 33-322, *Records Management and Information Governance Program*, 22 March 2020
AR 27-40, *Litigation*, 19 September 1994
AR 27-50/SECNAVINST 5820.4G/AFJI51-706, *Status of Forces Policies, Procedures and Information*, 15 December 1989
Army in Europe Regulation 550-50 / CNE-C6F Instruction 5820.8K / USAFE Instruction 51-706, *Exercise of Foreign Criminal Jurisdiction Over United States Personnel*, 26 November 2007

Prescribed Forms

None
Forms Adopted
AF847, Recommendation for Change of Publication

Abbreviations and Acronyms

AFMAN—Air Force Manual
AFRC—Air Force Reserve Command
AFRIMS—Air Force Records Information Management System
ANGUS—Air National Guard of the United States
IAW—In Accordance With
MLA—Military Legal Advisor
MPF—Military Personnel Flight
RDS—Records Disposition Schedule
SJA—Staff Judge Advocate
TDY—Temporary Duty
TO—Trial Observer
UK—United Kingdom
UK USCR—United States Country Representative to the United Kingdom

US—United States