

MILITARY

CHAPTER 5

Having Authority and Jurisdiction

Military police carry out their law enforcement operations with strict regard for the needs of the Army and the safety of the military community. At the same time, MP maintain a strict regard for the rights of the individuals making up that military community. Just as MP undertake their law enforcement operations in the military community to protect and preserve the life of the community, they also protect and preserve the legal rights of members of the military community. In so doing, MP carry out the Army policy of equality before the law.

EXERCISING AUTHORITY AND JURISDICTION

All military personnel performing police work operate within their jurisdiction and authority. Jurisdiction and authority are not the same. MP may have the authority to apprehend a suspect, but the military may not have jurisdiction to try the suspect. Authority is the lawful right of designated persons or agencies to exercise governmental power or control. Military jurisdiction is the extent of and limitation on the right of an armed force to exercise authority and control over persons and offenses.

AUTHORITY

The authority of MP to enforce military law, orders, and regulations, by apprehension if necessary, is derived primarily from the President of the United States as Commander in Chief of the armed forces. MP must familiarize themselves with the contents of the articles of the [UCMJ](#) if they are to perform their duties effectively. National Guard and Army Reserve MP usually exercise no authority over active duty military unless they are themselves subject to the [UCMJ](#). In a domestic territory under martial rule, the authority of the MP over persons other than those subject to the [UCMJ](#) is derived from policies and orders of the military commander which must be based upon federal law.

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The authority of MP in a friendly foreign nation or territory may be, and in most cases is, different from MP authority in the US. This difference arises from the law of the country concerned (except as otherwise provided by agreement) being applicable to all persons, including MP in that country. Consequently, in the absence of an international agreement to the contrary, US troops in a friendly foreign nation are subject to the [UCMJ](#) and the laws of the nation in which stationed.

An agreement to resolve jurisdictional conflicts is the status of forces agreement. Basically, the SOFA authorizes one government to take action in cases where both governments could take action. A formula decides which government will act in a particular case. The North Atlantic Treaty Organization (NATO) SOFA was the first significant agreement negotiated and has become the model for most later agreements. For example, during joint NATO operations US Army MP can be tasked to be a part of a NATO combined MP detachment (see [NATO Standardization Agreement \[STANAG\] 2085](#)).

Authority Over Persons Subject to [UCMJ](#)

MP have authority to take appropriate action with persons subject to the [UCMJ](#). This authority is not limited to military reservations or federal property. All active duty military personnel are subject to the provisions of the [UCMJ](#). It also pertains to some retired members and other personnel enumerated in Article 2, [UCMJ](#).

The [UCMJ](#), as established by Congress, provides one basic code of military justice and law for all services. The code authorizes the President of the United States to set rules of evidence; pretrial, trial, and posttrial procedures; and maximum punishments for violations of the [UCMJ](#). Under this authority, the President has issued the [MCM](#). The [MCM](#) is a primary source document for matters relating to military justice. It is an executive order implementing the provisions of the [UCMJ](#). It establishes the military law of evidence.

Ordinarily in the US, MP have the same authority to apprehend friendly foreign military personnel as they have to apprehend civilians. On post this authority arises from the installation commander's inherent authority to maintain order on the installation. However, after authorization by the President and upon request of the commanding officer of a friendly foreign force having service courts in this country, MP may apprehend a designated member of the friendly foreign force and deliver him to US military authorities for delivery to the requesting force.

Authority Over Persons Not Subject to [UCMJ](#)

In areas under military jurisdiction or control, MP in some cases may take persons into custody whether or not they are in the military services:

- Persons not subject to the [UCMJ](#) who are found committing a felony or a misdemeanor amounting to a breach of the peace on a military reservation may be apprehended and detained long enough to be turned over to civil authorities.
- Civilians not subject to the [UCMJ](#) also may be apprehended for violation of properly promulgated post regulations. These persons

then may be escorted to the entrance of the post and may be forbidden reentry by the installation commander.

- Civilians not subject to the [UCMJ](#) may be cited for violations of the Assimilative Crimes Act not amounting to felonies or breaches of the peace (such as fishing without a valid permit) and referred to a US magistrate.
- Civilians not subject to the [UCMJ](#) may be subject to military authority in situations involving martial law or hostilities.

Thus, commanders and MP have authority to apprehend civilians in many circumstances; they may also detain civilians for a reasonable period of time in order to effect their arrest by civilian law enforcement authorities. The local SJA is consulted regarding the applicable rules. [AR 600-40](#) provides general guidance regarding apprehension and restraint of persons not subject to military law.

Commanders have the authority to eject trespassers on the installation and to enforce the ejection of any person previously barred from entry. This authority comes from 18 USC 1382, which provides that "whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or whoever reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to enter by the officer in command or charge thereof, shall be fined not more than \$500 or imprisoned not more than six months or both."

The US Magistrate System provides the Department of the Army with a means of processing and disposing of certain minor offenses and traffic violations. A minor offense is defined as one in which punishment would not exceed imprisonment for one year, a fine of not more than \$1,000, or both. [DD Form 1805](#) (United States District Court Violation Notice) will be used to refer minor offenses to the US Magistrate Court.

If a case is referred to magistrate court, the individual is given the option of either paying a fine or appearing before the court to contest the charges. For only the most serious offenses is a court appearance mandatory. The court frequently sits on the military installation. An advantage to such a system is the prompt and expeditious disposition of minor offenses without resort to a federal district court.

Posse Comitatus

MP authority does not extend to civilians outside areas under military jurisdiction or control. The military cannot be used to help execute civilian law. The Posse Comitatus Act provides that whoever, except in cases and under circumstances expressly authorized by the Constitution or by act of Congress, willfully uses any part of the Army to execute civil law shall be fined not more than \$10,000 or imprisoned not more than two years or both. This act applies to enforcement of federal, state, county, or local law. And a related statute makes it an offense to have military personnel at a place where elections are being held, except when such force is necessary to repel armed enemies of the US (18 USC 592 and 593).

Military forces acting in civil disturbances under the provisions of 10 USC 331-333 are not in violation of the Posse Comitatus Act. Nor does this prohibition extend to employing federal military forces to protect federal functions and property or to acting in an emergency. Acts having a primary military purpose and only incidentally enforcing civilian law are not prohibited.

Note that the Posse Comitatus Act does not prohibit military assistance to protect public safety as opposed to law enforcement. Thus, it does not prohibit the use of Army bomb disposal experts in deactivating and destroying explosives found in civilian communities. Nor does it prohibit Army medical personnel from rendering medical care to persons injured in a natural disaster. Further, this law does not prohibit an individual member of the Army from making a citizen's arrest for a felony or breach of the peace committed in his presence. The act does not prohibit development and maintenance of effective working relationships between MP and their civilian counterparts nor the loan to civilian authorities of certain types of equipment. But the law does prohibit concerted use, under orders, of units or individuals of the Army to execute the law. The Posse Comitatus Act does not prohibit investigation of offenses committed by civilians if there is an Army interest. The SJA should be consulted on a case-by-case basis to determine whether or not there is an Army interest and the measures to be taken during the investigation.

The Posse Comitatus Act does not apply when a state activates its National Guard in accordance with state law. Such a force can be used to enforce the laws of the state. However, if the National Guard is called into federal service, the Posse Comitatus Act applies.

JURISDICTION

Jurisdiction limits the exercise of authority. The jurisdiction of every offense or incident depends upon the status of the suspect, international agreements and treaties, the "service connection" of the offense, and other factors. The SJA is always consulted where questions exist about jurisdiction.

The term "exclusive jurisdiction" refers to the power granted to Congress by the United States Constitution to exercise legislative authority. It also applies to similar power acquired by the US through cession by a state, or by a reservation made by the US upon the admission of the state into the Union. In the exercise of exclusive jurisdiction, the federal government assumes sole jurisdiction over the designated area. For example, many military installations have exclusive federal jurisdiction. The federal government then exercises its executive, legislative, and judicial authority over that area and the personnel within it. To avoid the difficult task of enacting and maintaining a code of criminal laws appropriate for all areas under its legislative jurisdiction, Congress passed 18 USC 13, commonly referred to as the Assimilative Crimes Act. In this statute, Congress provided that all acts or omissions occurring in an area under federal jurisdiction, which would constitute crimes if the area were under the state jurisdiction, will constitute similar crimes, similarly punishable, under federal law. This act does not assimilate crimes based on state statutes that are contrary to federal policy and law, such as civil rights legislation, nor does it assimilate state law if there is an existing federal statute or law on the subject.

Concurrent jurisdiction exists when the US is granted authority that would otherwise amount to exclusive legislative jurisdiction over an area, but the state in which the area is located retains the right to simultaneously exercise its authority along with that of the federal government. It is an area of dual jurisdiction. Under concurrent jurisdiction, state criminal laws are applicable in the area and can be enforced by the state. The same laws can be enforced by the federal government under the Assimilative Crimes Act, which is applicable to areas under concurrent as well as exclusive jurisdiction of the US. Federal criminal laws also apply. Many crimes fall under both federal and state sanction, and either the federal or state government, or both, may take jurisdiction over a given offense.

Proprietary interest applies to instances in which the federal government has acquired some right or title of ownership to an area in a state but has not obtained jurisdiction. Where the federal government has no legislative jurisdiction over its land, it holds such land in a proprietary interest only and has the same rights as any other landowner. In addition, there exists a right of the federal government to perform the functions delegated to it by the Constitution without interference from any source. It may resist--by exercising its legislative or executive authority, or through court proceedings--any

attempted interference by a state instrumentality of its exercise of constitutional responsibilities. Congress also has authority to enact laws for the protection of US property. Subject to these conditions, when the US acquires only a proprietary interest, the state retains all the jurisdiction over the area it would have if a private individual rather than the US owned the land. The Assimilative Crimes Act does not apply to areas of federal proprietary jurisdiction. In such areas, MP exercise authority in compliance with the instructions of the appropriate commander.

Military Jurisdiction

Military jurisdiction is exercised through the application of military law, the law of war, military government, martial law, and military orders and regulations--

- Military law regulates the entire military establishment of the US.
- Law of war is that segment of treaty and customary international law applicable to warfare.
- Military government is the administration by which an occupying power exercises executive, legislative, and judicial authority over occupied territory.
- Martial law or martial rule is the temporary exercise of control over domestic territory by a military commander as authorized by the President.
- Military orders and regulations are used in a military organization for its internal direction.

Military jurisdiction extends to military personnel whether or not they are in an area under military control. The military has exclusive jurisdiction to try persons subject to the [UCMJ](#) for offenses purely military in nature, such as unauthorized absences. The Supreme Court has abandoned the requirement of showing a "service connection" for off-post offenses before a service member can be tried. A service member may now be tried in a court-martial regardless of any service connection. It is Army policy that a service member will not ordinarily be prosecuted under civil jurisdiction and later under military jurisdiction for the same offense. The military rarely has jurisdiction to try civilians.

Civil Jurisdiction

Civil jurisdiction is exercised through the application of state and federal law. Under the Constitution the states retain the right to regulate conduct of persons within their boundaries. Penal laws, which declare certain acts to be unlawful, are defined and enforced by state, county, and local governments and their regulatory agencies. For example, traffic regulations, liquor laws, and closing hours are usually set by local law. Some penal laws pertain to specific matters or areas within the civil jurisdiction of the federal government. Such federal law, like customs regulations and counterfeiting laws, is enforced by federal agencies.

Under international law, a friendly foreign power normally has primary jurisdiction to prosecute nonmilitary offenses committed within its borders by members of a visiting force. This power may be further defined or surrendered to military authorities through SOFAs and other treaties or agreements depending upon the nature and circumstances of the offense. This limitation to prosecute does not prohibit commanders from taking administrative action against suspects. Guidance on the exercise of military jurisdiction subsequent to action by civilian authorities is found in [AR 27-10](#). When doubt exists on jurisdiction over a particular individual SJA.

PROTECTING LEGAL RIGHTS

An MP can make contact with a person in any place the MP is lawfully situated. Examples of lawful contacts include questioning of witnesses to a crime and warning a pedestrian that he is entering a dangerous area. These types of

contacts are reasonable, permissible, and within the normal activities of MP and commanders. They are not detentions in any sense. MP may inspect or walk through barracks or the unit area. MP may be any place where consent has been given by a person who has the power to give consent. They may be any place with the consent or authorization of a commander, or any place where they are present to effect a lawful apprehension.

An MP may make a contact when the person is not subject to the Fourth Amendment. This is or offense, consult the a proper activity of a commander or MP. Every contact between the police and a citizen is not a detention, and does not demand a basis for the contact. Many contacts between MP (and commanders) and other persons are not based on suspicion of criminal activity. However, some contacts may result in finding evidence of a crime.

Contacts between MP and others may occur without thought of criminal activities. MP assist disabled people, untangle congested traffic, and escort intoxicated persons to shelter. MP perform other helping activities as required.

RIGHTS WARNING

The law requires that a military member who questions a military or civilian suspect or accused must be exercising some form of police or disciplinary power before he is required to read the person his rights. If an apprehending MP considers it important to question a suspect while in the field, the MP must advise the suspect of his rights. Any individual can be read rights before even the most innocent questioning. However, a commander or MP who is questioning a suspect is performing a disciplinary role and has to read the person his or her rights. When in doubt, read the rights.

When a law enforcement official or commander intends to question an accused or suspect of an offense and knows, or reasonably knows, that counsel either has been appointed for or retained by the accused or suspect with respect to that offense, the counsel must be notified of the intended interrogation and given a reasonable time in which to attend before the interrogation may proceed. A suspect or accused who is intoxicated or who is suffering from a serious injury or illness should not be interrogated. Nor should a suspect or accused be interrogated who is hysterical or emotionally upset. In these cases the court may rule that the suspect could not give an intelligent, knowing waiver of his rights. During an interrogation the questioner will not attempt to persuade, trick, or threaten the suspect or accused into waiving his rights. The suspect or accused will make his own decisions. The questioner will not subject the suspect or accused to prolonged questioning without a break. The questioner will not threaten the suspect or accused into confessing and will not physically abuse the suspect or accused.

A suspect or an accused must be warned whenever answers are wanted to questions. If a person will be asked to perform an act that might be the equivalent of speech, such as pointing to a coat worn on a specific date, the rights must be read. It is not necessary for the warning to be given before conducting a lawful search of the suspect. But if any doubt exists, the rights are read.

On many occasions, an individual may approach an MP, a commander, or a noncommissioned officer and furnish information concerning criminal activities. Listening never requires a warning. However, any time the listener wants to interrupt the person giving the statement and clarify some information, questioning does take place and a warning is required.

A warning is not needed before questioning a person who is merely a witness to a crime. Nor is it needed to question someone who may know something about a crime but who is not a suspect. For example, asking a witness to a crime which way the perpetrator went requires no warning. Nor would asking someone to show his identification card if the identification card is not suspected to be evidence.

The warning is repeated any time there is a significant delay in questioning. If questioning a person who after waiving his rights and agreeing to answer questions has been released for the night, the next day that person must be rewarned of his rights. But if the person is released for lunch or is released to go back to the unit to get some clothing, a new warning is not required. And if it is known that an accused or a suspect has been warned by another officer and has chosen to

waive his rights, there is no need to give another warning when there is no significant delay in questioning. The warning also is repeated to a suspect if he indicates that he did not understand the first warning or that he might want to change his mind about answering questions.

If a suspect remains silent after he has been given the required warnings and has been asked if he wants a lawyer and is willing to make a statement, he is not questioned further. However, if the person merely indicates that he will not sign a waiver form but is willing to waive his rights, the questioning can continue. When a person waives his rights but objects to note taking by the questioner, the questioning can continue; but the note taking stops for practical reasons.

If the accused or suspect first agrees to answer questions and then says that he does not want to talk or say anything more, the questioning stops. If the accused or suspect answers some questions, then stops and requests a lawyer, the questioner must stop asking questions until a lawyer has been provided or the accused or suspect initiates further questioning.

When a lineup will be used, the suspect must be warned of his lineup rights and his right to counsel. If a suspect is under any form of pretrial restraint, or if charges have been preferred against him, then before placing him in a lineup at the MP station, the MP must warn the suspect of his right to counsel.

"Although you do not have a right to refuse to appear in a lineup, you have the right to have a lawyer present when the witnesses to the crime view the lineup. If you wish a military lawyer will be appointed for you to represent you free of charge."

To ensure the pretrial lineup is not suggestive, the following steps are taken:

- There are at least four fillers in the lineup.
- MP are not to be used as fillers in lineups. Additionally, fillers in a lineup are not informed of who the suspect is otherwise nonverbal communication by them may be communicated to the witness. Fillers in the lineup resemble the suspect. When the characteristics of the suspect cannot be matched, it may be better to use some sort of photographic identification.
- The person conducting the lineup is not to be involved with the specific investigation. The person is not to make any suggestions because they may adversely affect the integrity of the lineup.
- Witnesses must be separated before and after any identification of the suspect. One witness may have an unfavorable influence on another.
- Witnesses to the lineup are not allowed to make an identification in the presence of one another.
- The suspect or his counsel is allowed to determine the suspect's position in the lineup. The suspect is allowed to change his position after each viewing.
- When individuals in the lineup are required to try on clothing or to perform other acts, all individuals perform these acts, not just the suspect.
- The suspect's counsel may request certain changes in the lineup procedures; however, he has no right to dictate how police will conduct the lineup. See [FM 19-20](#) for more information on lineups.

The warning must be given by using the warning shown on the back of [DA Form 3881](#) (Rights Warning Procedure/Waiver Certificate). A service member's rights under the self-incrimination clause and Article 31 ensure that he cannot be forced to answer any incriminating questions or to make any incriminating physical acts equivalent to speech (for example, soldiers cannot be ordered to point out the clothes that were worn at the time of a rape offense). The taking of such evidence is considered to be requesting a statement within the meaning of Article 31.

Correct use of [DA Form 3881](#) requires the narrative warning on the reverse of the form be read verbatim to the suspect. (See [FM 19-20](#) for a detailed discussion for issuing rights warnings.) Warning the individual of his rights means more than just reading the warning found on the back of [DA Form 3881](#). To waive his rights, the suspect must show some understanding which ordinarily will require, after each warning, an answer on the suspect's part that proves his understanding. The individual must state, first, that he is willing to make a statement, and second, that he does not wish to have an attorney present nor to consult with an attorney before questioning can continue. The suspect is then asked to execute the waiver portion of the form documenting his desires concerning questioning. If the form suspect agrees to answer questions but refuses to sign the waiver portion of [DA Form 3881](#), the heading blocks of the form and the rights portion are completed as usual. The investigator then prepares a statement for the waiver block of the form. The statement must state that the suspect understands his rights, does not want a lawyer, wants to discuss the offense under investigation, but refuses to sign the waiver certificate. The statement is added to the (waiver block) and the investigator signs the form where indicated. The suspect is asked to initial the investigator's statement, but initials are not essential. Guidance for preparing [DA Form 3881](#) can be found in [FM 19-20](#). When a suspect consents to questioning, the statement is recorded on [DA Form 2823](#) (Sworn Statement). When questioning is completed, a [DA Form 3975](#) is filled out and the required entries made on [DA Form 3997](#) and [DA Form 3998](#) (Military Police Desk Reference).

RIGHTS WARNING PROCEDURE	
SECTION B - RIGHTS WARNING PROCEDURE	
THE WARNING	
<p>1. WARNING - Inform the suspect/accused of:</p> <ol style="list-style-type: none"> Your official position. Nature of offense(s). The fact that he/she is a suspect/accused. <p>2. RIGHTS - Advise the suspect/accused of his/her rights as follows:</p> <p>"Before I ask you any questions, you must understand your rights."</p> <ol style="list-style-type: none"> "You do not have to answer my questions or say anything." "Anything you say or do can be used as evidence against you in a criminal trial." <i>(For personnel subject to the UCMJ)</i> "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during 	<p>questioning. This lawyer can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."</p> <p style="text-align: center;">- or -</p> <p><i>(For civilians not subject to the UCMJ)</i> "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. However, you must make your own arrangements to obtain a lawyer and this will be at no expense to the Government. If you cannot afford a lawyer and want one, arrangements will be made to obtain a lawyer for you in accordance with the law."</p> <ol style="list-style-type: none"> "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate." <p>Make certain the suspect/accused fully understands his/her rights.</p>
THE WAIVER	
<p>"Do you understand your rights?" <i>(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)</i></p> <p>"Do you want a lawyer at this time?" <i>(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)</i></p>	<p>"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" <i>(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)</i></p>
SPECIAL INSTRUCTIONS	
<p>WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.</p> <p>IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.</p>	<p>PRIOR INCRIMINATING STATEMENTS:</p> <ol style="list-style-type: none"> If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights, he/she should be told that such statements do not obligate him/her to answer further questions. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal. <p>NOTE: If (1) or (2) apply, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.</p>
COMMENT (Continued)	
<p style="font-size: small;">Reverse of DA Form 3883 D U S G P O - 1945-451-233/27046</p>	

The individual requesting a statement or conducting the interrogation will probably do so in the English language. If there appears to be a language barrier, the interrogator must ensure that the individual is aware of his rights in his native language. The understanding of the rights also comes into play when an individual is grossly intoxicated. Such an individual cannot make a voluntary waiver.

TEMPORARY DETENTION

Detention is temporary. It is not used for purposes of confinement. Persons are detained only when military necessity, the safety of the individual, or the safety of others makes it necessary.

Juveniles are detained only if all or some of the following conditions are met:

- The detainment is authorized by the installation commander.
- The juvenile is suspected of a serious criminal offense requiring the exercise of jurisdiction by civilian law enforcement authorities.
- The parents or other suitable relatives are not available to take custody of the offender at the time of apprehension.

- The detainment is for the purpose of transferring custody of the juvenile, at the earliest possible time, either to the child's parent or to the appropriate state or federal agency having jurisdiction.

If a juvenile must be detained until the appropriate juvenile authorities are contacted, the MP will then notify the military sponsor's unit commander. In cases where the juvenile has no military sponsor, the MP will follow the directions given by the juvenile authority. Because of special protections accorded juveniles under many state statutes, MP may not obtain fingerprints or photographs of a juvenile without written consent of the juvenile judge. Nor may names or pictures of the juvenile be released to the public.

The youth must be kept entirely away from operational activities of the MP station. The area where juveniles are detained must be comfortable, private, and out of public view. Unless there is another suitable area, the PM's office may have to be used. Since juveniles are not subject to the [UCMJ](#), the detainment of juveniles in correctional custody, detention cells, or hospital prisoner wards is forbidden. A detention cell may be used for juveniles when there is a threat to the community, the juveniles, or MP involved and authority has been obtained from the installation commander through legal channels. (See [Chapters 6](#) and [10](#) for more information on juveniles.)

Facilities for temporary detention of adults apprehended by MP are located within the MP station. These facilities are close enough to the desk for continuous observation. They are sufficiently removed so normal operations will not be hindered. These facilities must not be open to casual view by visitors. If the cell location does not permit desk personnel to maintain observation when occupied, a guard or an MP must be posted. Closed circuit television can be used as an alternative method of observation. In detaining females, female MP must be present for security and observation purposes. Male and female detainees are not placed in the same cell.

Detention of suspects requires a blotter entry that shows who ordered the detention, the reason, the time detention began, and the time of release. Detainees are furnished normal amounts of food and water. Bedding is provided if detained more than 12 hours. Normally, detention does not exceed 24 hours. However, the installation commander may extend the period to 72 hours. Use of showers and latrine facilities for women is determined by individual PMs per [AR 190-38](#) and available facilities.

If the decision is made by the PM or responsible MP supervisor to place a suspect in detention, a thorough search must be made. Personnel performing the search and those acting as witnesses must be of the same sex as the offender being searched. After the search has been conducted, the offender is then placed in a cell. Money, other valuables, and personal property (other than individual clothing and wedding rings) are taken from the offender, inventoried in his presence, and secured. Items of clothing that could be used to inflict bodily injury are taken from the suspect if deemed necessary by the responsible MP supervisor. The suspect is given a receipt, [DA Form 4137](#) (Evidence/Property Custody Document), for all items taken. The reason for and degree of any use of force required is also recorded in either the desk blotter or the [DA Form 1594](#).

A [DA Form 3975](#), [DA Form 3998](#), and [DA Form 4137](#) must be prepared on any detention involving an offense. This includes suspicions or allegations of offenses. The suspicion or allegation is described in the report, whether or not it is derogatory to the person detained. Entries are made on the MP blotter on all temporary detentions.

Persons who are under the influence of drugs, injured, or ill must be examined by a medical officer before or immediately after being placed in detention. A blotter entry is made indicating time, diagnosis, disposition, and the name, rank, and organization of the medical officer or physician's assistant. Minor injuries requiring simple first aid, such as cuts and abrasions, are treated by MP unless the suspect specifically requests a medical officer. Written certification must be filed by the medical officer concerning the person's health if an examination is required.