



1<sup>st</sup> Combat Camera Squadron (Stan Parker)

# Who's Responsible?

## Understanding Force Protection

By THOMAS W. MURREY, JR.

**F**orce protection is a contentious issue. Since terrorism is a constant concern, commanders agonize over their responsibilities and demand that their authority be precisely circumscribed. But although confusion persists, the legal basis of force protection has been greatly enhanced in recent years. Once understood, this structure can become an ally in protecting U.S. military personnel.

Terrorist attacks have claimed the lives of over 300 defense-affiliated personnel since 1977.

Yet force protection was not emphasized until after two attacks in Saudi Arabia. The first occurred in November 1995 when a car bomb exploded in Riyadh at the Office of the Program Manager, Saudi Arabian National Guard, that killed five and injured another thirty-five. Then in June 1996, terrorists mounted a devastating attack in Dhahran at Khobar Towers housing complex, detonating 20,000 pounds of explosives in a fuel truck that took the lives of nineteen and wounded hundreds. As Secretary of Defense William Perry later stated, "The Khobar Towers attack should be seen as a watershed event pointing the way to a radically new mindset and dramatic changes in the way we protect our forces deployed overseas from this growing threat."<sup>1</sup>

Major Thomas W. Murrey, Jr., USAF, serves as assistant staff judge advocate at Headquarters, U.S. European Command.

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## Accountability

The force protection role of the Secretary of State is established in the Omnibus Diplomatic Security Act of 1986 which calls for the development and implementation of policies and programs to provide for the security of operations of a diplomatic nature, to include all government personnel on official duty abroad. At first glance it may appear that Congress has given responsibility to the Department of State which it is ill prepared or equipped to handle. However, the law provides for support by other agencies. Moreover, operational control for force protection may be delegated to the heads of the agencies concerned.

The Secretary of State cannot manage assigned security functions universally. The chief of mission in each country—usually the ambassador—directs, coordinates, and supervises executive branch personnel. The Omnibus Act excludes personnel under area military commanders, namely, combatant commanders in chief (CINCs), from security oversight by the Secretary of State.

The Secretary of Defense is also accountable for initiating policies and assigning responsibilities for implementing force protection. These duties

flow from the Secretary through under secretaries, service secretaries, and Chairman to CINCs. DOD policy is that force protection falls to anyone in

command,<sup>2</sup> but geographic CINCs are the only individuals given the duty by statute. Although the Secretary is ultimately responsible, CINCs answer for the successes or failures of force protection programs for military personnel overseas.

CINCs, however, are not accountable for all military personnel stationed in or deployed to their areas of responsibility. The Secretary has directed that certain military personnel operating in AORs will not be assigned to CINCs and thus are not under their command. These personnel are the responsibility of the Secretary of State unless this duty is delegated back to the Secretary of Defense. Individuals serving with Marine security guard detachments, defense attaché offices, and offices of defense cooperation are examples of military personnel not under CINCs.

As a result, there are two categories of DOD personnel protected overseas: those covered by chiefs of mission and those under CINCs. As simple as that solution seems, there have been disputes between the Departments of State and Defense over certain organizations. In some instances there has been no complete list of DOD organizations within a given country.<sup>3</sup> In Spain, the annual report of the American Embassy in

1995 listed sixty DOD civilian and military personnel who were the responsibility of the chief of mission. But when the embassy conducted a recount, including everyone not under a CINC, this figure rose to 962 personnel. After Khobar Towers, the need to address potential problems and replace extant memorandums of understanding (MOUs) between the Departments of State and Defense became obvious.

## Universal Memorandum

In December 1997 the Secretaries of State and Defense signed a new MOU that applied to “define the authority and responsibility for the security of DOD elements and personnel in foreign areas not under the command of a geographic CINC.” By allowing operational force protection authority to pass between chiefs of mission and CINCs, the memorandum provided a more logical allocation of duties. In some cases chiefs of mission might have had force protection responsibility for DOD elements even though CINCs might have been in the better position to provide it, or vice versa. The MOU was designed to rectify this problem and establish a principle that responsibility should be assigned based on who can best provide force protection.

Before any country is added to the covered country list in the MOU, the chief of mission and CINC negotiate a memorandum of agreement (MOA) outlining their respective responsibilities, the position of temporary duty personnel, and the direction for the Emergency Action Committee and guidance on coordination.

Once negotiated, a chief of mission will submit the draft MOA to the Department of State for approval. Both State and Defense then take action to place the country on the covered countries list in the Universal MOU, which includes provisions for deletions from the covered country list.

The MOU also addresses the resolution of disputes. If chiefs of mission and CINCs are unable to resolve an issue, they refer it to Washington. If the issue remains unresolved, it is sent in turn to the Under Secretary of State for Management and the Under Secretary of Defense for Policy. If it is not settled on that level, the issue goes to the Secretaries. MOUs may be terminated sixty days after either party gives notice of intention to withdraw from the agreement.

## Command Relationships

When CINCs assume force protection responsibilities under MOAs for DOD elements and personnel not previously in their chain, another problem arises: they become accountable for forces with which they have no command relationship. A further issue is responsibility for personnel in temporary duty status or simply passing

## CINCs answer for the successes or failures of force protection programs overseas





DOD (Valerie J. Weaver)

1st Combat Camera Squadron (James D. Mossman)

Sidi Slimane air base,  
Morocco.

DOD (Shonna Ridings)

through a country. Scenarios include joint task forces, naval personnel on port calls, aircrews transiting through AORs, NATO personnel, peacekeepers, and DOD contractors. Problems occur when CINCs take on responsibility under country-specific MOAs for military personnel not normally under their command. They have no inherent command authority over these personnel.

The Joint Staff has adopted a solution used on the Arabian peninsula. In October 1996, the Secretary of Defense delegated tactical control over non-CINC assigned forces to the Commander in Chief, U.S. Central Command.<sup>4</sup> Such control enables CINCs to implement force protection and exercise security responsibilities under the MOU. Moreover, this authority applies to those

personnel temporarily assigned to an AOR, including air crews. The memorandum also authorized CINCs to "change, prescribe, modify, and enforce force protection measures for covered forces . . . inspect and assess security requirements . . . direct immediate force protection measures (including temporary relocation) when, in the judgment of the responsible CINC, such measures must be accomplished without delay to ensure the safety of the DOD personnel. . . ." With this solution, the CINCs now had the protection authority they previously lacked.

**NATO Personnel.** Military personnel assigned to NATO enjoy no relationship with the Commander in Chief, U.S. European Command (CINCEUR), unless they occupy NATO and U.S. billets concurrently.<sup>5</sup> If the American half is in the CINCEUR chain of command, CINCEUR will provide force protection through that billet. If the servicemember belongs solely to NATO, he is the obligation of the chief of mission. CINCEUR is responsible for all personnel with whom he has a

command relationship, and the chief of mission cares for the remaining military personnel in that country. In the case of NATO-assigned personnel, this could allow a U.S. servicemember to be the force protection responsibility of CINCEUR, while a peer across the hall falls under the chief of mission. The Universal MOU, along with the country-specific MOAs, aimed to correct that. Unfortunately, at the time this article was written, the memorandum of agreement for Belgium, where many NATO personnel are stationed, had not been negotiated. However, the issue was addressed in the MOA for Turkey, which is in effect. CINCEUR and the chief of mission for Turkey agreed to assign force protection responsibility for all NATO-assigned personnel in Turkey to CINCEUR. When the memorandum for Belgium is completed it is probable that, like the Turkish agreement, most NATO personnel will be assigned to CINCEUR for protection purposes.

*Peace Observers.* One group that occasionally falls through the force protection net are U.S. military personnel serving as peace observers.

**one group that occasionally falls through the force protection net are peace observers**

They are assigned to multinational U.N. organizations, often in remote locales far from other DOD personnel.

The normal rules for force protection apply to them: not being under the command of a geographic CINC, they fall under the chief of mission.

For example, an interesting issue arose over a peacekeeping force in Morocco, which is in the U.S. European Command (EUCOM) AOR. Thirty American military personnel are assigned to the U.N. Mission for a Referendum in Western Sahara (MINURSO). This peacekeeping force operates in a disputed area. Originally 26 countries contributed over 1,700 military observers, 300 policemen, and up to 1,000 civilian personnel to serve with this organization. As the sovereignty of the Western Sahara was in question, the local chief of mission did not normally exercise security functions in the disputed region, which meant that he was not accountable for the thirty Americans. However, an agreement was reached that directed him to assume responsibility for all personnel assigned to or on temporary duty to MINURSO.

*Contractor Personnel.* Another complex issue involves contractors hired by the Department of Defense. Contract employees often accompany U.S. military forces on contingency operations to provide services ranging from food preparation to computer and engineer support. For instance, the engineering firm of Brown and Root performed work in both Somalia and Bosnia. Contractors often eat, work, and live alongside military personnel. By law the chief of mission is responsible

for the safety of contract employees. There appears to be an exception in situations when crises are declared by the National Command Authorities or CINCs.<sup>6</sup> Then the DOD components work with contractors who provide essential services in order to develop and implement plans and procedures to ensure that their employees can perform. Although the instruction is vague, it can be interpreted as directing DOD components to provide force protection for contractors when either NCA or CINCs declare a crisis. In routine cases, however, DOD has no legal obligation to furnish security for contractors unless specific language is included in the contract.

As long as terrorism remains a threat, force protection will be a vital feature of operations. It is essential that commanders understand the framework for allocating responsibilities. The first and most important step in a force protection program is determining who is responsible for every military unit located overseas. **JFQ**

**NOTES**

<sup>1</sup> William J. Perry, *Report to the President: The Protection of U.S. Forces Deployed Abroad* (Washington: Government Printing Office, September 15, 1996).

<sup>2</sup> See DOD Instruction 2000.16, "DOD Combatting Terrorism Program Standards" (September 15, 1996). This statement is taken to mean that commanders on all levels are expected to take measures to protect troops from problems ranging from terrorism to disease.

<sup>3</sup> For instance, the U.S. military has over 150 elements across the United Kingdom.

<sup>4</sup> The qualifier in this case is that responsibility must first be transferred from chief of mission to geographic CINC under a country-specific MOA. CINCs are not accountable for transferred forces until a memorandum is signed and placed on the covered country list.

<sup>5</sup> CINCEUR is also dual hatted. He commands all military personnel in theater and serves as Supreme Allied Commander, Europe, with responsibility for NATO forces. However, that fact does not change force protection relationships for NATO-assigned personnel.

<sup>6</sup> See DOD Instruction 3020.37, "Continuation of Essential DOD Contractor Services During Crises" (January 26, 1996), which defines a crisis as "any emergency so declared by the National Command Authorities or the overseas combatant commander, whether or not U.S. Armed Forces are involved, minimally encompassing civil unrest or insurrection, civil war, civil disorder, terrorism, hostilities buildup, wartime conditions, disasters, or international conflict presenting a serious threat to DOD interests."