

1
2
3
4

5

6

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

WAR CRIMES

INVESTIGATIONS

U.S. Marine Corps

10 Nov 04

1 DEPARTMENT OF THE NAVY
2 Headquarters United States Marine Corps
3 Washington, D.C. 20380-1775

4
5 FOREWORD
6

7 1. PURPOSE
8

9 Marine Corps Reference Publication (MCRP) 4-11.8B, *War Crimes Investigations*, helps all
10 Marines determine when specific actions violate the law of war. Specifically, this publication
11 identifies the responsibilities of each Marine to act in accordance with the law of war and to report
12 all “reportable incidents,” which are defined by Department of Defense (DOD) Directive 5100.77,
13 *DOD Law of War Program*, as a possible, suspected, or alleged violation of the law of war.
14

15 2. SCOPE
16

17 MCRP 4-11.8B provides specific examples of actions taken by members of a military organization
18 that have been considered violations of the law of war. This publication addresses the responsibility
19 of Marines and the Navy and civilian personnel—who have knowledge of, or receive a report of an
20 apparent reportable incident—serving with or accompanying the Marine Corps to report a
21 reportable incident in accordance with the reporting requirements set forth in DOD Directive
22 5100.77 and Marine Corps Order (MCO) 3300.4, *Marine Corps Law of War Program*.
23

24 3. SUPERSESSION
25

26 MCRP 4-11.8B, *War Crimes Investigation*, dated 22 June 1998.
27

28 4. CERTIFICATION
29

30 Reviewed and approved this date.
31
32
33
34

35 J. N. MATTIS
36 Lieutenant General, U.S. Marine Corps
37 Deputy Commandant for Combat Development
38 Marine Corps Combat Development Command
39

40 Publication Control Number:

41 DISTRIBUTION STATEMENT:
42

TABLE OF CONTENTS

1		
2		Page
3	Law of War Defined	X
4	Categories of War Criminals	X
5	Types of Violations.....	X
6	Jurisdiction, Statue of Limitations, and Punishment	X
7	Training and Leadership	X
8	Command Responsibility.....	X
9	Notoriety of War Crimes	X
10	Special Considerations.....	X
11	Incident Reporting	X
12	Contacts	X
13		
14	Appendices	
15	A. Identification of War Crimes	X
16	B. Glossary.....	X
17	C. References	X
18		
19		

1 **Law of War Defined**

2
3 The law of war is that part of international law that regulates the conduct of armed hostilities. It is
4 often called the law of armed conflict. The law of war encompasses all international law for the
5 conduct of hostilities binding on the United States (US) or its individual citizens, including treaties
6 and international agreements to which the United States is a party and applicable customary
7 international law. For example, the Geneva Conventions of 1949 resulted in four agreements that
8 protect wounded, sick, and shipwrecked members of armed forces; prisoners of war (POW); and
9 civilians in times of war. The 1907 Hague Convention No. IV, *Respecting the Laws and Customs*
10 *of War on Land*, created guidelines for the conduct of hostilities. Important principles, such as
11 military necessity and the prohibition against unnecessary suffering, can be found in Hague IV.
12

13 **Categories of War Criminals**

14
15 Both military and civilian personnel may be categorized as war criminals. While war crimes are
16 most often associated with members of the armed forces, civilians have been known to violate the
17 rights of individuals protected by both the Geneva and Hague Conventions. An example of this is
18 when a civilian attacks or abuses an enemy prisoner of war (EPW) such as a downed pilot. In this
19 instance, the civilian has violated the law of war and is guilty of a war crime. The fact that the
20 civilian is not a member of the military will not exempt him from prosecution in an appropriate
21 forum for law of war violations.
22

23 **Types of Violations**

24
25 A war crime is technically *any* violation of the law of war by *any* person, military or civilian.¹
26 However, to be prosecuted as a war crime, the act should be serious in nature (e.g., failing to
27 provide POWs recreation and education opportunities would probably not be prosecuted as a war
28 crime) and have a nexus to armed conflict (e.g., Iraqi civilians looting other Iraqis would probably
29 not be prosecuted as a war crime, though they may be prosecuted in local courts).
30

31 The Geneva Conventions define serious felonies against protected persons (e.g., POWs, civilians,
32 wounded, sick and shipwrecked) during international armed conflict as grave breaches. Grave
33 breaches can include, but are not limited to, the following:
34

- 35 • Willful killing.
- 36 • Torture or inhumane treatment.
- 37 • Biological experiments.
- 38 • Willfully causing great suffering or serious injury.
- 39 • Taking hostages.
- 40 • Extensive destruction and appropriation of property not justified by military necessity.

¹ FM 27-10, par 499 (1956).

10 Nov 04

- 1 • Compelling a protected person to serve in enemy armed forces.
- 2 • Willful deprivation of right to a fair and regular trial.
- 3 • Unlawful deportation, transfer or unlawful confinement.

4
5 Other law of war violations are called simple breaches. Simple breaches include, but are not limited
6 to, the following:

- 7
- 8 • Using poisoned or other forbidden arms or ammunition.
- 9 • Treacherous request for quarter.
- 10 • Maltreatment of dead bodies.
- 11 • Firing on undefended localities without military significance.
- 12 • Abuse of or firing on flag of truce.
- 13 • Misuse of Red Cross/Crescent emblem.
- 14 • Use of civilian clothing by troops to conceal military character during battle.
- 15 • Improper use of privileged buildings for military purposes.
- 16 • Poisoning wells or streams.
- 17 • Pillage or purposeless destruction.
- 18 • Compelling POWs to perform prohibited labor.
- 19 • Killing without trial spies or others who have committed hostile acts.
- 20 • Compelling civilians to perform prohibited labor.
- 21 • Violation of surrender terms.

22
23 Parties to the Geneva Conventions must take measures to suppress war crimes. Furthermore, with
24 respect to grave breaches, parties must enact legislation to provide effective penalties and to search
25 for and try persons suspected of committing or ordering a grave breach, regardless of nationality.
26 The US Government meets this requirement through the Uniform Code of Military Justice
27 (UCMJ), and the United States Code, Title 18, Section 2441, *War Crimes Act of 1996*.

28 **Jurisdiction, Statute of Limitations, and Punishment**

29
30 War crimes can be tried anywhere, any time. There is universal jurisdiction, and no statute of
31 limitations exists with respect to war crimes.

32 **a. Court-martial**

33
34 US Armed Forces can be court-martialed under specific UCMJ articles (i.e., assault, murder,
35 larceny) and receive the corresponding punishment. The UCMJ, Article 18, also authorizes the
36 military to try by general court martial *anyone* subject to trial by a military tribunal for law of war
37 violations and to adjudge any punishment permitted by the law of war.² The law of war does not
38 specify particular punishments; however, punishment must be proportionate to the gravity of the
39 offense. The death penalty may be imposed for grave breaches.³

40 **b. Federal Court**

² See FM 27-10, *The Law of Land Warfare*, par 507 (1956).

³ *Ibid.*, par 508.

10 Nov 04

1 The War Crimes Act grants federal courts jurisdiction over any person inside or outside the United
2 States for war crimes where a US national or Armed Forces member is accused or is a victim. If the
3 crime results in death to the victim, punishment can include up to life imprisonment or death.

4
5 War crimes are defined in the War Crimes Act as grave breaches as defined in the Geneva
6 Conventions of 1949 and any Protocol thereto to which the US is a party; violations of Articles 23,
7 25, 27 and 28 of the Annex to Hague Convention IV; violations of Common Article 3 of the
8 Geneva Conventions of 1949 and any Protocol thereto to which the US is a party and deals with a
9 non-international armed conflict; and violations of provisions of the Protocol on Prohibitions or
10 Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II as amended May,
11 1996) when the US is a party to such Protocol and the violation willfully kills or causes serious
12 injury to civilians.

13 14 **c. International Tribunal**

15 War crimes may be prosecuted at an international tribunal that is created by victorious allies (e.g.,
16 Nuremberg, Tokyo) or created by a United Nations (UN) Security Council Resolution (e.g., former
17 Yugoslavia, Rwanda). Punishment is as authorized by the creating entity.

18 19 **d. Military Commissions During Occupation**

20 In occupied areas, military jurisdiction over individuals, other than members of the occupying
21 forces, can be exercised by courts of the military government. Such courts preside in occupied
22 territory and exercise jurisdiction on a territorial basis. The penal laws and punishment of the
23 occupied territory generally remain in force.⁴

24 25 **e. Military Commissions Under President of the United States Order**

26 The President's Military Order of November 13, 2001 authorizes military commissions at any time
27 and place to try non-US al Qaida, international terrorists (e.g., actors, aiders, abettors, conspirators
28 of acts against US) and their harborers. Punishment includes life imprisonment or death.

29 30 **f. International Criminal Court**

31 The International Criminal Court (ICC) can prosecute war crimes referred by a state party, the UN
32 Security Council, or the independent prosecutor. The United States is not a party to the ICC;
33 however, nonparty nationals can be prosecuted with the consent of the suspect's nation or consent
34 of the nation where the crime was committed. Punishment includes up to life imprisonment.

35 **Training and Leadership**

36
37 Marines are less likely to commit war crimes when they are trained in the law of war, understand
38 that anyone who commits violations is a criminal and will be prosecuted, and realize that
39 compliance benefits mission accomplishment. Law of war compliance not only prevents our most
40 valuable asset (personnel) from being jeopardized, but it also increases public and international
41 support of the US military, encourages reciprocal treatment by the enemy with respect to US
42 servicemembers who are held captive, and helps end the conflict more quickly by minimizing
43 hostilities.

⁴ Geneva Conventions IV (Civilians, 1949), art. 64; FM 27-10 par 369-370 (1956).

10 Nov 04

1
2 MCO 3300.4 and Marine Administrative (MARADMIN) message 182/04, *Marine Corps Law of*
3 *War Program*, set forth the law of war training requirements for the Marine Corps. Commanders
4 must become familiar with these requirements and ensure their subordinates are trained
5 accordingly. Commanders must stress the importance of law of war compliance and impose upon
6 subordinates an expectation that they will not commit violations. An explicit stigma against such
7 activity, coupled with a vigilant awareness of factors that contribute to the commission of war
8 crimes, can minimize the potential for subordinates to engage in such activity.

9
10 Historically, a number of factors have been found to lead to the commission of war crimes.
11 Effective training and leadership operates to eliminate some of these factors:

- 12
- 13 • High friendly losses.
 - 14 • High turnover rate in the chain of command.
 - 15 • Dehumanization of the enemy or use of derogatory names or epithets.
 - 16 • Poorly trained or inexperienced troops.
 - 17 • The lack of a clearly defined enemy.
 - 18 • Unclear orders.
 - 19 • High frustration level among the troops.
- 20

21 **Command Responsibility**

22
23 Commanders are responsible for training their subordinates on the law of war and for reporting and
24 investigating reportable incidents, as well as preventing and correcting violations. Additionally,
25 under the UCMJ, commanders are personally responsible for violations committed by subordinates
26 if the commander ordered the commission of the act or the commander knew, assisted, encouraged,
27 advised, instigated, or counseled the commission of the act either before or during its commission
28 and did nothing to prevent or stop it.

30 **Note**

31 In international tribunals, commanders have been held personally
32 responsible for violations committed by subordinates if the commander
33 ordered the commission of the act or if the commander knew, or should
34 have known, of the act either before or during its commission and did
35 nothing to prevent or stop it.

36
37 If a Marine Corps commander is assigned to a unified or specified combatant command or is under
38 the operational control of a commander other than Commandant of the Marine Corps and receives
39 reports of noncompliance with or breaches of the law of war, then he will report the facts through
40 the appropriate command channels to a higher authority in accordance with DOD Directive
41 5100.77, MCO 3300.4, and any specific directives of the operational commander. All other Marine
42 commanders will use MCO 5740.2F, *OPREP-3SIR: Serious Incident Reports*, to report
43 noncompliance with or breaches of the law of war, following the procedures of MCO 3300.4.

10 Nov 04

1 Reporting and investigation of a reportable incident is a command responsibility. Reportable
2 incidents suspected to have been committed by or against allied military or civilian personnel or
3 against allied military or civilian property will be investigated without delay. Reports of
4 investigations and of ultimate disposition will be submitted in accordance with the directives of
5 operational commanders, Services, and DOD. However, if it is determined and reported that US
6 personnel were not involved, additional investigation will continue only by direction of the
7 combatant commander.

8
9 In addition to the command's responsibility, each member of a Marine Corps organization who has
10 knowledge of or receives a report of an apparent violation of the law of war shall as soon thereafter
11 as practical—

- 12
- 13 • Inform the immediate commander of the matter.
- 14 • Make the matter known to an officer (normally in the chain of command) senior to the
15 commander. If the member has an honest and reasonable belief that the immediate commander
16 is, or may be, involved in a violation or in concealing a violation of the law of war.
- 17 • Report the matter to a chaplain, judge advocate, or military police investigator if circumstances
18 make other means of reporting the incident impractical.

19 **Notoriety of War Crimes**

20
21 Due to the notoriety associated with war crimes, it is especially important for an investigator to
22 perform a diligent investigation. While having a Marine identified as a war criminal is a black eye
23 for the United States Marine Corps, a slipshod investigation would only add to the bad publicity. It
24 is far better if a thorough investigation is conducted and the appropriate disciplinary action is
25 carried out than for a war crime to be covered up. Attempts to cover up a war crime seriously
26 undermine public support for military operations.

27 28 **Special Considerations**

29
30 The investigation of an alleged war crime should be treated like any other criminal investigation.
31 However, three specific considerations should be taken into account:

- 32
- 33 • The need for interpreters.
- 34 • An armed guard force to assure personal security and protection of witnesses and evidence.
- 35 • The Rome Statute of the ICC.
- 36

37 The Rome Statute of the ICC is a treaty that went into effect July 1, 2002 without US support. The
38 ICC claims jurisdiction over genocide, crimes against humanity, war crimes, and crimes of
39 aggression. The ICC poses a concern to Marines deploying to ICC-party nations, as ICC parties
40 may attempt to turn Marines over to the ICC for prosecution. To counter these novel provisions, the
41 United States is negotiating Article 98 Agreements, under which countries agree not to turn over

10 Nov 04

1 US personnel without US consent. Furthermore, commands should not turn custody of Marines
2 over to foreign officials without approval from appropriate higher authority.
3

4 **Incident Reporting**

5
6 Every Marine must act in accordance with the law of war and must report all “reportable
7 incidents.” A “reportable incident” is broadly defined as all possible, suspected, or alleged
8 violations of the law of war. All “reportable incidents” must be reported through command
9 channels to the appropriate Combatant Commander. The Combatant Commanders have the
10 responsibility under DOD Directive 5100.77, *DOD Law of War Program*, to ensure that
11 “reportable incidents” are reported promptly to appropriate authorities, are thoroughly investigated,
12 and the results of such investigations are promptly forwarded to appropriate authorities. An
13 investigation of an alleged war crime should be reported on a Department of the Navy’s
14 Incident/Compliant Report or a United States Marine Corps’ Criminal Investigation Report. If
15 neither of these forms is available, a law of war incident report can take any format as long as the
16 following information is included:
17

- 18 • Narrative description of the incident including: who, what, when, where, why, and how the
19 incident occurred.
- 20 • Unit and personnel discovering the incident.
- 21 • Identity of US/enemy units known or suspected of having been in the area at the time of the
22 incident.
- 23 • Disposition of the evidence.
- 24 • Any other information that would help an investigator determine what happened and who is
25 responsible for the incident.
26

27 **Contacts**

28
29 If you have any questions concerning war crimes, contact the Security and Law Enforcement
30 Branch at Headquarters, United States Marine Corps. The mailing address and telephone numbers
31 are as follows:
32

33 **COMMANDANT OF THE MARINE CORPS (PS)**
34 Security and Law Enforcement Branch
35 Security Division
36 Headquarters, U.S. Marine Corps
37 Washington, D.C. 20380-1775
38 Commercial: (703) 614-4177, 614-2180
39 DSN: 224-4177, 224-2180
40

41

APPENDIX A

IDENTIFICATION OF WAR CRIMES

Note

Some of the examples contain a list of UCMJ articles that may be charged in addition to Articles 92 and 134.

Executing the willful killing, torture, or inhumane treatment of individuals protected by the Geneva Conventions.

Individuals protected from willful killing, torture, or inhumane treatment include—

- EPWs.
- Medical and religious personnel.
- Sick, wounded, and shipwrecked combatants (also includes crews from disabled aircraft).
- Civilian internees, refugees, and other civilians under a military organization's control.

Inhumane treatment includes willfully causing great suffering or serious injury to body or health. Inhumane treatment may be as serious as beatings, but it may also take the form of systematically ignoring or neglecting the needs (shelter, clothing, food, water, and medical attention) of detainees (EPWs and interned civilians) who are entitled to certain protections under the Geneva Conventions.

An example of inhumane treatment is ordering an EPW to turn over to his captor his rations, boots, winter coat, first-aid kit, and shelter when the EPW still needs these items.

Article 93	Cruelty and Maltreatment
Article 118	Murder
Article 119	Manslaughter
Article 120	Rape and Carnal Knowledge
Article 122	Robbery
Article 124	Maiming
Article 128	Assault
Article 134	General Article (indecent assault, negligent homicide)

Note

Article 134 addresses offenses that involve disorders and neglects to the prejudice of good order and discipline in the armed forces, bring discredit upon the armed forces, and involve noncapital crimes or offenses which violate Federal law.

10 Nov 04

1 **Executing extensive unlawful and wanton destruction or illegal taking (confiscation or**
2 **stealing) of property (e.g., medical, religious, educational, scientific, and cultural property)**
3 **that is protected by the Geneva and Hague Conventions.**

4
5 This law of war violation also includes private property that has no military value (e.g., looting
6 private homes is prohibited) and the personal property of EPWs. EPWs must be allowed to retain
7 possession of their personal property, protective gear, valuables, and money, subject to valid
8 security concerns, such as protection from theft and violence. Personal items must not be taken
9 unless properly receipted for and recorded as required by Geneva Conventions Relative to the
10 Treatment of Prisoners of War (GPW), 12 August 1949, Article. 18. United States Code, Title 10,
11 Section 2579, *War Booty: Procedures for handling and Retaining Battlefield Objects*, sets forth
12 procedures for the handling and retaining of battlefield objects and mandates that all enemy
13 material captured or found abandoned shall be turned in to appropriate personnel, except in
14 accordance with regulations issued by the Secretary of Defense.

Article 99	Misbehavior Before the Enemy
Article 103	Captured or Abandoned Property
Article 109	Property Other than Military Property of U.S.—Waste, Spoilage, or Destruction
Article 121	Larceny and Wrongful Appropriation
Article 122	Robbery

16
17 **Forcing an EPW or alien civilian to serve in your own forces or to act as a guide for these**
18 **forces.**

19
20 **Depriving an EPW or a civilian who is in custody of the due process right to a fair and**
21 **regular trial for allegedly committed offenses.**

22
23 Due process prohibits, among other things, summary executions in the field for alleged misconduct
24 or spying.

25
26 **Executing the unlawful deportation, transfer, or confinement of civilians under the control**
27 **of a military force or government.**

28
29 For example, when hostilities broke out in Kuwait, US or allied civilians in Kuwait were illegally
30 transferred to Iraq and confined there by the Iraqi Government.

31
32 **Taking of innocent civilians and using them as hostages.**

33
34 **Using poison, bacteriological agents, and other weapons determined by higher authority to**
35 **be illegal because they can cause unnecessary suffering.**

36
37
38
39

Article 124	Maiming
-------------	---------

37
38 **Administering the mistreatment, abuse, neglect, or collective punishment of EPWs**
39 **(including religious and medical personnel) or civilians in the custody of US armed forces.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

Mistreatment can include acts of intimidation, insults, or ridicule toward an EPW. This type of misconduct may take the form of a Marine posing for a photograph of himself holding a gun to the head of a blindfolded EPW.

Article 93	Cruelty and Maltreatment
Article 128	Assault

Refusing quarter (the opportunity to surrender) unless bad faith is reasonably suspected.

Marines do not have to stop in the middle of a firefight to accept someone’s surrender, nor are they obligated to put themselves at risk in order to accept a surrender. However, Marines may not refuse to accept a surrender if they have the means to safely accept the surrender.

Giving a treacherous (false) request for quarter or misuse of a flag of truce (white flag).

This example of a war crime covers the situation in which a Marine attempts to trick his enemy into believing that he wishes to surrender or negotiate a truce in order to take advantage of his enemy.

Misusing the Red Cross’ insignia or other protective emblems.

In most Moslem nations, the protective emblem for medical service personnel and equipment is the Red Crescent. In addition to the Red Cross or Red Crescent, there are also protective emblems for religious and cultural buildings. Buildings and ships holding EPWs or civilian internees are required to display the emblems PW (which identifies them as a prisoner of war camps) or IC (which identifies them as an internment camps) to indicate that they should not be targeted.

It is against the law of war to place a red cross or any other protective emblem on a building in order to trick the enemy into believing that the facility is a hospital, prisoner of war camp, or internment camp.

Firing on a flag of truce (white flag).

Violating surrender or truce terms.

Attacking the enemy without justification during a truce or a cessation in hostilities is against the law of war.

Pillaging or purposeless destruction of property.

Article 99	Misbehavior Before the Enemy (quitting place of duty to plunder or pillage)
Article 103	Captured or Abandoned Property (dealing in, looting, or pillaging)
Article 109	Property Other than Military Property of U.S.—Waste, Spoilage, or Destruction

Article 121	Larceny and Wrongful Appropriation
-------------	------------------------------------

1
2
3
4
5
6

Looting or theft.

Theft and looting also includes the taking of personal property from EPWs or civilians for personal enrichment.

Article 103	Captured or Abandoned Property (dealing in, looting, or pillaging)
Article 109	Property Other than Military Property of U.S.—Waste, Spoilage, or Destruction
Article 121	Larceny and Wrongful Appropriation
Article 122	Robbery

7
8
9

Forcing an EPW or civilian to perform prohibited labor.

EPWs cannot be used to design or construct items whose primarily use is for military gain (e.g., a bridge that would help Marines attack the enemy). Labor that is humiliating, inherently dangerous (e.g., clearing minefields), or a health hazard is prohibited.

Ordering an EPW to assist sick or wounded Marines is not prohibited because the Marines are considered to be noncombatants while they are sick or wounded. EPWs may also be required to perform such labor as administrative work, installation repair and maintenance, agricultural work, manufacturing and transportation work that serves no military purpose, domestic work, and work related to the arts.

13
14
15
16
17
18
19

Transferring an EPW to people (military or civilian) of a country that did not sign the Geneva Conventions.

Before transfer to a country that did sign the Conventions, the United States must be satisfied that the receiving country is willing and able to apply the Conventions (GPW, Article 12). For example, if the Iranians captured an Israeli pilot, they could transfer him to Jordan if Iran was satisfied that Jordan was willing and able to apply the Convention, because Jordan signed the Geneva Conventions; however, the Iranians could not transfer the captured Israeli pilot to the Palestine Liberation Front.

20
21
22
23
24
25
26
27
28
29

Executing or otherwise punishing (without a trial) an individual accused of being a spy or a saboteur.

Article 118	Murder
Article 119	Manslaughter

30
31
32
33
34
35
36
37

Attacking an undefended town or a civilian object that has no military significance.

Mutilating corpses.

10 Nov 04

1 The mutilation of corpses (e.g., cutting off ears as a war trophy) is strictly prohibited under the law
2 of war.

3
4 **Executing any form of reprisal against a person protected by the Geneva Conventions**

5
6 People protected by the Geneva Conventions can include, but are not limited to, civilians not
7 engaged in hostilities; an EPW; or a sick, wounded, or shipwrecked enemy combatant. However, if
8 a civilian (an unprivileged combatant) shoots at Marines while they are patrolling an occupied
9 town, the civilian may be fired upon. If the civilian is apprehended, he must be given a trial or
10 hearing before being punished for his actions. If the civilian eludes capture, the Marines may not
11 harm the home or property of the suspected sniper's relatives or friends as a form of reprisal.
12 Similarly, if the identity of the sniper is unknown, the Marines may not institute any sort of
13 collective punishment (e.g., cut off electricity or water in the town) directed at the neighbors of the
14 civilian sniper. Reprisals are not permitted, except with the specific approval of the President or
15 Secretary of Defense.

16

Article 109	Property Other than Military Property of U.S.—Waste, Spoilage, or Destruction
-------------	--

17
18 **Placing a bounty or reward for killing an enemy, individual, or a member(s) of a particular**
19 **military organization.**

20
21 **Attacking Red Cross or Red Crescent personnel, vehicles or buildings, or the wounded**
22 **they are assisting.**

23
24 **Placing EPWs or civilians in unsafe or unhealthy locations.**

25
26 **Placing an EPW or a civilian near legitimate military targets (that is, using them as human**
27 **shields).**

28
29 It is a violation of the law of war to use an EPW or civilian as a human shield because—:

- 30
31
 - If the target is attacked, the EPW or civilian may be harmed.
 - If the attackers refrain from targeting the legitimate military target for fear of harming noncombatants, the Marines who placed the noncombatants in harm's way have taken an unlawful military advantage.

32
33
34
35

Article 93	Cruelty and Maltreatment
Article 118	Murder
Article 119	Manslaughter
Article 134	General Article (negligent homicide)

36
37 **Forbidding alien civilians, especially women and children, from departing an enemy nation**
38 **once hostilities have commenced.**

10 Nov 04

1 Draft age male civilians may be interned by their enemy if it is suspected that they may enter the
2 armed forces of their nation once they return to their homeland. However, women and children
3 should not be stopped from fleeing an enemy nation and returning to their homeland.

4
5 **Failing to notify an EPW's government of the fact the individual has been captured and**
6 **keeping interned alien civilians incommunicado.**

7
8 **Confiscating food, water, medicine, etc., from detained civilians due to the fact that they are**
9 **enemy aliens or are subjects of the country being occupied.**

Article 103	Captured or Abandoned Property (looting or pillaging)
Article 121	Larceny and Wrongful Appropriation
Article 122	Robbery

11
12 **Forcing civilians to commingle with troops in an attempt to have the enemy refrain from**
13 **attacking the combined group.**

Article 93	Cruelty and Maltreatment
------------	--------------------------

15
16 **Encouraging or forcing refugees to place themselves in the path of an attacking enemy in**
17 **order to hinder the enemy's advance.**

Article 118	Murder
Article 119	Manslaughter
Article 134	General Article (negligent homicide)

19
20 **Failing to search out, collect, make provision for the safety of, or to care for survivors of**
21 **sunken ships or boats when the military situation permits.**

22
23 **Failing to care for members of enemy or friendly armed forces in the field, when the military**
24 **situation permits, who are disabled by sickness or wounds or who have dropped their**
25 **weapons and surrendered.**

26
27 **Attacking individual civilians who are not actively engaged in direct hostilities against**
28 **friendly forces or the civilian population.**

29
30 It is unlawful to execute indiscriminate attacks on the civilian population or civilian property,
31 knowing the attack will cause—

- 32
- 33 • Loss of life or injury to civilians.
 - 34 • Damage to civilian property that would be excessive or disproportionate in relation to the
35 concrete and direct military advantage anticipated, and cause death or serious injury to body
36 or health.
- 37

Article 118	Murder
Article 119	Manslaughter

10 Nov 04

Article 128	Assault
Article 134	General Article (negligent homicide)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

Poisoning wells, streams, or other water sources.

Pretending to be wounded.

It is unlawful to pretend to be wounded if it is part of a plan to—

- Take advantage of your enemy’s obligation not to attack wounded combatants.
- Attack the enemy when his guard is down. Indicating to an enemy that you are unable due to your wounds to continue to fight has the same effect as indicating (by raising your hands over your head or waving a white flag) a desire to surrender.

Forcing an EPW or civilian to collect wounded fellow Marines from the battlefield during the battle.

Executing physical or mental coercion toward an EPW or a civilian while in custody to induce him to provide information.

For example, threatening to throw someone out of a helicopter unless he provides information.

Article 93	Cruelty and Maltreatment
------------	--------------------------

21

APPENDIX B

GLOSSARY

1		
2		
3	DOD	Department of Defense
4	EPW	enemy prisoner of war
5	GPW	Geneva Convention Relative to the Treatment of Prisoners of War
6	ICC	International Criminal Court
7	MARADMIN	Marine Administrative
8	MCO	Marine Corps Order
9	MCRP	Marine Corps reference publication
10	OPREP	operations report
11	POW	prisoner of war
12	UCMJ	Uniform Code of Military Justice
13	UN	United Nations
14	US	United States
15		

1 **APPENDIX C**
2 **REFERENCES**

3 **Marine Corps Orders (MCO)**

4 3300.4 Marine Corps Law of War Program

5 5740.2F OPREP-3SIR: Serious Incident Reports

6
7
8 **Marine Administrative (MARADMIN) Message**

9 182/04 Marine Corps Law of War Program

10
11 **Field Manual (FM)**

12 27-10 The Law of Land Warfare

13
14 **Department of Defense (DOD) Directive**

15 5100.77 DOD Law of War Program

16
17 **United States Code**

18 Title 10, Sec 2579 War Booty: Procedures for Handling and Retaining Battlefield Objects

19 Title 18, Sec 2441 War Crimes Act of 1996