



DEPARTMENT OF THE NAVY  
OFFICE OF THE SECRETARY  
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WASHINGTON DC 20350-1000

SECNAVINST 3300.1C  
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SECNAV INSTRUCTION 3300.1C

From: Secretary of the Navy

Subj: DEPARTMENT OF THE NAVY LAW OF WAR PROGRAM

Ref: (a) DoD Directive 2311.01E of 9 May 06  
(b) Uniform Code of Military Justice, Sections 801-946 of Title 10, United States Code (U.S.C.)  
(c) Military Extraterritorial Jurisdiction Act, Sections 3261-3267 of Title 18, U.S.C.  
(d) War Crimes Act, Section 2441 of Title 18, U.S.C.  
(e) SECNAVINST 5000.2D  
(f) DoD Directive 2310.01E of 5 Sep 06  
(g) OPNAVINST 3461.6/MCO 3461.1  
(h) Detainee Treatment Act, Section 2000dd of Title 42, U.S.C.  
(i) The Geneva Conventions of August 12, 1949  
(j) NWP 1-14M of Jul 2007, Commander's Handbook on the Law of Naval Operations  
(k) FM 27-10 of Jul 1956, The Law of Land Warfare  
(l) DoD Instruction 3020.41 of 3 Oct 05  
(m) Hague Convention of 1907 Respecting the Law and Custom of War on Land (Hague IV)  
(n) OPNAVINST F3100.6H  
(o) MCO 3504.2  
(p) MCO 3300.4  
(q) SECNAV M-5210.1  
(r) SECNAV M-5214.1

Encl: (1) Examples of Reportable Incidents

1. Purpose. To implement reference (a) within the Department of the Navy (DON) by promulgating regulation and guidance to ensure that all DON personnel and contractors comply with the law of war.

2. Cancellation. SECNAVINST 3300.1B.

### 3. Scope and Applicability

a. This instruction applies to all DON personnel, defined as: all active duty Navy and Marine Corps military personnel, both Regular and Reserve; all DON civilians, including non-appropriated fund employees; midshipmen of the Naval Academy and Reserve Officer Training Corps; and Reserve personnel, during active or inactive duty for training or engaging in any activity directly related to a Department of Defense (DoD) reserve duty or function. This instruction also applies to all DON contractors, defined as contractors and their employees, who perform work under DON funding.

b. This instruction is a lawful, punitive, and regulatory general order that applies directly, without further implementation, to all DON personnel. This instruction also constitutes a lawful order applying to DON civilian personnel and contractors. All DON personnel and contractors may be punished or subject to adverse administrative procedures under applicable DON regulations and law, including references (b) through (d), for any violations of the law of war or this instruction.

c. Excluded from the scope of reference (a) and this instruction is that part of the law of war relating to the acquisition and procurement of weapons for the Naval Service, which is the subject of reference (e).

d. The treatment of detainees is governed by references (a) and (f) through (i), and this instruction.

e. Further information on the applicable law and policy is contained in references (j) and (k).

### 4. Policy

a. The law of war, also known as the law of armed conflict, is that part of international law that regulates the conduct of armed hostilities.

(1) The law of war encompasses all international law for the conduct of hostilities binding on the United States or its

individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law.

(2) In accordance with reference (a), all DON personnel and contractors shall comply with the law of war during all armed conflicts, however such conflicts are characterized and in all other military operations.

b. All DON plans, policies, directives, publications and training programs shall comply with the law of war and this instruction.

c. All reportable incidents committed by or against DON personnel, or persons accompanying them, shall be reported promptly, investigated thoroughly, and, where appropriate, remedied by corrective action. A reportable incident is a possible, suspected, or alleged violation of the law of war, for which there is credible information, or conduct during military operations other than war that would constitute a violation of the law of war if it occurred during an armed conflict. All reports and completed investigations of reportable incidents alleged to have been committed by or against DON personnel, or persons accompanying them, shall be forwarded to the Judge Advocate General.

d. To ensure full continuing compliance with the law of war, all DON personnel and contractors shall receive adequate training and education in the law of war, commensurate with their duties and responsibilities. All law of war training for DON personnel and contractors shall:

- (1) Be conducted by qualified instructors;
- (2) Be standardized in content, to the extent possible;
- (3) Emphasize the general principles, the specific rules of law, and their practical application;
- (4) Incorporate realistic scenarios that are tailored to the particular services' audiences;

(5) Leverage information technology for the widest possible dissemination and access;

(6) Be periodically reviewed for accuracy;

(7) Be periodically updated to incorporate lessons learned from recent operations; and

(8) Be documented for individual DON personnel and contractors.

## 5. Responsibilities

a. The Chief of Naval Operations (CNO) and the Commandant of Marine Corps (CMC) will:

(1) Implement programs providing accession and specialized training in the law of war to all persons in the Department of the Navy as required by their duties and responsibilities;

(2) Identify billets requiring special knowledge of aspects of the law of war and assign appropriately trained personnel to those billets;

(3) Establish policies, procedures, and directives to ensure that the activities of the Navy and Marine Corps comply with the law of war;

(4) Implement internal policies and procedures for the prompt reporting, investigation, and disposition of alleged violations of the law of war;

(5) Ensure that qualified legal advisors, at all appropriate levels of command, are involved in the planning and execution of military exercises and operations to provide advice on law of war compliance; and

(6) Ensure that contract work statements for contractors comply with the policies contained in this instruction and references (a) and (1), and require contractors to institute and

implement effective programs to prevent violations of the law of war by their employees and subcontractors, including law of war training and dissemination.

b. The Judge Advocate General, as the DON sponsor for the Law of War Program, will:

(1) Maintain a central depository for reports and completed investigations of reportable incidents alleged to have been committed by or against DON personnel or persons accompanying them;

(2) Conduct reviews, as required, of the Law of War Program within the Department of the Navy, particularly in light of any reportable incidents;

(3) Formulate broad objectives for training programs and identify necessary resource materials for curricula development;

(4) Ensure judge advocates assigned to billets requiring detailed knowledge of the law of war receive the appropriate training in the law of war; and

(5) Review for the CNO, and upon request for the CMC, plans, policies, directives, publications, training materials, and rules of engagement for conformity with U.S. domestic and international law, including the law of war. Upon request, maritime rules of engagement shall also be reviewed in support of the Secretary of Defense or the Chairman, Joint Chiefs of Staff.

## 6. Training

a. The training program is derived from references (i) and (m), other international treaties and agreements to which the United States is a party, customary international law, and U.S./DoD policy.

b. Training will emphasize:

(1) The rights and obligations regarding detainees (to include lawful enemy combatants; unlawful enemy combatants; sick, wounded or shipwrecked; noncombatants; and civilians);

(2) The handling of detainee property;

(3) Grave breaches of the Geneva Conventions and serious violations of the law of war;

(4) Unlawful orders and superior responsibility;

(5) Rules governing the conduct of hostilities, including the law of targeting and the principles of proportionality, necessity, unnecessary suffering and distinction; and

(6) Procedures for reporting reportable incidents (as defined in this instruction).

c. The following individual training objectives are established:

(1) All members of the Naval Service shall obtain, during accession training, sufficient understanding of the law of war to minimize the intentional violations of these obligations in combat.

(2) The extent of additional knowledge required of various DON personnel and contractors will depend upon their assigned duties and responsibilities. In particular, all personnel responsible for planning, directing, or participating in armed conflict shall receive sufficient training to comply with the law of war in all situations reasonably contemplated by their assigned duties.

(3) Judge advocates responsible for advising operational commanders shall have sufficient understanding of the law of war to advise and assist those commanders independently and expeditiously.

d. Unit and combined unit training programs shall contain realistic problems involving the law of war that are incorporated in field and fleet exercises, as appropriate.

## 7. Reports and Disposition of Violations

a. Any information regarding a reportable incident committed by or against U.S. personnel, enemy persons, or any

other individual shall be reported as directed below, immediately upon receipt of notification of such allegations, and will be followed, as appropriate, by amplifying reports of investigation and ultimate disposition.

b. Any person in the Department of the Navy, including contractors, who obtain information regarding a reportable incident shall, as soon thereafter as practicable:

(1) Make the incident known to his immediate commanding officer or officer-in-charge; or

(2) Make the incident known to an officer, normally in the chain of command, senior to the commanding officer or officer-in-charge, if such a person has an honest and reasonable belief that his immediate commanding officer or officer-in-charge is or may be involved in the violation. Information regarding a reportable incident may also be reported through other channels, such as military police, a judge advocate, or an inspector general. Reports made to officials other than those specified in this paragraph shall, nonetheless, be accepted and forwarded through the recipient's chain of command.

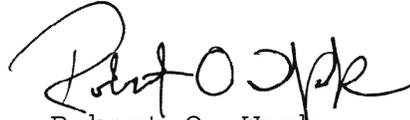
(3) Contractor employees shall report information regarding a reportable incident to the commanding officer or officer-in-charge of the unit they are accompanying or the installation to which they are assigned, or as otherwise specified in their contract.

c. Commanding officers and officers-in-charge receiving information regarding a reportable incident shall promptly report such information up their operational chain of command and up their Service chain of command to the CNO or CMC, as appropriate, in accordance with the applicable provisions of references (g), (n), (o), or (p). Reporting requirements are concurrent. Commanders and commanding officers shall, as appropriate, submit amplifying reports of investigation and ultimate disposition.

d. Enclosure (1) contains a non-exhaustive list of examples of violations of the law of war/reportable incidents.

8. Records Management. Records created as a result of this instruction, regardless of media and format, shall be managed in accordance with reference (q).

9. Reports. The reports referred to in this instruction are exempt from reports controlled by reference (r).



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Examples of Reportable Incidents

1. All DON personnel and contractors shall comply with the law of war, shall promptly report as soon as practicable all reportable incidents, and shall receive adequate training and education in the law of war commensurate with their duties and responsibilities.
2. DON personnel and contractors who violate the law of war may be punished in courts-martial and U.S. civilian courts or through adverse administrative action. The law of war includes treaties to which the United States is a party and customary international law. Congress, the Department of Defense, and the Department of the Navy have implemented the law of war through federal law and regulations. DON policy requires DON personnel and contractors to comply with the law of war during all armed conflicts, however, such conflicts are characterized, and in all other military operations.
3. While there is not an exhaustive list of war crimes, they consist of serious and intentional violations of the law of war. Lawful combatants, unlawful combatants, noncombatants, civilian employees, or contractors may commit acts constituting war crimes. States have the obligation under international law to punish their own nationals, whether members of the armed forces or civilians, who commit war crimes. International law also provides that States have the right to punish enemy armed forces personnel and enemy civilians who fall under their control for such offenses. The commission of war crimes is not limited to international armed conflict and may be committed during non-international armed conflict. Information regarding the possible occurrence of all of the below should be considered a "reportable incident" regardless of the nature of the conflict.
4. Grave breaches of the Geneva Conventions are a special type of war crime. Defined in the Geneva Conventions, they place additional duties on States to search for persons alleged to have committed grave breaches, bring them to trial, and punish them if found guilty. This duty exists regardless of the nationality of the offender and includes the right to punish enemy armed forces personnel and enemy civilians. For violations of the Conventions that do not rise to the level of a grave breach, States are obligated to take measures necessary to suppress them. The Geneva Conventions define grave breaches as

"acts committed against persons or property protected by the Conventions; willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly."

5. The following acts, if committed intentionally, are examples of war crimes, which must be reported and would be considered grave breaches:

a. Offenses against prisoners of war, including killing without just cause; torture or inhumane treatment (to include biological, medical or scientific experiments, physical mutilation, removal of tissues or organs for transplantation, or any medical procedure not indicated by the health of the person and which is not consistent with generally accepted medical standards); willfully causing great suffering or serious injury to body or health or seriously endangering the physical or mental health; subjection to public insult or curiosity; unhealthy, dangerous, or otherwise prohibited labor; compelling service in the armed forces of the enemy or participation in military operations, taking of hostages, and denial of fair trial for offenses;

b. Offenses against civilian inhabitants of occupied territory, including killing without just cause, torture or inhumane treatment (to include biological, medical or scientific experiments, physical mutilation, removal of tissues or organs for transplantation, or any medical procedure not indicated by the health of the person and which is not consistent with generally accepted medical standards), forced labor, unlawful deportation, unlawful confinement, compelling service in the armed forces of the enemy or participation in military operations, use as human shields, physical or moral coercion, pillage, hostage taking, collective punishment, and denial of fair trial for offenses;

c. Offenses against the sick and wounded to include the killing, wounding, or mistreating enemy forces disabled by sickness or wounds;

d. Denial of quarter (i.e., killing or wounding an enemy unable to fight due to sickness or wounds or one who is making a genuine offer of surrender) and offenses against combatants who have laid down their arms and surrendered; attacking parachuting persons during their descent over land from an aircraft in distress; and failing to provide for the safety of survivors after an engagement, as military circumstances permit;

e. Offenses against the survivors of ships and aircraft lost at sea (to include killing, wounding, mistreating, or attacking shipwrecked survivors or the attacking of persons parachuting over the sea from an aircraft in distress); and failing to provide for the safety of survivors, as military circumstances permit;

f. Wanton destruction of cities, towns, and villages or devastation of objects that would release dangerous forces into the civilian population that are not justified by the requirements of military necessity (such as dams and dikes); bombardment of civilian population areas for the sole purpose of terrorizing the civilian population; indiscriminate attacks against the civilian population or against civilian property where the anticipated loss of life or injury to civilians and/or damage to civilian property will be excessive or disproportionate to the concrete and direct military advantage anticipated; and

g. Deliberate attack upon medical facilities, hospital ships, coastal rescue craft (to include lifeboats or small survivor craft), medical aircraft, medical vehicles, or medical personnel.

6. The following acts, if committed intentionally, are also examples of reportable incidents, even though they would not normally be considered grave breaches:

- a. Plunder and pillage of public or private property;
- b. Improper use of privileged buildings or localities for military purposes;
- c. Mutilation or other mistreatment of the dead;

d. Employing forbidden arms or ammunition (such as the use of poison, chemical weapons, biological weapons, or other weapon systems forbidden by international law);

e. Misuse, abuse, or firing on flags of truce or on distinctive emblems (such as the Red Cross, the Red Crescent, or other similar protective emblems, signs, or signals recognized under international law); and

f. Committing perfidy. Perfidious acts include but are not limited to: feigning intent to negotiate under a flag of truce in order to gain a military advantage by attacking exposed military forces who come forward to negotiate; a treacherous request for quarter or surrender in order to gain a military advantage by attacking exposed military forces who come forward to accept the surrender; the violation of the terms of an armistice in order to gain a military advantage by attacking unsuspecting military forces; feigning incapacitation by wounds or sickness in order to gain a military advantage by attacking those military personnel who expose themselves to render medical aid and treatment; feigning civilian noncombatant status in order to gain a military advantage by attacking unsuspecting military forces; feigning protected status by use of signs or emblems in order to gain a military advantage by attacking unsuspecting military forces; and the wearing of uniforms of the United Nations or of a neutral state in order to gain a military advantage by attacking unsuspecting military forces.