

# UNITED STATES OF AMERICA

Last updated: 1 November 2016

## RULES/GENERAL LAWS

<b>General</b>	<p><a href="http://uscode.house.gov/browse/prelim@title10/subtitleA/part2/chapter47&amp;edition=prelim">http://uscode.house.gov/browse/prelim@title10/subtitleA/part2/chapter47&amp;edition=prelim</a></p> <p>All US military personnel are subject to the provisions of the <b>US Code Title 10, Chapter 47, Sections 801 to 946 (Uniform Code of Military Justice or UCMJ)</b> including while serving as part of UN Peace Operations. Per <b>Title 10, Subsection 805, Article 5, the UCMJ</b> applies in all places.</p> <p>US military personnel are on active duty status while deployed and are subject to the UCMJ regardless of if they are specifically conducting duty-related activities.</p> <p>All US military personnel serving in UN peace operations are trained on UN SEA rules prior to deployment. All US military personnel are assigned to the United States Military Observer Group - Washington (USMOG-W) for their administrative and logistical needs, including command and discipline issues. The senior US officer assigned to the peacekeeping operation is responsible for reporting to the commander of USMOG-W any possible violation of those rules, at which point the USMOG-W commander will follow UCMJ and service policies to investigate the allegations and take appropriate actions.</p>
<b>SEA: military offence?</b>	<p><a href="http://uscode.house.gov/browse/prelim@title10/subtitleA/part2/chapter47/subchapter10&amp;edition=prelim">http://uscode.house.gov/browse/prelim@title10/subtitleA/part2/chapter47/subchapter10&amp;edition=prelim</a></p> <p>There are multiple SEA related offenses listed under the UCMJ: <b>Section 920 Article 120 (Rape and sexual assault generally); Section 920a Article 120a (Stalking); Section 920b Article 120b (Rape and sexual assault of a child); Section 920c Article 120c (Other Sexual Misconduct); Section 925 Article 125 (Forcible sodomy)</b>. Depending on the circumstances, SEA offenses may also be violations of <b>Section 892 Article 92 (Failure to Obey Order or Regulation); Section 933 Article 133 (Conduct Unbecoming an Officer and a Gentleman); and Section 934 Article 134 (General Article)</b>.</p>
<b>Powers of the Commanding Officer(CO)</b>	<p><a href="http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title10-section892&amp;num=0&amp;edition=prelim">http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title10-section892&amp;num=0&amp;edition=prelim</a></p> <p>A commanding officer can promulgate rules and policies. US military personnel are required to obey regulations and the lawful orders of their commanders and superior officers, including orders to restrict movement and non-fraternization. The failure to obey such a lawful order violates Section 892 Article 92 (Failure to Obey Order or Regulation).</p> <p>For the US military, the nature of command is defined in Joint Publication 1 (Doctrine for the Armed Forces of the United States):</p> <ol style="list-style-type: none"><li>1.The authority that a commander in the armed forces lawfully exercises over subordinates by virtue of rank or assignment.</li><li>2. An order given by a commander; that is, the will of the commander expressed for the purpose of bringing about a particular action.</li><li>3. A unit or units, an organization, or an area under the command of one individual." Any particular commander's ability to conduct investigations and impose disciplinary actions of an administrative (non-judicial) or criminal (court martial) is dictated by the UCMJ. <b>Section 815 Article 15</b> dictates a commander's authorities for non-judicial punishment depending on circumstances, including reductions in rank, forfeiture of pay, and confinement. <b>Section 832 Article 32</b> dictates conditions for investigations. <b>Section 822 (General Courts-Martial), Section 823 (Special Courts-Martial), and Section 834 (Summary Courts-Martials)</b> dictate the types of court martials commanders at various levels may initiate, which is dependent on the nature of the alleged offenses.</li></ol>

## INVESTIGATION

<b>Who can investigate?</b>	<p><a href="http://jsc.defense.gov/Portals/99/Documents/MCM2012.pdf">http://jsc.defense.gov/Portals/99/Documents/MCM2012.pdf</a></p> <p>Any US military officer can be appointed by the commander of USMOG-W to conduct an investigation into SEA allegations, including military police. Civilian police are not used to conduct the investigation on military personnel under these circumstances without usual circumstances which would require coordination with the US Department of Justice. Military judges do not conduct investigations. The MCM Rule 303 discusses preliminary inquiries into reported offenses, and Rule 405 of the MCM discusses pretrial investigations. For a pretrial investigation, the rule states the investigating officer should be an officer in the grade of major or lieutenant commander or higher or one with legal training. The investigating officer may seek legal advice concerning the investigating officer's responsibilities from an impartial source.</p>
<b>National Investigation Officers (NIO)</b>	<p><a href="http://jsc.defense.gov/Portals/99/Documents/MCM2012.pdf">http://jsc.defense.gov/Portals/99/Documents/MCM2012.pdf</a></p> <p><a href="http://www.oaa.army.mil/AEA_attributes.aspx?ID=172">http://www.oaa.army.mil/AEA_attributes.aspx?ID=172</a></p> <p>The US does not have contingents deployed to UN peace keeping operations, only staff officers and experts, an NIO will be deployed to investigate allegations as needed. The USMOG-W commander deploys an investigating officer per the qualifications and requirements of the MCM.</p>

## PROSECUTION

<b>Referral</b>	<p>NIOs will refer their investigations to the USMOG-W commander once the investigation is completed. However, per MCM Rule 306, a superior commander may withhold the authority of the USMOG-W commander to dispose the case, which could occur depending on the severity of the allegations and the potential level of court-martial considered.</p>
<b>Who can charge?</b>	<p><a href="http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title10-section830&amp;num=0&amp;edition=prelim">http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title10-section830&amp;num=0&amp;edition=prelim</a></p> <p>UCMJ Section 830 Article 30 describes the preferring of charges including those related to SEA. Per the MCM Rule 308, the immediate commander, in this case the USMOG-W commander, will cause the accused to be informed of the charges preferred against the accused.</p>

## JUSTICE

<b>Military justice</b>	<p>The USA have a military justice system, the Uniform Code of Military Justice.</p> <p><a href="http://jsc.defense.gov/Military-Law/Current-Publications-and-Updates/">http://jsc.defense.gov/Military-Law/Current-Publications-and-Updates/</a></p>
<b>Deployable Court Martial?</b>	<p>The USA have a military justice system, the Uniform Code of Military Justice. The conduct of court martials are directed by the Manual for Courts-Martial. Court martials can be conducted under a variety of conditions, including during deployments, with the type of court martial and circumstances determined based on the particular circumstances and violations.</p>

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