

UNITED STATES CENTRAL COMMAND
7115 South Boundary Boulevard
MacDill Air Force Base, Florida 33621-5101

REGULATION
NUMBER 27-13

07 FEB 1995

Legal Services
CAPTURED PERSONS. DETERMINATION OF ELIGIBILITY
FOR ENEMY PRISONER OF WAR STATUS

1. **PURPOSE.** This regulation prescribes policies and procedures for determining whether persons who have committed belligerent acts and come into the power of the United States Forces are entitled to enemy prisoner of war (EPW) status under the Geneva Convention Relative to the Treatment of Prisoners of War, 12 August 1949 (GPW).
2. **APPLICABILITY.** This regulation is applicable to all members of the United States Forces deployed to or operating in support of operations in the US CENTCOM AOR.
3. **REFERENCES.**
 - a. Geneva Convention Relative to the Treatment of Prisoners of War, 12 August 1949.
 - b. DA Pamphlet 27-1, Treaties Governing Land Warfare, December 1956.
 - c. FM 27-10, the Law of Land Warfare, July 1956.
 - d. J. Pictet, Commentary on the Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949, International Committee of the Red Cross.
4. **GENERAL.**
 - a. Persons who have committed belligerent acts and are captured or otherwise come into the power of the United States Forces shall be treated as EPWs if they fall into any of the classes of persons described in Article 4 of the GPW (Annex A).
 - b. Should any doubt arise as to whether a person who has committed a belligerent act falls into one of the classes of persons entitled to EPW status under GPW Article 4, he shall be treated as an EPW until such time as his status has been determined by a Tribunal convened under this regulation.

*This regulation supersedes USCENCOM R27-13 dtd 15 January 1991.

C-3

c. No person whose status is in doubt shall be transferred from the power of the United States to another detaining power until his status has been determined by a Tribunal convened under GPW Article 5 and this regulation.

5. DEFINITIONS.

a. Belligerent Act. Bearing arms against or engaging in other conduct hostile to United States' persons or property or to the persons or property of other nations participating as Friendly Forces in operations in the USCENTCOM AOR.

b. Convening Authority. An officer designated by the Commander, U.S. Central Command (CENTCOM) to convene GPW Article 5 Tribunals.

c. Detainee. A person, not a member of the US Forces, in the custody of the United States Forces who is not free to voluntarily terminate that custody.

d. Enemy Prisoner of War (EPW). A detainee who has committed a belligerent act and falls within one of the classes of persons described in GPW Article 4.

e. Interpreter. A person competent in English and Arabic (or other language understood by the Detainee) who assists a Tribunal and/or Detainee by translating instructions, questions, testimony, and documents.

f. Person Whose Status is in Doubt. A detainee who has committed a belligerent act, but whose entitlement to status as an EPW under GPW Article 4 is in doubt.

g. President of the Tribunal. The senior Voting member of each Tribunal. The President shall be a commissioned officer serving in the grade of O4 or above.

h. Recorder. A commissioned officer detailed to obtain and present evidence to a Tribunal convened under this regulation and to make a record of the proceedings thereof.

i. Retained Persons. Members of the medical service and chaplains accompanying the enemy armed forces who come into the custody of the US Forces who are retained in custody to administer to the needs of the personnel of their own forces.

j. Screening Officer. Any US military or civilian employee of the Department of Defense who conducts an initial screening or interrogation of persons coming into the power of the United States Forces.

k. Tribunal. A panel of three commissioned officers, at least one of whom must be a judge advocate, convened to make determinations of fact pursuant to GPW Article 5 and this regulation.

6. BACKGROUND.

a. The United States is a state-party to the four Geneva Conventions of 12 August 1949. One of these conventions is the Geneva Convention Relative to the Treatment of Prisoners of War. The text of this convention may be found in DA Pamphlet 27-1.

b. By its terms, the GPW would apply to an armed conflict between the United States and any country.

c. The GPW provides that any person who has committed a belligerent act and thereafter comes into the power of the enemy will be treated as an EPW unless a competent Tribunal determines that the person does not fall within a class of persons described in GPW Article 4.

d. Some detainees are obviously entitled to EPW status, and their cases should not be referred to a Tribunal. These include personnel of enemy armed forces taken into custody on the battlefield.

e. Medical personnel and chaplains accompanying enemy armed forces are not combatants; therefore, they are not EPWs upon capture. However, they may be retained in custody to administer to EPWs.

f. When a competent Tribunal determines that a detained person has committed a belligerent act as defined in this regulation, but that the person does not fall into one of the classes of persons described in GPW Article 4, that person will be delivered to the Provost Marshal for disposition as follows:

(1) If captured in enemy territory. In accordance with the rights and obligations of an occupying power under the Law of Armed Conflict (See reference at paragraph 7c).

(2) If captured in territory of another friendly state. For delivery to the civil authorities unless otherwise directed by competent US authority.

7. RESPONSIBILITIES.

a. All US military and civilian personnel of the Department of Defense (DoD) who take or have custody of a detainee will:

(1) Treat each detainee humanely and with respect.

(2) Apply the protections of the GPW to each EPW and to each detainee whose status has not yet been determined by a Tribunal convened under this regulation.

b. Any US military or civilian employee of the Department of Defense who fails to treat any detainee humanely, respectfully or otherwise in accordance with the GPW, may be subject to punishment under the UCMJ or as otherwise directed by competent authority.

c. Commanders will:

(1) Ensure that personnel of their commands know and comply with the responsibilities set forth above.

(2) Ensure that all detainees in the custody of their forces are promptly evacuated, processed, and accounted for.

(3) Ensure that all sick or wounded detainees are provided prompt medical care. Only urgent medical reasons will determine the priority in the order of medical treatment to be administered.

(4) Ensure that detainees determined not to be entitled to EPW status are segregated from EPWs prior to any transfer to other authorities.

d. The Screening Officer will:

(1) Determine whether or not each detainee has committed a belligerent act as defined in this regulation.

(2) Refer the cases of detainees who have committed a belligerent act and who may not fall within one of the classes of persons entitled to EPW status under GPW Article 4 to a Tribunal convened under this regulation.

(3) Refer the cases of detainees who have not committed a belligerent act, but who may have committed an ordinary crime, to the Provost Marshal.

(4) Seek the advice of the unit's servicing judge advocate when needed.

(5) Ensure that all detainees are delivered to the appropriate US authority, e.g. Provost Marshal, for evacuation, transfer or release as appropriate.

e. The USCENTCOM SJA will:

- (1) Provide legal guidance, as required, to subordinate units concerning the conduct of Article 5 Tribunals.
- (2) Provide judge advocates to serve on Article 5 Tribunals as required.
- (3) Determine the legal sufficiency of each hearing in which a detainee who committed a belligerent act was not granted EPW status. Where a Tribunal's decision is determined not to be legally sufficient, a new hearing will be ordered.
- (4) Retain the records of all Article 5 Tribunals conducted. Promulgate a Tribunal Appointment Order IAW Annex B of this regulation.

f. Tribunals will:

- (1) Following substantially the procedures set forth at Annex C of this regulation, determine whether each detainee referred to that Tribunal:
 - (a) Did or did not commit a belligerent act as defined in this regulations and, if so, whether the detainee
 - (b) Falls or does not fall within one of the classes of persons entitled to EPW status under Article 4 of the GPW.
- (2) Promptly report their decisions to the convening authority in writing.

g. The servicing judge advocate for each unit capturing or otherwise coming into the possession of new detainees will provide legal guidance to Screening Officers and others concerning the determination of EPW status as required.

R 27-13

8. PROPONENT. The proponent of this regulation is the Office of the Staff Judge Advocate, CCJA. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to United States Central Command, CCJA, 7115 South Boundary Boulevard, MacDill Air Force Base, Florida 33621-5101.

FOR THE COMMANDER IN CHIEF:

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