



HUMAN RESOURCES DEPLOYMENT INFORMATION – LAWS AND ENFORCEMENT WHILE IN THEATER

Status of Forces Agreements (SOFAs)

Status of Forces Agreements are negotiated relationships between two countries wherein the host nation accords certain rights and responsibilities to members of the United States forces and accompanying civilians. Many violations of host nation laws are also violations of United States laws. However, in many cases, though not all, SOFAs provide that punitive or other actions can be taken under appropriate United States military or civilian law, rule, or regulation rather than the host nation law. A Foreign Criminal Jurisdiction Arrangement (FCJA) will be negotiated if the host nation will not agree to grant United States personnel some form of immunity. It will provide jurisdictional protections and procedural safeguards for United States personnel. However, the host nation may still retain the right to prosecute United States personnel for offenses that are either exclusive violations of host nation law, or those over which the host nation has primary concurrent jurisdiction.

Uniform Code of Military Justice (UCMJ)

Civilian employees are subject to normal federal civil service administrative disciplinary procedures for work related misconduct, such as reprimands, oral admonishments, suspensions and removals from federal service. Should a civilian employee become subject to the Uniform Code of Military Justice (UCMJ), the in-theater commander has the discretion to initiate a federal civil service administrative disciplinary action and/or a court-martial proceeding. UCMJ applicability is determined by the status of the individual at the time of the offense. Department of the Army civilian employees are subject to military law when serving with or accompanying an armed force only "in time of war," which the U.S. Supreme Court has ruled to mean a Congressionally declared war. Although civilians are not subject to UCMJ except during wartime, they are bound by general orders issued by in-theater commanders, e.g. no drinking, drugs, personal firearms, etc.

Geneva Convention Prisoner of War Status

Under both, The Hague and Geneva Conventions, civilians captured while accompanying military forces in the field, regardless if carrying a self-defense weapon or wearing a uniform, are entitled to be protected as prisoners of war (POW) if captured by hostile forces. These protections are accorded to those POWs, who are persons accompanying the armed forces without actually being members thereof, provided they have received authorization from the armed forces which they accompany, and have

been provided with an identity card, most notably the Geneva Convention Card (DD Form 489 or DD Form 2764). ID cards will be provided by the CRC or home station. Since the issuance of an identity card is significant, all civilians accompanying the U. S. Armed Forces must be issued a Geneva Convention Card. The treatment extended to POWs depends on each POW's particular status or rank. The higher the status or rank, the greater the benefits afforded to that POW. It is not a violation of the law of war for a deployed civilian to wear a uniform or to carry a weapon for personal self-defense while accompanying a military force, if authorized. Capture of a deployed civilian by an opposing force while wearing a uniform or carrying a weapon does not deprive a civilian employee of protections afforded by the Geneva Convention. If issued a personal weapon, that weapon is issued only for the civilian's personal protection from attack. It does not constitute authorization for a civilian to be assigned to guard duty.