

Uniform Code of Military Justice Articles Relating to Domestic Violence

Articles that may be used to charge domestic violence-related offenses under the Uniform Code of Military Justice have been taken from the Commanding Officer's Protocol/Guidelines from the third report of the Defense Task Force on Domestic Violence, pp. 51-61, at http://www.dtic.mil/domesticviolence/reports/DV_RPT3.PDF

As stated in the report, commanders should consult with a staff judge advocate before using these articles.

Code provisions have been downloaded from the following online source:
http://www.access.gpo.gov/uscode/title10/subtitlea_partii_chapter47_.html

<u>Article</u>	<u>Section</u>
Article 92 – Failure to obey order or regulation May be used to charge such offenses as: Failure to support family member; Violation of a Military Protective Order (MPO)	1
Article 108 – Damaging military property Article 109 – Damaging non-military property	2
Article 117 – Provoking speeches or gestures (if incident involves two service members)	3
Article 120 – Rape	4
Article 124 – Maiming	5
Article 128 – Assault	6
Article 134 – General Article May be used to charge such offenses as: Communication of a threat; discharging a firearm willfully under such circumstances as to endanger human life; kidnapping; drunk and disorderly conduct, obstructing justice, unlawful entry; assault with intent to commit rape; assault with intent to commit housebreaking; stalking	7

Section 1

Sec. 892. Art. 92. Failure to obey order or regulation

Any person subject to this chapter who--

- (1) violates or fails to obey any lawful general order or regulation;
- (2) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or
- (3) is derelict in the performance of his duties;

shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 68.)

Section 2

Sec. 908. Art. 108. Military property of United States--Loss, damage, destruction, or wrongful disposition

Any person subject to this chapter who, without proper authority--

- (1) sells or otherwise disposes of;
- (2) willfully or through neglect damages, destroys, or loses; or
- (3) willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of;

any military property of the United States, shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 71.)

Sec. 909. Art. 109. Property other than military property of United States--Waste, spoilage, or destruction

Any person subject to this chapter who willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 71.)

Section 3

Sec. 917. Art. 117. Provoking speeches or gestures

Any person subject to this chapter who uses provoking or reproachful words or gestures towards any other person subject to this chapter shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 72.)

Section 4

Sec. 920. Art. 120. Rape and carnal knowledge

(a) Any person subject to this chapter who commits an act of sexual intercourse, by force and without consent, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a person--

- (1) who is not that person's spouse; and
- (2) who has not attained the age of sixteen years;

is guilty of carnal knowledge and shall be punished as a court-martial may direct.

(c) Penetration, however slight, is sufficient to complete either of these offenses.

(d) (1) In a prosecution under subsection (b), it is an affirmative defense that--

(A) the person with whom the accused committed the act of sexual intercourse had at the time of the alleged offense attained the age of twelve years; and

(B) the accused reasonably believed that that person had at the time of the alleged offense attained the age of sixteen years.

(2) The accused has the burden of proving a defense under paragraph (1) by a preponderance of the evidence.

(Aug. 10, 1956, ch. 1041, 70A Stat. 73; Pub. L. 102-484, div. A, title X, Sec. 1066(c), Oct. 23, 1992, 106 Stat. 2506; Pub. L. 104-106, div. A, title XI, Sec. 1113, Feb. 10, 1996, 110 Stat. 462.)

Section 5

Sec. 924. Art. 124. Maiming

Any person subject to this chapter who, with intent to injure, disfigure, or disable, inflicts upon the person of another an injury which--

- (1) seriously disfigures his person by any mutilation thereof;
- (2) destroys or disables any member or organ of his body; or
- (3) seriously diminishes his physical vigor by the injury of any member or organ;

is guilty of maiming and shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 74.)

Section 6

Sec. 928. Art. 128. Assault

(a) Any person subject to this chapter who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who--

(1) commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm; or

(2) commits an assault and intentionally inflicts grievous bodily harm with or without a weapon;

is guilty of aggravated assault and shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 75.)

Section 7

Sec. 934. Art. 134. General article

Though not specifically mentioned in this chapter, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces, and crimes and offenses not capital, of which persons subject to this chapter may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court.

(Aug. 10, 1956, ch. 1041, 70A Stat. 76.)

