

**Statement of the “Former JAGs Working Group” on Media Reports of
Pentagon “No Quarter” Orders in Caribbean Boat Strikes**

29 November 2025

Yesterday, the Washington Post and CNN reported that the Secretary of Defense personally issued orders to “kill everybody” aboard a civilian vessel suspected of narcotrafficking. The attack on 2 September 2025 targeted a vessel carrying 11 civilians and, allegedly, an unknown quantity of drugs. The first strike resulted in near-total destruction of the vessel. However, two survivors were apparently observed via surveillance video clinging to wreckage, whereupon the commander directing the operation ordered a second strike. The second strike killed both survivors.

The Former JAGs Working Group unanimously considers both the giving and the execution of these orders, if true, to constitute war crimes, murder, or both. Our group was established in February 2025 in response to the SECDEF’s firing of the Army and Air Force Judge Advocates General and his systematic dismantling of the military’s legal guardrails. Had those guardrails been in place, we are confident they would have prevented these crimes.

- If the U.S. military operation to interdict and destroy suspected narcotrafficking vessels is a “non-international armed conflict,” as the Trump Administration suggests, orders to “kill everybody,” which can reasonably be regarded as an order to give “no quarter,” and to “double-tap” a target in order to kill survivors, are clearly illegal under international law. In short, they are war crimes.
- If the U.S. military operation is *not* an armed conflict of any kind, these orders to kill helpless civilians clinging to the wreckage of a vessel our military destroyed would subject everyone from SECDEF down to the individual who pulled the trigger to prosecution under U.S. law for murder.

We call upon Congress to investigate and the American people to oppose any use of the U.S. military that involves the intentional targeting of **anyone** – enemy combatants, non-combatants, or civilians – rendered *hors de combat* (“out of the fight”) as a result of their wounds or the destruction of the ship or aircraft carrying them.

We also advise our fellow citizens that orders like those described above are the kinds of “patently illegal orders” all military members have a duty to disobey.

Since orders to kill survivors of an attack at sea are “patently illegal,” anyone who issues or follows such orders can and should be prosecuted for war crimes, murder, or both.

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Background

The Acts Reported: A Summary

Regardless of whether the U.S. is involved in an armed conflict, law enforcement operations, or any other application of military force, international and domestic U.S. law prohibit the intentional targeting of defenseless persons. If the [Washington Post](#) and [CNN](#) reports are true, the two survivors of the 2 September 2025 U.S. attack against a vessel carrying 11 persons were rendered unable to continue their mission when U.S. military forces significantly damaged the vessel carrying them. Under such circumstances, not only does international law prohibit targeting these survivors, but it also requires the attacking force to protect, rescue, and, if applicable, treat them as prisoners of war. **Violations of these obligations are war crimes, murder, or both. There are no other options.**

An Operational Law Primer

Applicable International Humanitarian Law (IHL): The United States has [publicly described](#) the narcotrafficker attacks as “non-international armed conflict” because our “enemy” is an international terrorist organization rather than a sovereign state. As such, the full scope of international law generally applicable to armed conflict does not necessarily apply to this conflict.

- [Common Article 3 \(CA3\) of the Geneva Conventions](#): The main body of IHL applicable to non-international armed conflicts is a subset of the Geneva Conventions that is applicable to all international armed conflicts. The relevant provision of CA3 states in relevant part:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms **and those placed 'hors de combat' by sickness, wounds, detention, or any other cause**, shall in all circumstances be **treated humanely**, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, **the following acts are and shall remain prohibited** at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) **violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;**
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

It should also be noted that “wounded, sick or shipwrecked” persons and “members of crews ... of the merchant marine” and are considered “protected persons” under Articles [12](#) and [13](#), respectively, of the Second Geneva Convention.

In essence, the Geneva Conventions and other longstanding international maritime laws prohibit U.S. forces from doing anything to survivors of a military attack that destroys the vessel or aircraft carrying them other than rescuing them. **They certainly prohibit U.S. forces from killing them.**

While violations of IHL rising to the level of war crimes could be prosecuted by an international tribunal, **domestic U.S. law – [18 U.S.C. § 2441](#) – War Crimes – subjects U.S. citizens to criminal prosecution for war crimes.** U.S. courts have jurisdiction over such offenses regardless of where they are committed if the offender is a U.S. national or member of the U.S. armed forces and the crime constitutes, *inter alia*, a **“grave breach of common Article 3.”**

- **[1907 Hague Convention IV](#)**: Even before the Geneva Conventions of 1949, the laws of war clearly prohibited orders that “no quarter” be given. The Hague Convention IV, Regulations Art 23(d) states specifically that **“it is especially forbidden [t]o declare that no quarter will be given.”** Orders to give “no quarter” or to kill everyone, including survivors, wounded, ill, or anyone else who is no longer able to carry out their military mission are not only unlawful orders, they subject those who give and execute such orders to prosecution as war criminals. The United States became a party to this treaty on 27 November 1909. Its prohibition against “no quarter” orders has also become a principle of [customary international law](#). Therefore, violations of this treaty and customary law are also violations of U.S. law.

“Pending” IHL:

- **[Additional Protocol II \(AP2\) to the Geneva Conventions](#)**. In 1977, the parties to the Geneva Conventions, including the United States, drafted a new “protocol” to address the challenges of non-international armed conflicts to which no treaty-based IHL, with the exception of CA3, applies. Since to that point, about 80% of all armed conflicts were of a non-international nature, the parties drafted this protocol to fill that legal void. The protocol – AP2 – simply extends the principles enshrined in the original four Geneva Conventions to conflicts of a non-international nature.

One relevant provision in AP2 is [Article 7](#), which states, “All the wounded and shipwrecked, whether or not they have taken part in armed conflict, shall be respected

and protected.” This makes the second strike with survivors in the water particularly heinous

We characterize AP2 as “pending” because, although the United States signed the treaty on 12 December 1977, the Senate has not yet provided its “advice and consent” despite having received it for that purpose from President Ronald Reagan in 1987.

Perhaps now is the time to remedy that.

Notwithstanding the fact that AP2 has not yet achieved status as U.S. law, the United States has, for many years, adhered to the principle that “U.S. military practice is already consistent with Additional Protocol II’s provisions subject to certain proposed reservations, understandings, and declarations.” Furthermore, **the United States has stated that “as a matter of policy, [it] routinely imposes heightened standards on its forces that are more protective of civilians than required under international humanitarian law.”**

We believe that under all these circumstances – particularly, the gross violations of international law reported yesterday – **the Senate must immediately take up the matter of AP2 advice and consent.**

Applicable U.S. Law: Giving and executing “no quarter” orders subjects individuals to either U.S. criminal statutes or the Uniform Code of Military Justice.

- [18 U.S.C. § 1111](#) – Murder. “Murder is the unlawful killing of a human being with malice aforethought.” Civilian personnel who issue and execute orders to kill any human being can be prosecuted for murder unless a defense applies. The Nuremberg War Crimes Tribunals established as a matter of customary international law that superior orders are no defense to war crimes.
- [18 U.S.C. § 2441](#) – War Crimes. See discussion of Common Article 3, above.
- UCMJ Article 118 ([10 U.S.C. § 918](#)) – Murder. Substantively similar to the federal murder statute applicable to civilians, UCMJ Art. 118 provides that anyone who unlawfully kills a human being is guilty of murder.

A great deal has been written lately about the notion that superior orders may provide a defense to certain military offenses. Military law does provide a “superior orders” defense:

“It is a defense to any offense that the accused was acting pursuant to orders **unless the accused knew the orders to be unlawful or a person of ordinary sense and understanding would have known the orders to be unlawful.**” Rules for Courts-Martial (R.C.M.) 916(d)

Another part of the Manual For Courts-Martial puts it in a slightly different but equally compelling way:

“An order requiring the performance of a military duty or act may be inferred to be lawful, and it is disobeyed at the peril of the subordinate. **This inference does not apply to a patently illegal order, such as one that directs the commission of a crime.**” Art. 90, UCMJ, para 16.c.(2)(a)(i).

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Again, the bottom line is that, since orders to kill survivors of an attack at sea are “patently illegal,” anyone who issues or follows such orders can and should be prosecuted for war crimes, murder, or both.