

MEJA (18 USC § 3261 et seq.), Federal Prosecutions, and Alternative Article 2, UCMJ Dispositions**SUMMARY:****DoJ/DSS Referral to U.S. Attorney's Office (USAO)**

	<u>Cases</u>	<u>Not Referred to DoJ/DSS</u>	<u>Not Referred to USAO</u>	<u>Prosecuted or Charged</u>	<u>USAO Pending</u>	<u>USAO Declined</u>	<u>/</u>	<u>Art 2, UCMJ Prosecution</u>
1. 18 USC(7)(9):	4	0	0	3	1	0	/	0
<i>Location of Offense:</i>								
- Iraq:	1	0	0	1	0	0	/	0
- Afghanistan:	1	0	0	1	0	0	/	0
- Other:	2(Qatar,Japan)	0	0	1(Qatar)	1(Japan)	0	/	0
2. Other Federal Statutes:	1	0	0	1	0	0	/	0
<i>Location of Offense:</i>								
- Iraq:	0	0	0	0	0	0	/	0
- Afghanistan:	0	0	0	0	0	0	/	0
- Other:	1(Italy)	0	0	1 (Italy)	0	0	/	0
3. MEJA:								
a. Dependents - Adult:	11	0	1	4	3	3	/	0
<i>Location of Offense:</i>								
- Iraq:	0	0	0	0	0	0	/	0
- Afghanistan:	0	0	0	0	0	0	/	0
- Other:	11	0	1(Japan)	4(Turkey, Okinawa(2), Germany)	3(Turkey, Okinawa (2))	3(Netherlands, Japan, Okinawa)		0

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b. Dependents – Juvenile:	10	0	0	3	7	0	/	0
<i>Location of Offense:</i>								
- Iraq:	0	0	0	0	0	0	/	0
- Afghanistan:	0	0	0	0	0	0	/	0
- Other:	11	0	0	3(Okinawa, Germany, Korea)	7(Japan (3), Okinawa (2), Germany(2))	0	/	0
c. Civilian Employees:	15	0	1	4	4	6	/	0
<i>Location of Offense:</i>								
- Iraq:	0	0	0	0	0	0	/	0
- Afghanistan:	1	0	0	0	1	0	/	0
- Other:	14	0	1(Japan)	4(Germany, Japan, Okinawa(2))	3(Korea, Japan(2))	6(Italy, Japan(4), Okinawa)		0
d. US National Contractors:	51	0	8	18	17	8	/	0
<i>Location of Offense:</i>								
- Iraq:	36	0	5	12	12	7	/	0
- Afghanistan:	6	0	1	3	2	0	/	0
- Other:	9 (Kuwait (3), S. Arabia, Italy, Okinawa, Japan(2), Djibouti)	0	2 (Kuwait, Djibouti)	3 (S. Arabia, Italy, Kuwait)	3 (Japan(2), Kuwait)	1 (Okinawa)	/	0
e. Third Country/Foreign National Contractors:	15	0	5	0	2	8	/	1
<i>Location of Offense:</i>								
- Iraq:	15	0	5	0	2	8	/	1(Ali)
- Afghanistan:	0	0	0	0	0	0	/	0
- Other:	0	0	0	0	0	0	/	0

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f. Former								
Service members:	8	0	0	2	0	6		0
<i>Location of Offense:</i>								
- Iraq:	4	0	0	2	0	2	/	0
- Afghanistan:	4	0	0	0	0	4	/	0
- Other:	0	0	0	0	0	0	/	0
g. Servicemembers under 18 USC § 3261(d)(2):	1	0	0	0	1	0	/	0
<i>Location of Offense:</i>								
- Iraq:	1	0	0	0	1	0	/	0
- Afghanistan:	0	0	0	0	0	0	/	0
- Other:	0	0	0	0	0	0	/	0
Total:	116	0 (00%)	15 (13%)	35 (30%)	35 (30%)	31 (27%)	/	1 (1%)

Total Charged or Pending: (70/116= 60%)

Case Disposition:

<i>Location of Offense:</i>							/	
- Iraq:	57	0 (00%)	10 (18%)	15 (26%)	15 (26%)	17 (30%)	/	1 (2%)
- Afghanistan:	12	0 (00%)	1 (8%)	4 (33%)	3 (25%)	4 (33%)	/	0
- Other:	47	0 (00%)	4 (9%)	16 (34%)	17 (36%)	10 (21%)	/	0

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US National Contractors: Total: 51	0 (00%)	8 (16%)	18 (35%)	17 (33%)	8 (16%)	/	1 (02%)
<i>Location of Offense:</i>							
- Iraq:	36	0 (00%)	5 (14%)	12 (33%)	12 (33%)	7 (19%)	1 (03%)
- Afghanistan:	6	0 (00%)	1 (17%)	3 (50%)	2 (33%)	0 (00%)	0 (00%)
- Other:	9(Kuwait (3), S. Arabia, Italy, Okinawa, Japan(2), Djibouti)	0 (00%)	2(Kuwait, Djibouti) (25%)	3 (S.Arabia, Italy, Kuwait) (33%)	3(Japan(2), Kuwait) (23%)	1 (Okinawa) (13%)	0 (00%)

Total U.S. National Contractors Prosecuted/Charged or Pending: (35/51= 69%)

Location of Offense:

- Iraq: (24/36 = 67%)
- Afghanistan: (5/6 = 83%)
- Other: (6/9 = 67%)

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Third Country/Foreign National Contractors: Total: 15	0 (00%)	5 (33%)	0 (00%)	2 (13%)	8 (53%)	/	1¹ (7 %)

¹ *United States v. Alaa Mohammad Ali*, court-martial convened by MNC-I following MEJA declination due to Ali being Canadian/Iraqi dual citizen and as a national of Iraq, not subject to MEJA jurisdiction. Ali also not subject to Canadian criminal jurisdiction and Iraq declined to prosecute and MNC-I stated that CPA Order 17 precluded his prosecution in Iraqi courts. Charged with stabbing a fellow DoD contractor who was an Iraqi linguist. On March 27, 2008, Ali became the first case charged under Article 2(a)(10), UCMJ, amendment of 2006. He was investigated for possible attempted murder, but was formally charged with aggravated assault, in violation of Article 128, UCMJ. On 6-13-08, the Military Judge denied a motion to dismiss the charges based on lack of jurisdiction and unconstitutionality of the Article 2(a)(10), UCMJ, amendment. Mr. Ali pleaded guilty to lesser included offenses of false official statement, wrongfully appropriating a knife and then wrongfully disposing of the knife, and was sentenced to 5 months confinement. Since already served in pretrial confinement, Mr. Ali left Iraq to return to Canada on June 23, 2008. On November 4, CAAF denied petition for review. On March 31, 2010, Army TJAG certified Ali court-martial to Army Court of Criminal Appeals on whether court-martial had jurisdiction under Article 2(a)(10) and whether court-martial had subject-matter jurisdiction over the offenses.

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MEJA Category of Person Accused and Location of Principal Offense In Cases DOD Referred to DOJ Under MEJA Procedures

Contractor: <u>Location of Offense:</u> <u>Offense</u>	<u>Cases</u>	U.S. Contractors			TCN* Contractors			Civilian Employees			Other MEJA Qualified		
		<u>Iraq</u>	<u>Afgh.</u>	<u>Elsewhere</u>	<u>Iraq</u>	<u>Afgh.</u>	<u>Elsewhere</u>	<u>Iraq</u>	<u>Afgh.</u>	<u>Elsewhere</u>	<u>Iraq.</u>	<u>Afgh.</u>	<u>Elsewhere</u>
Homicide/ Attempted Murder:	20	1	3	1	7#	0	0	0	0	0	4	1	3
Kidnapping:	6	3	0	0	2	0	0	0	0	0	1	0	0
Aggravated Assault:	8	4	0	1	1	0	0	0	0	0	0	0	2
Detainee Abuse/ Failure to Report:	10	5	1	0	0	0	0	0	1	0	0	3	0
Sexual Assault:	19	11	0	1	2	0	0	0	0	0	0	0	5
Theft/Embezzlement/ Bribery/Graft/Fraud:	19	4	0	3	2	0	0	0	0	8	0	0	2
Possess Stolen Prop/ Weapons:	1	1	0	0	0	0	0	0	0	0	0	0	0
Sell/Damage Gov't Prop:	4	1	2	0	0	0	0	0	0	1	0	0	0
Possession of Grenade:	1	1	0	0	0	0	0	0	0	0	0	0	0
Gun Smuggling:	1	1	0	0	0	0	0	0	0	0	0	0	0
Computer Tampering:	1	0	0	1	0	0	0	0	0	0	0	0	0
Child Sexual Abuse:	11	0	0	1	0	0	0	0	0	3	0	0	7
Child Physical Abuse:	4	0	0	1	0	0	0	0	0	2	0	0	1
Child Pornography:	9	6	0	1	0	0	0	0	0	1	0	0	1
Trafficking in Persons:	1	0	0	0	1	0	0	0	0	0	0	0	0
Drug Abuse:	1	0	0	1	0	0	0	0	0	0	0	0	0
Totals:	(116)	38	6	11	15	0	0	0	1	15	5	4	21

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*TCN = Third Country Nationals (Persons Who Are Not U.S. or Host Nation Nationals of Country Where Alleged Offense Was Committed)

One of these cases is Alaa Mohommad Ali who is a Canadian/Iraqi dual national and, therefore, not subject to MEJA, and MNC-I reports Canada cannot prosecute, Iraqis declined to prosecute, and MNC-I stated that CPA Order 17 also operated to precluded Iraqi prosecution. Following DoJ/DSS declination of MEJA prosecution due to Ali being a national of host nation, on March 17, 2008, MNC-I charged Ali with aggravated assault, in violation of Article 128, UCMJ. After the Article 32, UCMJ, investigation, charge was referred to a general court-martial. Ali was arraigned and, on June 13, 2008, the military judge denied the defense motion to dismiss the charges based on lack of jurisdiction and unconstitutionality of the amendment to Article 2(a)(10). Mr. Ali pleaded guilty to lesser included offenses of false official statement, wrongfully appropriating a knife and then wrongfully disposing of the knife, and was sentenced to 5 months confinement. Since already served in pretrial confinement, Mr. Ali left Iraq to return to Canada on June 23, 2008. On August 29, 2008, the Army Court of Criminal Appeals denied Mr. Ali's petition for a Writ for Extraordinary Relief in the Nature of a Writ of Prohibition to prevent convening authority action to approve court-martial findings and sentence. On November 4, CAAF denied petition for review. On March 31, 2010, Army TJAG certified Ali court-martial to Army Court of Criminal Appeals on whether court-martial had jurisdiction under Article 2(a)(10) and whether court-martial had subject-matter jurisdiction over the offenses.