

Legal Support to Operations

HEADQUARTERS, DEPARTMENT OF THE ARMY

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***FM 27-100**

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Table of Contents

PREFACE.....	v
INTRODUCTION	vii
Chapter 1 Role of the Judge Advocate	1-1
1.1 THE JUDGE ADVOCATE GENERAL'S CORPS MISSION.....	1-1
1.2 PERFORMING TRADITIONAL ROLES.....	1-1
1.2.1 Mission.....	1-2
1.2.2 Service.....	1-2
1.2.3 Legitimacy.....	1-2
1.2.4 The Military General Practitioner.....	1-3
1.2.5 The "Judge" Function	1-4
1.2.6 The "Advocate" Function	1-5
1.2.7 The "Ethical Adviser" Function.....	1-5
1.2.8 The "Counselor" Function	1-5
1.3 IN A CHALLENGING NEW ENVIRONMENT	1-6
1.3.1 More Missions.....	1-6
1.3.2 Command and Control Relationships.....	1-7
1.3.3 International Operations	1-7
1.3.4 Fluid Operations.....	1-7
1.3.5 Technological Advancements.....	1-8
1.4 CHALLENGES FOR JUDGE ADVOCATES IN THE 21ST CENTURY	1-8
1.4.1 Mission.....	1-8
1.4.2 Service.....	1-9
1.4.3 Legitimacy.....	1-10
1.5 SUMMARY.....	1-10
Chapter 2 Organization to Support Army Operations	2-1
2.1 JUDGE ADVOCATE ORGANIZATIONS.....	2-1
2.1.1 Office of The Judge Advocate General.....	2-1
2.1.2 Field Operating Agencies	2-3
2.1.3 The U.S. Army Legal Services Agency	2-3
2.1.4 The Judge Advocate General's School, U.S. Army	2-5
2.1.5 Army National Guard Legal Organizations	2-6
2.1.6 U.S. Army Reserve Legal Organizations	2-7
2.1.7 Staff Judge Advocate Offices	2-10
2.1.8 Command Judge Advocates	2-14
2.2 JOINT LEGAL ORGANIZATIONS	2-14
2.2.1 The Office of the Legal Counsel to the Chairman, Joint Chiefs of Staff ..2-15	
2.2.2 Unified, Specified, and Subordinate Unified Command Staff Judge Advocates	2-15
2.2.3 Joint Task Force Staff Judge Advocate.....	2-15
2.3 MULTINATIONAL FORCE LEGAL ORGANIZATIONS	2-15
2.4 PROVIDING ARMY LEGAL SUPPORT FOR OPERATIONS.....	2-16
2.4.1 Overview of Operational Law Support.....	2-16
2.4.2 Tailoring Operational Law Support.....	2-19

2.5	SUMMARY.....	2-20
Chapter 3	OPLAW and Core Legal Disciplines Supporting Army Operations.....	3-1
3.1	INTRODUCTION.....	3-1
3.2	OPLAW.....	3-2
3.3	MILITARY JUSTICE.....	3-3
3.4	INTERNATIONAL LAW.....	3-6
3.5	ADMINISTRATIVE LAW.....	3-7
3.6	CIVIL LAW.....	3-9
3.7	CLAIMS.....	3-11
3.8	LEGAL ASSISTANCE.....	3-13
3.9	SUMMARY.....	3-16
Chapter 4	Legal Support in Theater Operations.....	4-1
4.1	THE THEATER.....	4-2
4.1.1	Key Terms and Distinctions.....	4-2
4.1.2	Communications Zone and Combat Zone.....	4-3
4.1.3	Strategy.....	4-4
4.1.4	Structures of Command and Coordination.....	4-4
4.1.5	Command, Control, and Support Relationships.....	4-8
4.2	PLANNING AND DECISION-MAKING.....	4-10
4.2.1	Planning.....	4-11
4.2.2	Functions of Staffs.....	4-11
4.2.3	The Military Decision Making Process.....	4-12
4.2.4	Decision Making in a Time-Constrained Environment.....	4-18
4.2.5	SJA Planning, Decision-Making, and Orders.....	4-20
4.3	LEGAL SUPPORT IN THEATER.....	4-21
4.3.1	Introduction.....	4-21
4.3.2	Overseas Presence and Force Projection.....	4-21
4.3.3	Legal Support in Theater.....	4-23
4.3.4	The United States as a Theater (Domestic Operations).....	4-24
4.3.5	Technical Channels.....	4-24
4.4	MATERIEL.....	4-25
4.4.1	Legal Automation.....	4-25
4.4.2	Mobility.....	4-28
4.4.3	Communications.....	4-29
4.5	TRAINING.....	4-30
4.5.1	Principles of Training.....	4-30
4.5.2	Mission Essential Task Lists (METL).....	4-32
4.5.3	Planning for Training.....	4-35
4.6	LEGAL SUPPORT AND SPECIAL OPERATIONS.....	4-36
4.6.1	Legal Support and Special Operations.....	4-38
4.6.2	Legal Support and Civil Affairs.....	4-39
Chapter 5	Legal Support in War.....	5-1
5.1	THE LIMITS OF WAR.....	5-2
5.2	PHASED AND NESTED OPERATIONS.....	5-3
5.3	CONCEPT OF LEGAL SUPPORT IN WAR.....	5-4

5.3.1	Command & Control, Sustainment, Personnel Service Support.....	5-4
5.3.2	Command and Control (C2).....	5-4
5.3.3	Sustainment.....	5-5
5.3.4	Personnel Service Support.....	5-6
5.4	THE CORE LEGAL DISCIPLINES IN WAR	5-7
5.4.1	Administrative Law	5-8
5.4.2	Claims	5-8
5.4.3	Civil Law.....	5-8
5.4.4	Military Justice.....	5-8
5.4.5	International Law.....	5-8
5.4.6	Legal Assistance.....	5-9
5.5	ORGANIZATION FOR WAR	5-9
5.5.1	Theater Legal Structure	5-9
5.5.2	Army Service Component Command.....	5-9
5.5.3	Command Posts.....	5-10
5.5.4	Judge Advocate Disposition	5-11
5.5.5	Brigade Command and Control Facilities	5-22
5.6	MATERIEL IN WAR	5-24
5.7	TRAINING FOR WAR.....	5-25
Chapter 6	Legal Support to Military Operations Other Than War	6-1
6.1	INTRODUCTION.....	6-2
6.2	STRATEGIC CONCEPT.....	6-3
6.3	THEATER CONCEPT	6-3
6.3.1	Political Objectives.....	6-4
6.3.2	Legal Complexity	6-4
6.3.3	Mission Complexity	6-4
6.3.4	Command and Control	6-4
6.3.5	Interagency Coordination	6-5
6.4	THE ARMY'S ROLE IN MOOTW	6-5
6.4.1	Arms Control.....	6-6
6.4.2	Combating Terrorism	6-6
6.4.3	Counter-Drug Operations	6-6
6.4.4	Enforcement of Sanctions and Exclusion Zones.....	6-6
6.4.5	Humanitarian Assistance.....	6-7
6.4.6	Nation Assistance.....	6-7
6.4.7	Noncombatant Evacuation Operations	6-7
6.4.8	Peace Operations	6-7
6.4.9	Recovery Operations	6-8
6.4.10	Show of Force Operations	6-8
6.4.11	Strikes and Raids.....	6-8
6.4.12	Support to Insurgencies	6-9
6.4.13	Operations Under Armistice Conditions.....	6-9
6.5	ORGANIZATION OF LEGAL SUPPORT	6-9
6.6	LEGAL ASPECTS OF C2, SUSTAINMENT, AND SUPPORT OPS	6-9
6.6.1	Legal Basis for the Operation	6-10

6.6.2	Status of Forces	6-10
6.6.3	International & Interagency Relationships	6-11
6.6.4	Use of Force & Rules of Engagement (ROE).....	6-11
6.6.5	Treatment of Civilians.....	6-12
6.6.6	Fiscal Responsibility	6-13
6.6.7	Intelligence Oversight	6-14
6.7	LEGAL TRAINING REQUIREMENTS.....	6-14
6.8	LEGAL EQUIPMENT REQUIREMENTS.....	6-15
6.9	SUMMARY.....	6-15
Chapter 7	The United States as a Theater	7-1
7.1	INTRODUCTION.....	7-1
7.2	Organizing and Equipping Judge Advocates	7-2
7.3	Training Judge Advocates.....	7-2
7.4	Military Support to Civil Authorities.....	7-3
7.4.1	General	7-3
7.4.2	Authorization for Military Support	7-3
7.4.3	Lead Agency Concept and Role of Military	7-4
7.4.4	Rules for Use of Force.....	7-5
7.5	Military Support to Law Enforcement	7-6
7.5.1	Civil Disturbance Operations	7-6
7.5.2	Counter-Drug Operations	7-9
7.6	Emerging Threats in the Continental United States (Terrorism).....	7-12
Chapter 8	Rules of Engagement.....	8-1
8.1	INTRODUCTION.....	8-2
8.2	ROE DEVELOPMENT CONSIDERATIONS	8-2
8.2.1	Commander's Responsibility	8-2
8.2.2	Purposes of ROE	8-2
8.2.3	Drafting Considerations	8-3
8.2.4	Situation Considerations - METT-TC	8-4
8.2.5	Definitions and Key Concepts.....	8-5
8.2.6	Types of ROE.....	8-6
8.3	CJCS Standing ROE.....	8-7
8.4	THE I-D-D-T METHODOLOGY	8-9
8.4.1	Interpret.....	8-9
8.4.2	Draft	8-10
8.4.3	Disseminate.....	8-13
8.4.4	Train.....	8-13
GLOSSARY		
REFERENCES		
INDEX		
ENDNOTES		

Preface

Legal support to operations encompasses all legal services provided by Judge Advocate General's Corps (JAGC) personnel in support of commanders, units, and soldiers throughout an area of operation and across the spectrum of operations. This support includes Operational Law and the six Core Legal Disciplines, which support command and control, sustainment, and personnel service support. Legal support to operations promotes the operational mission, provides quality legal services, and preserves the legitimacy of operations.

Field Manual 27-100, Legal Support to Operations, is the Army's capstone legal doctrinal manual. It describes the missions and operations of JAGC organizations, units, and personnel supporting Army operations. Legal support to operations must be thoroughly integrated into all aspects of operations to ensure compliance with law and policy and to provide responsive, quality legal services. This manual does not provide comprehensive treatment of the Law of War or Geneva Conventions. For information on these topics, refer to Field Manual 27-10, The Law of Land Warfare.

The purpose of this manual is to provide authoritative doctrine and guidance on all legal support to Army operations. It also provides the basis for legal training, organizational, and materiel development. It contains guidance for commanders, Staff Judge Advocates, staffs, and other JAGC personnel. It implements relevant Joint and Army doctrine, incorporates lessons learned from recent operations, and conforms to Army keystone doctrine.

The proponent of this publication is The Judge Advocate General's School, U.S. Army. Send comments and recommendations on DA Form 2028 to Commandant, The Judge Advocate General's School, U.S. Army, ATTN: JAGS-CDD, Charlottesville, Virginia 22903-1781.

Unless otherwise stated, specific gender pronouns include men and women.

Introduction

Mission of The Judge Advocate General's Corps and Purpose of FM 27-100

The mission of judge advocates and supporting legal personnel is to provide professional legal services at all echelons of command throughout the range of military operations.¹ The purpose of *Field Manual (FM) 27-100* is to describe how the Judge Advocate General's Corps (JAGC) will provide legal support to operations and how commanders should integrate legal support in operational planning and training.

Legal Support to Operations and Functional Areas

Legal support to operations encompasses all legal services provided by judge advocates and other legal personnel in support of units, commanders, and soldiers throughout an area of operations and across the spectrum of operations. Legal support to operations falls into three *functional areas: command and control, sustainment, and personnel service support* (or *support* for short). The following are illustrative examples of the types of legal support within these functional areas. *Command and control* functions include advice to commanders, staffs, and soldiers on the legal aspects of command authority, command discipline, the application of force, and the Law of War (LOW). Some examples of judge advocates' command and control responsibilities are interpreting, drafting, and training commanders, staffs, and soldiers on rules of engagement; participating in targeting cells; participating in the military decision-making process; participating in information operations; applying the LOW; and advising commanders on policies prescribing soldier conduct and ensuring discipline (e.g., jurisdictional alignment, convening authority structure, and authority to issue General Orders). Generally, issues directly affecting the commander's operational decision-making process on the battlefield fall within *command and control* functions. *Sustainment* functions include negotiation of acquisition and cross-servicing agreements and status of forces agreements (SOFAs), combat contingency contracting, fiscal law, processing claims arising in an operational environment, and environmental law. *Personnel service support* functions include soldier discipline advocacy services (courts-martial, nonjudicial punishment, and other routine matters in the administration of military justice), legal assistance services, and basic soldier-related claims issues.

Operational Law

Operational Law is that body of domestic, foreign, and international law that directly affects the conduct of operations. The *practice of Operational Law* consists of legal services that *directly* affect the *command and control* and *sustainment* of an operation. Thus, Operational Law consists of the command and control and sustainment functions of legal support to operations. Support functions are an integral part of legal support to operations; however, they are treated separately from this discussion of Operational Law.

Core Legal Disciplines

The six *core legal disciplines* are administrative law, civil law (including contract, fiscal, and environmental law), claims, international law, legal assistance, and military justice. *Functional areas* of legal support to operations contain some core legal disciplines in their entirety, and cut across others. For example, foreign claims are a sustainment function, while personnel claims are a personnel service support function. *Functional areas* of legal support are intended to describe better what combat (operational) functions are supported by particular legal services. While some traditional judge advocate functions are associated with Combat Service Support (CSS), legal support to operations goes beyond traditional CSS functions, and often impacts substantially on a commander's command, control, and sustainment of an operation. Further, providing critical legal support requires the presence of judge advocates and other legal personnel far forward and in key operational headquarters, centers, and cells.

Doctrine to Train and Operate

The United States Army is doctrine-based, and *FM 27-100* contains the doctrine for legal support to operations. Doctrine within the military profession is the authoritative guide to how forces fight wars and conduct operations.² Doctrine builds on collective knowledge. It reflects wisdom that has been gained in past operations. It incorporates informed reasoning about how new technologies may best be used and new threats may best be resisted.³ Doctrine, in this and other field manuals, records a shared and reasoned vision that can serve as the basis for planning operations, organizing and structuring forces, training soldiers and units, leading, developing tactics, and procuring weapons and equipment. The military professional who studies doctrine knows the principles that officially guide these essential functions of United States forces: doctrine, training, leadership, organization, materiel, and soldiers (DTLOMS).

Effective doctrine is not dogma. It is not doctrinaire. It is not static. Effective doctrine is dynamic, adapting to changes on the battlefield and in the world. It is also balanced, reconciling the need for precision to achieve unity of effort with the need for flexibility to achieve decentralized application.⁴

FM 27-100 links JAGC roles and missions to current Army keystone doctrine, recorded in *FM 100-5, Operations*, and to developing doctrine. *FM 100-5* and developing doctrine, in turn, link the Army's roles and missions to the *National Military Strategy* and the *National Security Strategy*. Developing doctrine takes the force projection concept enunciated in the 1993 *FM 100-5* to a new level with the concept of *strategic preclusion*—moving so fast (strategic maneuver), with such lethality (strategic fires), that enemies cannot set forces and operate at an advantage.⁵ This requires the ability to project fighting forces into more than one theater and to sustain those forces from support and staging bases that may or may not be in close proximity to the supported forces.

Changes in the strategic situation since the end of the Cold War, and the development of the Force XXI Army, require a new model of legal support to operations. Past doctrine must change to meet the demands of the significant increase in the number and types of Army missions, joint and combined operations, fluid operations, complex command and control relationships, and technological advancements. Thus, in addition to implementing FM 100-5 and national strategic documents, this manual implements or considers applicable portions of several joint doctrinal manuals, as well as *FM 100-6, Information Operations*; *FM 100-7, Decisive Force: The Army in Theater Operations*; *FM 100-11, Force Integration*; *FM 100-15, Corps Operations*; *FM 100-16, Army Operational Support*; *FM 100-17, Mobilization, Deployment, Redeployment, Demobilization*; *FM 100-19, Domestic Support Operations*; *FM 100-20, Military Operations in Low Intensity Conflict*; *FM 100-23, Peace Operations*; *FM 100-25, Doctrine for Army Special Operations Forces*; and other current Army manuals.

Judge advocates must be trained and prepared to operate independently across the spectrum of core legal disciplines and the spectrum of conflict, standing by the commander's side. To succeed in today's operational environment, judge advocates must be master general practitioners; effective in their roles as lawyer, ethical advisor, and counselor; increasingly knowledgeable as soldiers and lawyers; constantly aware of the operational situation; and proactively working to promote the mission, serve Army personnel and their families, and enhance the legitimacy of Army operations. Doctrine in this manual reflects that judge advocates are increasingly operating individually, or in smaller teams, in order to better support split-based operations and the specialized operational cells and headquarters required to run mobile, tailored forces.

Supporting legal personnel (warrant officers, noncommissioned officers, and enlisted soldiers) must be proficient in battle-staff and legal tasks, and managing a legal office in the field. Legal specialists (enlisted soldiers and noncommissioned officers with military occupational specialty 71D) must spot potential legal issues and raise them for resolution. Legal specialists must operate under JA supervision across the range of core legal disciplines and the spectrum of conflict. Noncommissioned officers (NCOs) must also perform traditional functions—training and taking care of troops. In addition to legal, staff, and office skills, all JAGC personnel must train to proficiency in soldier common tasks.

Accordingly, commanders, with the Staff Judge Advocate, are responsible for training and supporting judge advocates and their subordinates to ensure robust legal support to operations. Training must be conducted according to the Army's training principles, such as those found in *FM 25-100, Training The Force*, and *FM 25-101, Battle Focused Training*. Staff Judge Advocates must develop a training plan and *Mission Essential Task Lists (METL)*, to include establishing conditions and standards, training objectives, and selection of battle tasks. The training plan must include training that integrates and trains JA personnel with the units they support in a variety of environments, settings, and exercises. Without active training, judge advocate personnel

will not develop the soldier and lawyer skills needed to provide legal support to operations.

Operational law training and practice in all components must reflect that military operations are inevitably joint and increasingly combined. Army National Guard legal support is embedded in National Guard organizations, including the National Guard Bureau, State Area Commands, and subordinate guard units. U.S. Army Reserve legal support is embedded in Reserve units, such as the U.S. Army Reserve Command, and contained in Judge Advocate General Service Organizations (JAGSO). The recent advent of Active Component-Reserve Component (AC-RC) Divisions, with their teaming and training associations, dissolves some of these historical boundaries, meshing active and reserve component soldiers into a standing division headquarters with subordinate National Guard enhanced brigades.

Finally, the modern training and practice of operational law must recognize that digital and information technologies have profoundly altered the pace of operations and the manner in which judge advocates locate legal authority and introduce legal considerations into the conduct of military operations. The materiel required to provide legal support to operations derives from the three functional areas—command and control, sustainment, and personnel service support. A judge advocate must be able to shoot, move, communicate, and research on the battlefield. Thus, judge advocates must have vehicles, sophisticated automation equipment—to include the Rucksack Deployable Law Office and Library (RDL), communications equipment, and access to key communications modes, nodes, and nets. Current operations are more legally intense than ever before. They involve vast numbers of government, non-government, and private organizations. The judge advocate's ability to reach back through technical channels for research and support is critical.

Chapter 1 Role of the Judge Advocate

**1.1 THE JUDGE ADVOCATE
GENERAL'S CORPS MISSION**

The mission of the Judge Advocate General's Corps (JAGC) is to provide professional legal support at all echelons of command throughout the range of military operations. This support includes Operational Law and the six Core Legal Disciplines, which support command and control, sustainment, and personnel service support.

Throughout the history of the United States Army, the JAGC has performed this mission by supporting the Army mission; providing quality legal services to commanders, staffs, personnel, and family members; and promoting the legitimacy of the Army both in American society and throughout the world.

As the 21st Century dawns, the JAGC transitions along with the Army. The JAGC will capitalize on new information technologies, strengthen its technical support network, obtain new warfighting capabilities, master the legal issues affecting operations, and develop the Soldier-Lawyer-Leaders who will perform the JAGC's traditional roles in a challenging, new environment.

**1.2 PERFORMING
TRADITIONAL ROLES**

Traditionally, judge advocates have mastered many fields of law, and performed several legal roles (judge, advocate, and counselor), all in support of three fundamental objectives: mission, service, and legitimacy.

CONTENTS	PAGE
THE JUDGE ADVOCATE GENERAL'S CORPS' MISSION.....	1-1
PERFORMING TRADITIONAL ROLES.....	1-1
Mission.....	1-2
Service.....	1-2
Legitimacy.....	1-2
The Military General Practitioner.....	1-3
The "Judge" Function.....	1-4
The "Advocate" Function.....	1-5
The "Ethical Adviser" Function.....	1-5
The "Counselor" Function.....	1-5
IN A CHALLENGING NEW ENVIRONMENT.....	1-6
More Missions.....	1-6
Complex Command & Control	1-7
International Operations.....	1-7
Fluid Operations.....	1-7
Technological Advancements	1-8
CHALLENGES FOR JUDGE ADVOCATES IN THE 21st CENTURY.....	1-8
Mission.....	1-8
Service.....	1-9
Legitimacy.....	1-10
SUMMARY.....	1-10

1.2.1 Mission

“Mission” means protecting and promoting command authority, preserving Army resources, and ensuring fair military systems, especially the military justice system. Judge advocates promote command authority in several ways. They participate in the key military decision-making processes, becoming involved early to identify and resolve legal issues before they become command problems. They create efficiencies and improve unit effectiveness by leveraging legal solutions to accomplish Army missions in lawful ways. They add value to the organization as soldiers and individuals, applying their skills and energy to solve legal and non-legal problems. They administer the military justice system, which promotes the discipline that makes units effective. They provide advice on other Army procedures that promote organizational discipline, such as investigations, reports of survey, standards of conduct, and environmental compliance.

1.2.2 Service

“Service” means meeting the legal needs of commanders, staffs, personnel, and family members. Judge advocates provide these clients legal advice based

upon a thorough understanding of the situation, an analysis of lawful alternatives, and their individual professional judgment. They enhance C2, sustainment, and support operations by providing operational law advice and legal services in all core legal disciplines (military justice, international law, administrative law, civil law, claims, and legal assistance) during peacetime, war, and operations other than war.

1.2.3 Legitimacy

“Legitimacy” means engendering public respect and support, promoting justice and ethical behavior. Judge advocates must be “competent, confident, caring, and courageous . . . grounded in values, and totally integrated into the Army.”⁶ They enhance the Army’s legitimacy by integrating society’s values into Army programs, operations, and decision-making processes.

To promote legitimacy, judge advocates must be well-grounded in Army and constitutional values. Frequently, there is tension between the military mission and civilian control that the judge advocate must resolve for the command. This tension existed in America before the Revolutionary War...

Prior to his assumption of command of the Continental Army, Washington had been deeply concerned with the administration of military justice. As early as 1756, when Washington was engaged in the French and Indian war, he protested the enactment of the “act governing mutiny and desertion” which required a commander to obtain permission from the Governor of Virginia to hold a general court-martial and to obtain a warrant from Williamsburg, the colonial capital, before execution of

*sentence. It was his opinion that if good discipline was to be maintained, justice had to be meted out expeditiously.*⁷

...and continues to modern times.

The differences between the military and civilian communities result from the fact that it is the primary business of armies and navies to fight or be ready to fight wars should the occasion arise [T]he military constitutes a specialized community governed by a separate discipline from that of the civilian, and . . . the rights of men in the armed forces must perforce be conditioned to meet certain overriding demands of discipline and duty . . .

United States Supreme Court
*Parker v. Levy*⁸

Judge advocates are able to reconcile these tensions for the command because of their status and specialized training as soldiers and lawyers. They serve as soldiers in every operational contingency; therefore, they appreciate Army values – Loyalty, Duty, Respect, Selfless Service, Honor, Integrity, and Personal Courage.⁹ They are members

of the legal profession; therefore, they appreciate American constitutional values, including civilian control.

Finally, to promote legitimacy, judge advocates must help the Army conduct operations in ways that will win public support.

The responsibility for the conduct and use of military forces is derived from the people and the government. The Army commits forces only after appropriate direction from the National Command Authorities (NCA). In the end, the people will pass judgment on the appropriateness of the conduct and use of military operations. Their values and expectations must be met..

United States Army
*Field Manual 100-5, Operations*¹⁰

1.2.4 The Military General Practitioner

Judge advocates must not only display professional values and well-honed skills as a judge, advocate, and

counselor, but also have broad legal expertise. During the Spanish-American War, then Lieutenant Colonel Enoch Crowder served in the Philippines, where he worked on the arrangement for the Spanish surrender, headed the Board

of Claims, served on the Philippine Supreme Court, and drafted the Philippine Criminal Code.¹¹ During World War II, then Colonel Thomas

Green assisted in drafting martial law documents and served as the executive to the Military Governor in Hawaii.

"In a deployment, they've got to be ready to shift into 4-5 functional areas on any given day. They'll touch crim. law, operational law, fiscal law, foreign claims, personnel law, ethics... all in one day."

--LTC Michele M. Miller¹²

Today, deploying judge advocates must be capable of providing comprehensive legal advice and services in all core legal disciplines (military justice, international law, administrative law, civil law, claims, and legal assistance) and, in addition, have general knowledge of legal sub-disciplines (e.g., contract law, fiscal law, environmental law, or intelligence activities law).

When practicing these core legal disciplines, a judge advocate must be an effective lawyer, which includes the roles of "judge" and "advocate," ethical advisor, and counselor. Recognizing the applicable function is of the utmost importance; the function must be appropriate to the task at hand.

1.2.5 The "Judge" Function

True to their title, judge advocates perform the function of "judge." They are routinely called upon for opinions or rulings on whether a law is applicable, a legal obligation exists, or a legal right must be respected.

This function is not limited to military judges and magistrates who participate in courts-martial and other

proceedings under the Uniform Code of Military Justice. It applies also to judge advocates rendering legal opinions, serving as legal advisors on official investigations, ruling on whether claims are cognizable, and reviewing the legality of procurement actions. As "judge," the judge advocate does not interpret the law on the basis of personal views or policy preferences, but rather on the basis of a careful reading of the authoritative rule and objective reasoning.

The judge function demands distinct skills: legal research and interpretation, reconciliation of facially contradictory precedents, and extensive knowledge of which legal authorities have precedence. It requires impartiality, diligence, independence, moral courage, and intimate knowledge of the facts. It requires prudence in refraining from activities that could cast doubt upon impartiality. It requires wisdom, care, sound judgment, and a judicious temperament.¹³

1.2.6 The "Advocate" Function

Also true to their title, judge advocates perform the function of "advocate." They are commonly relied upon to make arguments about what a legal rule means or whether it applies, to present evidence, or to persuade.

Judge advocates frequently perform this function within a structured, adversarial proceeding, in which they prosecute or defend a particular client's interests. The client may be the command or an individual soldier. Advocacy skills may also be needed outside the courtroom: in liaison with environmental compliance agencies, non-governmental organizations or a host nation; or in formulating command policy, as a full understanding often requires the ability to see issues from different points of view.

Advocacy requires many important skills. These include careful study of substantive rules, applicable procedures, and decision-makers; conducting investigations; interviewing and examining witnesses; formulating theories; and composing arguments. Sometimes advocates use their persuasive skills to seek changes in the law. Ethical performance of the advocate function requires zealousness, but also candor and fairness.¹⁴

1.2.7 The "Ethical Adviser" Function

Judge advocates perform the additional function of advising commanders whether their actions are ethical. This includes appraising conduct in light of laws and regulations

governing the conduct of government officials, but also includes consideration of other ethical precepts, including officer ethics and Army values.

1.2.8 The "Counselor" Function

Judge advocates also perform a "counselor" function in which they advise commanders whether proposed actions, while legal and ethical, are prudent.

Judge advocates functioning as counselors provide advice early in the decision-making process to enable the command to accomplish missions. They seek to be proactive and to confront problems before the problems confront the command.

When a judge advocate acts in any of these functions, they identify issues; formulate courses of action and evaluate their strengths, weaknesses, and legal consequences; anticipate potential legal attacks; consider ethical and prudential concerns; provide their personal recommendations to decision-makers; and frequently execute command decisions.

A variety of skills are required to perform these functions. As a military staff officer, the judge advocate must plan, train, and coordinate, all with an understanding of the Army, its history, and operational art. Judge advocates must work constantly and tirelessly to acquire an intuitive and reasoned grasp of the command's interests and objectives. As a lawyer, the judge advocate must research, analyze,

negotiate, and mediate. By combining legal and military knowledge and skills, the judge advocate enhances decision-making processes and contributes to effective, ethical, and lawful mission accomplishment.

1.3 IN A CHALLENGING NEW ENVIRONMENT

Judge advocates must perform their traditional roles in a challenging, new environment, described by *Joint Vision 2010* in this way:

Accelerating rates of change will make the future environment more unpredictable and less stable, presenting our Armed Forces with a wide range of plausible futures. Whatever direction global change ultimately takes, it will affect how we think about and conduct joint and multinational operations in the 21st century. How we respond to dynamic changes concerning potential adversaries, technological advances and their implications, and the emerging importance for information superiority will dramatically impact how well our Armed Forces can perform its duties in 2010.¹⁵

The new environment will consist of more missions, complex command and control relationships, international operations, fluid operations, and technological advancements.

1.3.1 More Missions

Missions are increasing in number and type. "The US military will be called upon to respond to crises across the full range of military operations, from humanitarian assistance to fighting and winning major theater wars . . ." ¹⁶ Between 1990 and 1996, the Army "deployed 25 times – an increase in missions by a factor of 16." ¹⁷ During the same period, the Army has become smaller. Between 1989 and 1999, the Active Army reduced from 781,000 to 468,000, and the Total Army from 1,960,000 to 1,068,000. ¹⁸

Missions will increase not only in number, but also in diversity. The National Security Strategy requires military forces "to effectively deter aggression, conduct a wide range of peacetime activities and smaller-scale contingencies, and . . . win two overlapping major theater wars." ¹⁹ Supporting national military objectives include promoting peace and stability, and defeating adversaries. ²⁰ To accomplish these objectives, the Army envisions a full spectrum of missions, including defending or liberating territory, intrusions in support of counterdrug and counterterrorism operations, peacemaking, peacekeeping, national and theater missile defense, multilateral military exercises, military-to-military exchanges, and humanitarian relief. ²¹

1.3.2 Command and Control Relationships (Joint, Multinational, and Interagency)

Command and Control relationships will become increasingly complex. Operations will be joint and multinational, requiring improved interoperability among the services and with allied and coalition partners.²² Additionally, U.S. forces must “enhance their ability to operate in consonance with other U.S. government agencies, and with Non-governmental Organizations (NGOs), International Organizations (IOs), and Private Voluntary Organizations (PVOs) in a variety of settings.”²³ These relationships will require much of future leaders.

Our future leaders at all levels of command must understand the interrelationships among military power, diplomacy, and economic pressure, as well as the role of various government agencies and non-governmental actors, in achieving our security objectives. They will require a sophisticated understanding of historical context and communication skills to succeed in the future. The evolution of command structures, increased pace and scope of operations, and the continuing refinement of force structure and organizations will require leaders with a knowledge of the capabilities of all four services.²⁴

1.3.3 International Operations

U.S. Armed Forces will continue to be involved in international operations for several reasons. First, threats to United States security interests are

international; they include regional conflict, proliferation of weapons of mass destruction, terrorism, ethnic disputes, and international organized crime.²⁵ Second, responding to these threats will require international cooperation. “We are continuing to adapt and strengthen our alliances and coalitions to meet the challenges of an evolving security environment.”²⁶ This will require military forces to act in cooperation with other nations’ forces. Third, responding to these threats will require the full spectrum of military operations to shape the international environment, respond to international crises, and to deter and resolve international conflicts.²⁷

1.3.4 Fluid Operations

Military forces will be required to be flexible, versatile, and responsive in changing missions and locations, and to do this as it restructures. “[O]ur military must also be able to transition to fighting major theater wars from a posture of global engagement -- from substantial levels of peacetime engagement overseas as well as multiple concurrent smaller-scale contingencies.”²⁸ “All organizations must become more responsive to contingencies, with less ‘startup’ time between deployment and employment. Because we rely on the total force to provide the full range of military capabilities, we also require responsive reserve components that can rapidly integrate into joint organizations.”²⁹ The Army’s “ability to project power is greater today than at any time in our Nation’s history. . . . Today, we can deploy a heavy armored brigade in 96 hours. . . . our ability . . . will be further

enhanced, thus making our forces even more versatile . . .”³⁰

*This era will be one of accelerating technological change. Critical advances will have enormous impact on all military forces. Successful adaptation of new and improved technologies may provide great increases in specific capabilities. Conversely, failure to understand and adapt could lead today’s militaries into premature obsolescence and greatly increase the risks that such forces will be incapable of effective operations against forces with high technology.*³¹

1.3.5 Technological Advancements

For judge advocates, the most significant technological advancement will occur in information systems. This will change operations in three important ways; it will accelerate the tempo of operations, allow fusion of information in distinct staffing cells, and empower decision-making at lower echelons than in the past.³²

1.4 CHALLENGES FOR JUDGE ADVOCATES IN THE 21ST CENTURY

While judge advocates will continue to perform their traditional roles, the new environment will greatly affect how they pursue their three fundamental objectives – mission, service, and legitimacy.

1.4.1 Mission

Pursuing the mission in the 21st Century will challenge judge advocates in three distinct ways. First, judge advocates must become increasingly refined as soldiers and lawyers. Judge advocates must understand how the

Army will accomplish its various missions, and how to identify and resolve legal issues arising during these missions. They must understand the command and control relationships involved in each operation, and provide advice concerning the authority and responsibility of relevant agencies. They must be thoroughly grounded in all core legal disciplines to be effective in a fluid operational environment. They must be increasingly knowledgeable in international law as the Army cooperates with other nations’ forces to secure United States interests world-wide.

Second, judge advocates must become more involved in the military decision-making process in critical planning cells, and at lower levels of command. As information technology increases the speed of decision-making and allows fusion of information in distinct cells, it becomes critical for judge advocates to be located where the relevant picture of the battlefield is received, evaluated, resolved, and affected. Otherwise, legal advice will not be timely or effective. To be proactive, the judge advocate must be present. As information technology empowers decision-makers at lower

levels of command, judge advocates must be present there.

Third, judge advocates must be capable of expanding the level of legal support to meet the mission demands of a force projection army. Projection creates surges in demand for legal services: deploying forces require legal support; the power projection platform requires temporarily increased legal support during mobilization, and augmented legal support in the event of deployment of tenant units and their organic judge advocates; the home station continues to require legal support. Judge advocates, in both the active and reserve components, must plan for the legal resources to meet these demands, and must be prepared to provide services with the deploying unit, the power projection platform, or home station.

1.4.2 Service

Providing effective service to commanders, staffs, personnel, and family members in the new environment will challenge judge advocates in four ways. First, judge advocates must maintain connectivity with operational and tactical networks and legal information sources in a fluid and technologically advanced environment. Of paramount importance will be the ability of the Rucksack Deployable Law Office and Library (RDL) to interface with Maneuver Control System – Phoenix (MCS-P), Global Combat Support System – Army (GCSS-A), Combat Service Support Control System (CSSCS), and Legal Automated Army-Wide System (LAAWS). As future

systems develop, judge advocate connectivity must continue.

Second, judge advocates must provide technical supervision (supervision of legal operations by a Staff Judge Advocate) and technical support (direct legal expertise from JAGC organizations) to deployed judge advocates in every contingency. The variety of legal issues arising from diverse missions is a tremendous legal challenge to a deployed judge advocate. This can be especially challenging in joint and multinational operations. In joint operations, service specific regulations and policies apply. In multinational operations, troop contributing nations must still comply with their national laws. Legal supervision and support must be effective to ensure quality legal service to commanders and staffs. RDL connectivity will be critical to providing this support.

Third, judge advocates must be mobile. They must move, not only with the supported unit, but also independently to investigate claims and potential war crimes, to be at the commander's side at key meetings, and to perform other legal missions. A judge advocate's ability to collect evidence first-hand is frequently the reference point from which a claim is adjudicated fairly, and the truth about a potential war crime is learned. Responsive service in a fluid operational environment requires dedication of transportation in support of the judge advocate.

Fourth, judge advocates must provide professional legal services to

personnel and families, most importantly during deployments and split-based operations. Expanding the level of legal support during demanding times will be the most significant challenge. Also important, however, will be allocating adequate legal resources: the trained personnel and facilities required to provide the professional atmosphere expected by clients.³³ This contributes substantially to good quality of life, which in turn, retains quality people.

1.4.3 Legitimacy

The future environment will challenge judge advocates in several ways. First, judge advocates must be well-grounded in constitutional and international law and values. Their understanding of, and ability to reconcile, those laws and values will be instrumental in promoting effective coalitions and international public respect for U.S. Army operations. Second, as the U.S. seeks to promote democracy abroad,³⁴ the international community will expect U.S. Army operations to be consistent with democratic values. Therefore, the judge advocate's traditional role of assisting commanders to integrate democratic values into Army operations must continue. Finally, as the U.S. military "serves as a role model for militaries in emerging democracies around the world,"³⁵ judge advocates must personally serve as teachers, trainers, and mentors for their counterparts.

international, and technological environment. The judge advocate must continue to be a master of all core legal disciplines, and must be effective in the roles of judge, advocate, ethical advisor, and counselor. The judge advocate will succeed in the new environment by becoming increasingly knowledgeable as soldiers and lawyers, maintaining constant awareness of the operational situation and communication with technical supervision and support, and integrating constitutional and international democratic values into military operations.

1.5 SUMMARY

The judge advocate in the 21st Century must adapt the traditional role to a more demanding, complex, fluid,

Chapter 2 Organization to Support Army Operations

2.1 JUDGE ADVOCATE ORGANIZATIONS

2.1.1 Office of The Judge Advocate General

The Office of the Judge Advocate General (OTJAG) is an element of the Army Staff. The organization is depicted in Figure 2-1. OTJAG provides legal services to the Chief of Staff, U.S. Army, members of the Army Staff, agencies of the Army, and members of the Army generally. Two Field Operating Agencies also support The Judge Advocate General in providing legal services to the Army: U.S. Army Legal Services Agency (USALSA), which includes the U.S. Army Claims Service (USARCS), and The Judge Advocate General's School, U.S. Army (TJAGSA).

The Judge Advocate General (TJAG) is responsible for all Army legal services, heads the Judge Advocate Legal Service, and performs, among others, the following legal functions:³⁶

- Legal Advisor to the Chief of Staff, U.S. Army, and Military Legal Advisor to the Secretary of the Army in coordination with the General Counsel.
- Authority for establishment of the Army Trial Judiciary and U.S. Army Court of Criminal Appeals, and performance of judicial responsibilities prescribed in the Uniform Code of Military Justice.
- Principal legal advisor to the Secretary of the Army and Chief of Staff, U.S. Army, concerning

military justice matters, and supervisor of the administration of military justice in the Army.

- Principal legal advisor to the Army Staff concerning the organization, powers, duties, functions, and administrative procedures of the Army.

CONTENTS	PAGE
JUDGE ADVOCATE ORGANIZATIONS.....	2-1
Office of The Judge Advocate General.....	2-1
Field Operating Agencies.....	2-3
The U.S. Army Legal Services Agency.....	2-3
The Judge Advocate General's School.....	2-5
Army National Guard Legal Organizations.....	2-6
U.S. Army Reserve Legal Organizations.....	2-7
Staff Judge Advocate Offices..	2-10
Command Judge Advocates....	2-14
JOINT LEGAL ORGANIZATIONS....	2-14
The Office of the Legal Counsel to the Chairman, Joint Chiefs of Staff.....	2-15
Unified, Specified, and Subord. Unified Command SJAs.....	2-15
Joint Task Force SJA.....	2-15
MULTINATIONAL FORCE LEGAL ORGANIZATIONS.....	2-15
PROVIDING ARMY LEGAL SUPPORT FOR OPERATIONS.....	2-16
Overview of Operational Law Support.....	2-16
Tailoring Operational Law Support.....	2-19
SUMMARY.....	2-20

- Primary legal advisor to the Army Staff concerning operational matters, international law issues arising from deploying and stationing of U.S. forces overseas, and implementation of the DoD Law of War Program.
- Supervisor of the Army Claims program, and Secretary of the Army designee for settling claims against the U.S. under various, specific claims statutes.
- Supervisor of the Army Legal Assistance Program.
- Principal legal advisor to the Army Staff concerning acquisitions, procurements, logistics, security assistance, and fiscal law matters.
- Overseer of the Army Standards of Conduct Program.
- Technical supervisor for the Judge Advocate Legal Service; responsible for recruitment, career management, assignment, professional responsibility, and direction in the performance of their duties of all members of the Judge Advocate Legal Service.

OFFICE OF THE JUDGE ADVOCATE GENERAL

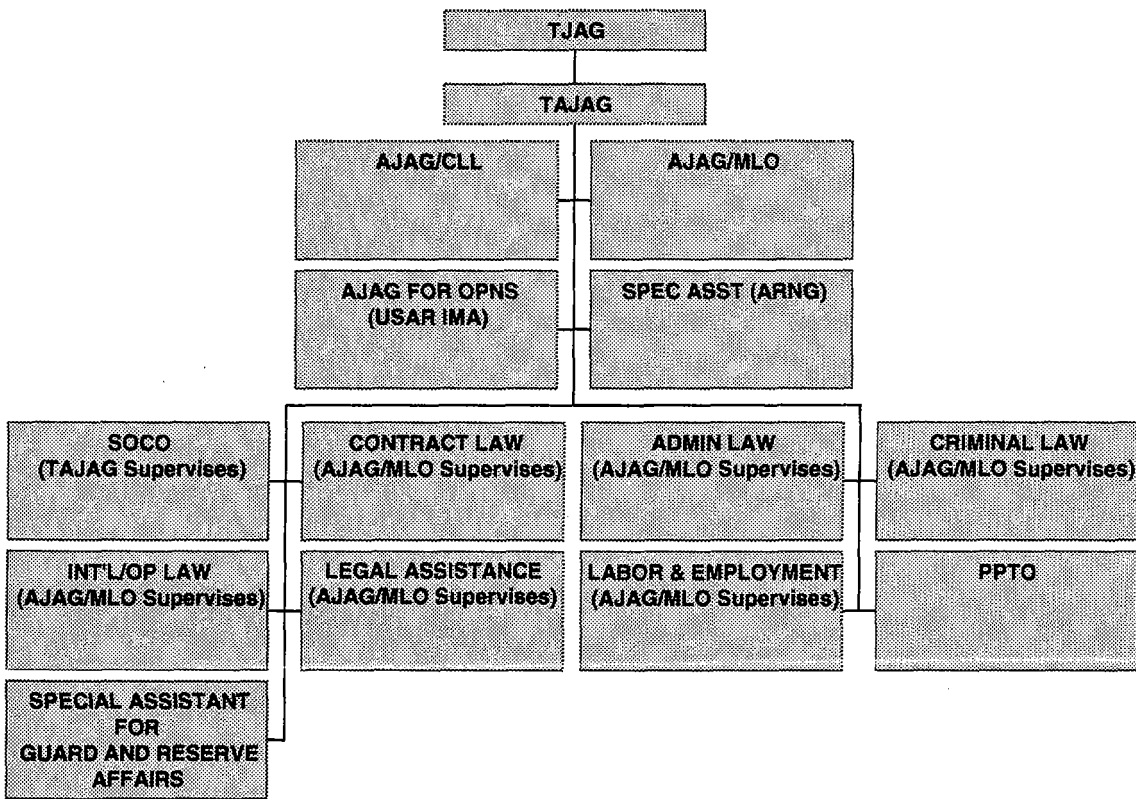


Figure 2-1

The Assistant Judge Advocate General (TAJAG) supervises the organization, administration, and functioning of OTJAG; the Field Operating Agencies of OTJAG; the procurement and professional training of members of the Judge Advocate Legal Service; the proficiency of reserve component judge advocates; and the operations of the judge advocate Guard and Reserve Affairs Department, Regulatory Law and Intellectual Property Division, Legal Technology Resources Office, and Standards of Conduct Office.³⁷

The Assistant Judge Advocate General for Civil Law and Litigation (AJAG/CLL) supervises or oversees Contract Law Division, Litigation Division, Procurement Fraud Division, Contract Appeals Division, Environmental Law Division, Defense Appellate Division, and Trial Defense Service.³⁸

The Assistant Judge Advocate General for Military Law and Operations (AJAG/MLO) supervises or oversees Criminal Law Division, Administrative Law Division, International and Operational Law Division and the Center for Law and Military Operations (CLAMO), Legal Assistance and Policy Division, Labor and Employment Law Division, and Government Appellate Division.³⁹

The Army National Guard Special Assistant to TJAG is the principal advisor to TJAG concerning all matters affecting judge advocates in the Army National Guard.

The Assistant Judge Advocate General for Operations is an Individual Mobilization Augmentee, and the principal advisor to TJAG concerning all matters affecting judge advocates in the U.S. Army Reserve.

2.1.2 Field Operating Agencies

Certain enduring and specialized legal missions demand significant synergy or independence from the SJA sections that support various echelons of command. The Judge Advocate General's Field Operating Agencies (FOAs) are organizations designed to meet this institutional need.

2.1.3 The U.S. Army Legal Services Agency

The primary mission of USALSA is to deliver legal services to the Department of the Army in coordination with OTJAG; support and deliver legal services to field activities; and consolidate delivery of legal services by military judges and defense counsel to guarantee their independence. The organization is depicted in Figure 2-2.

USALSA ORGANIZATION

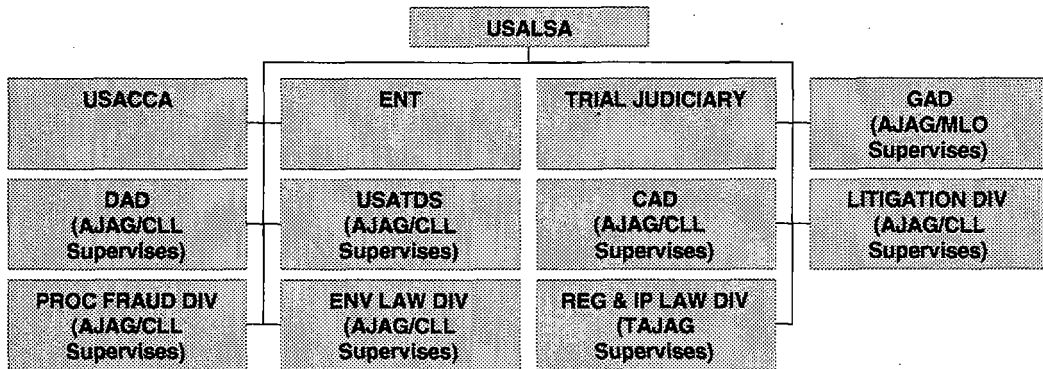


Figure 2-2

The Commander, USALSA, commands the organization, and as Chief, United States Army Judiciary, directly supervises the United States Army Court of Criminal Appeals, the United States Army Trial Judiciary, the Military Magistrate Program, and Examinations and New Trials Branch. USALSA includes:

- The United States Army Court of Criminal Appeals (ACCA). (The Commander, USALSA serves as the ACCA's Chief Judge. There is also an Individual Mobilization Augmentee Chief Judge.) The ACCA performs appellate review of courts-martial pursuant to Article 66, Uniform Code of Military Justice (UCMJ), when the approved sentence includes death, a punitive discharge, or confinement for one year or more, and considers certain petitions for new trials pursuant to Article 73, UCMJ.
- The United States Army Trial Judiciary, an element of the United

States Army Judiciary, providing full-time military trial judges to preside over general and special courts-martial. The Chief Trial Judge supervises Military Judges and provides judicial support throughout the Army.

- The military magistrate program.
- Examinations and New Trials Branch, which examines all general courts-martial not reviewed by ACCA, processes petitions for new trials and extraordinary relief, and examines cases involving military commissions and courts of inquiry.
- The Litigating Divisions, which provide legal advice and litigation services in contract law, procurement fraud, environmental law, regulatory law, intellectual property law, civilian and military personnel law, torts, and other areas of law. AJAG/CLL exercises operational control over the Litigating Divisions.

- The United States Army Trial Defense Service (TDS), which provides defense legal services for Army personnel as authorized by law and regulation.
- Defense Appellate Division (DAD), which provides defense legal services to military accused before the ACCA, the United States Court of Appeals for the Armed Forces (CAAF), and the United States Supreme Court.
- Government Appellate Division (GAD), which represents the United States before the ACCA, the CAAF, and, when requested by the United States Attorney General, the United States Supreme Court.

The United States Army Claims Service (USARCS) administers the Army's claims program, supervising the investigation, processing, and settlement of claims against and on behalf of the United States. It also establishes claims policy and supervises claims training.

To maintain the independence of defense legal services, The AJAG/CLL exercises technical supervision and operational control over DAD and TDS. The AJAG/MLO exercises technical supervision and operational control over GAD.

2.1.4 The Judge Advocate General's School, U.S. Army

TJAGSA offers resident and nonresident courses of study for the professional legal training of the Army. TJAGSA conducts and publishes research in all legal disciplines. TJAGSA conducts combat development, manages the Army Law Library Service

(ALLS), and produces all instructional material to train and maintain the 71D Military Occupational Specialty (MOS) for both the active and reserve forces.

TJAGSA also provides technical support for deployed judge advocates. Its academic departments—Administrative and Civil Law, Legal Research and Communications, Criminal Law, Contract and Fiscal Law, and International and Operational Law Departments—have subject matter experts in all the core legal disciplines. Deployed judge advocates reach back for legal expertise from these experts.

The Center for Law and Military Operations (CLAMO), a resource organization for operational lawyers, is also located at TJAGSA. The mission of CLAMO is to examine legal issues that arise during all phases of military operations and to devise training and resource strategies for addressing those issues. It seeks to fulfill this mission in five ways.

- **First**, it is the central *repository* within The Judge Advocate General's Corps for all-source data/information, memoranda, after-action materials and lessons learned pertaining to legal support to operations, foreign and domestic.
- **Second**, it supports judge advocates by *analyzing* all data and information, *developing lessons learned* across all military legal disciplines, and by *disseminating* these lessons learned and other operational information to the Army, Marine Corps, and Joint communities through publications, instruction, training, and databases

accessible to operational forces, world-wide.

- **Third**, it supports judge advocates in the field by responding to *requests for assistance*, by engaging in a continuous exchange of information with the *Combat Training Centers* and their judge advocate observer-controllers/trainers, and by creating operational law *training guides*.
- **Fourth**, it *integrates lessons learned* from operations and the *Combat Training Centers* into emerging *doctrine* and into the *curricula* of all relevant courses, workshops, orientations, and seminars conducted at TJAGSA.
- **Fifth**, in conjunction with TJAGSA, it sponsors *conferences and symposia* on topics of interest to operational lawyers.

2.1.5 Army National Guard Legal Organizations

Legal support is embedded in National Guard organizations, including the National Guard Bureau, State Area Commands (STARC), and subordinate guard units. Normally, each state commands and controls its Army National Guard units. When these units are called into federal status and while in CONUS, FORSCOM subordinate units will normally command and control them; the FORSCOM and FORSCOM subordinate command SJAs will normally exercise technical supervision of these federalized judge advocates. When Army National Guard units are assigned, attached, or OPCON to other commands, the SJA of the gaining command will exercise technical

supervision over all the assigned, attached, or OPCON judge advocates.

The National Guard Bureau, while not in the chain of command, formulates and administers programs to ensure the development and maintenance of Army National Guard units. Each state selects, appoints, and assigns its officers, noncommissioned officers, and enlisted personnel. Notwithstanding, TJAG authorizes state appointments to the JAGC, and ensures that judge advocates in the Army National Guard are subject to the same training, educational standards, and supervision as other members of the JAGC.

Each of the fifty states and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands appoints an Adjutant General as the senior military commander of its STARC, which consists of its Air and Army National Guard units. The State Judge Advocate is the senior judge advocate serving with the state. Army National Guard units are structured like Regular Army units. The major Army National Guard units are divisions, brigades, and regiments. The mission of the office of the Staff Judge Advocate section in Army National Guard units is the same as that of an SJA section in a similar size regular Army unit. Army National Guard enhanced brigades are the principal reserve component ground combat maneuver forces of the United States Army. The SJA section of an enhanced brigade is modeled on, and has the mission of, the SJA section of a separate brigade in the active component.

Members of the JAGC in the Army National Guard serve in a unique status. Each is a full member of the JAGC and also a member of the particular state guard unit. Army National Guard judge advocates support their units' federal mission to maintain properly trained and equipped units that are available for prompt mobilization, and state mission to provide trained and disciplined forces for domestic emergencies or as otherwise required by the state.

The Army National Guard judge advocate's dual status can be useful. For example, an Army National Guard judge advocate in state status could be permitted to provide assistance to civilian authorities when a judge advocate in federal status might be precluded from providing assistance due to the restrictions of the Posse Comitatus Act.

Military judges in the Army National Guard are trained and certified by TJAG similarly to the military judges in the Army and Army Reserve. While in state status, an Army National Guard military judge may, when authorized by applicable state law, preside over courts-martial convened under state law. Upon mobilization and federalization of an Army National Guard military judge, the Chief Trial Judge will review the Army National Guard military judge's training, background, experience, and qualities (demonstrated mature judgment and high moral character) to determine the officer's suitability to serve as a member of the Army Trial Judiciary. Army National Guard officers who qualify for such service may be assigned, as needed, to the Army Trial Judiciary.

2.1.6 U.S. Army Reserve Legal Organizations

Legal support in the U.S. Army Reserve consists of support embedded in U.S. Army Reserve units, such as in the judge advocate sections of Garrison Support Units (GSUs) designed to provide legal services to power projection platforms, and in *Judge Advocate General Service Organizations (JAGSOs)*.

JAGSOs are legal units that provide legal services to troops not otherwise provided organic legal support. Additionally, JAGSOs provide CONUS sustaining base support for mobilization, mobilization sustainment, and demobilization operations. JAGSOs consist of judge advocates, warrant officers, and enlisted legal personnel.

JAGSOs consist of modular teams that provide legal services in all core legal disciplines. JAGSO teams are an integral part of the Total Force and must maintain high standards of professional proficiency and military readiness. TJAG is responsible for the technical supervision, training, and assignment of JAGSO personnel. Training associations between active component and reserve component legal elements ensure quality training and seamless integration during mobilization.

Each type of JAGSO has specific capabilities. The *Legal Support Organization (LSO)*, which is commanded by a judge advocate, provides operational control and technical supervision for as many as four **Legal Services Teams (LST)**. An LSO will be assigned primary duties as a

deploying or mobilization support unit. Those LSOs assigned mobilization support duties are referred to as **Mobilization Support Organizations (MSO)**. MSOs retain a follow-on, post-mobilization, deployment mission. The LSO is modularly organized, and may be split into teams or tailored to support specific mission requirements and split-based operations. The LSO consists of--

- Support Section A: One chief judge advocate (COL), one legal services coordinator (MAJ), one legal administrator (CW4), and one legal specialist (SPC).
- Support Section B: One senior judge advocate (LTC), one legal services coordinator (MAJ), one chief legal NCO (CLNCO) (MSG), and one legal NCO (SGT).

The **Legal Service Team** is the basic JAGSO and is capable of legal support to all operations. It can provide legal services to a command and its soldiers on the basis of one LST per 6,000 soldiers. The LST is divided into three sections: Command Opinions section, Client Services section, and Litigation section.

- The **Command Opinions section** consists of the director, legal services (LTC), a senior legal opinions officer (MAJ), an administrative and contract law officer (CPT), and a senior legal NCO (SFC). The section performs all administrative law functions and provides all legal review and opinions required by law or regulation regarding administrative classifications, reductions, and

eliminations. It advises the command regarding statutory and regulatory compliance and acquisitions. It provides international and operational law legal services and investigates and reports on violations of the Law of War.

- The **Client Services section** consists of a senior client services officer (MAJ), a legal assistance officer (CPT), a claims officer (CPT), and two legal NCOs (SSG/SGT). The section performs all legal assistance and claims functions. It provides legal assistance and advice to members of the command to assist in resolving personal civil law problems. It receives, investigates, and adjudicates claims against and by the United States.
- The **Litigation Section** consists of two Trial Counsel (CPT), a Court Reporter (SSG), and a Legal Specialist (PFC) and advises the command regarding all military justice matters, represents the government in trials by court-martial and before administrative boards, and processes all pretrial and posttrial actions.

The **Regional Trial Defense Team (RTDT)** provides operational control, training, and technical supervision for as many as four Trial Defense Teams. The RTDT assigns cases, provides training and general supervision, and assists trial defense counsel in counseling clients and preparing actions for trial before administrative boards or courts-martial. The RTDT consists of a regional defense counsel (LTC), a senior defense counsel

(MAJ), and a legal NCO (SSG). The Trial Defense Team (TDT) performs duties as defense counsel in proceedings before administrative boards, under Article 15, UCMJ, and in courts-martial. It is capable of providing defense services on the basis of one team per 12,000 soldiers. A TDT, which currently exists separately from the RTDT, consists of a senior defense counsel (MAJ), three defense counsel (CPT), and one legal NCO (SSG). To maintain their independence, when not mobilized, regional and trial defense teams assigned to defense legal support organizations operate under the technical supervision of the Chief, U.S. Army Trial Defense Service. Upon mobilization, defense teams organic to LSOs/MSOs will be under operational control of the U.S. Army Trial Defense Service.

The *Senior Military Judge Team* performs judicial duties and supervises Military Judge Teams. Its members preside at general and special courts-martial, perform duties as military magistrates, and serve in various other judicial capacities. The team consists of a senior military judge (COL) and a legal NCO (SSG), and is capable of providing judicial services on the basis of one team per 15,000 soldiers. The Military Judge Teams, which currently exist separately, consist of a military judge (LTC) and a legal NCO (SGT). Upon mobilization and IAW 10 U.S.C. 826(c), military judge teams organic to LSOs/MSOs will be reassigned to the U.S. Army Trial Judiciary, will come under the supervision and control of the USALSA, and will be employed as directed by the Chief Trial Judge and attached, as required.

The Army assigns JAGSO teams to theater armies, theater army area commands, corps, corps support commands, and other organizations as required. To prepare and train for operational missions, it is important for active component SJAs to establish close relationships with supporting JAGSOs. The gaining organization SJA, therefore, is responsible for planning for the employment of JAGSO team personnel. Except for regional and trial defense teams and senior and military judge teams, JAGSO teams fall under the technical supervision and administrative control of the SJA of the organization to which a JAGSO team is assigned. The JAGSO teams may augment the SJA section or may work as a remote detachment. The active component SJA is responsible for tasking the JAGSO to perform operational missions.

Upon mobilization, JAGSO teams depend on the unit to which they are assigned for all logistical and administrative support. Personnel services, finance, communications, transportation, maintenance, automation equipment, and supply are all areas of support needed by the JAGSOs to enable them to deliver the operational law services for which they are designed.

While not on active duty, JAGSO team duties depend on the units to which they are assigned (regional support command or regional support group) for all support and administrative functions. Typical areas of heavy support include maintenance, unit reporting requirements, common soldier skill training, and transportation.

Each LSO and LST is designated to provide legal services in support of either mobilization or other military operations. When supporting mobilization, the LSO or LST provides legal services to United States Army Reserve, National Guard, federal, and state agencies affiliated with mobilization. It assists Continental United States Army (CONUSA) SJAs in premobilization planning and in coordinating use of legal assets within the CONUSAs. It coordinates with regional support commands (RSC) or regional support groups (RSG) to provide required legal services, such as Soldier Readiness Processing, to expanded troop populations. It coordinates with RSC, RSG, STARCs, and installations to provide responsive legal services to family members and other authorized personnel. It assists in the re-acquisition of federal property for installation expansion, helps develop or revise Department of Army civilian work rules as required, and provides advice and assistance on acquisition matters while monitoring streamlined acquisition procedures for possible fraud or abuse.

Upon mobilization, one LSO and at least one TDT will be assigned to FORSCOM subordinate commands (most likely the CONUSAs) in each of the ten standardized federal regions to perform mobilization support and CONUS sustainment base missions. Twenty LSTs will be assigned to these missions and will be assigned as needed under the supervision of the ten mobilization support LSOs.

2.1.7 Staff Judge Advocate Offices

The Office of the Staff Judge Advocate (OSJA) is organic to units commanded by a general court-martial convening authority. An organization with a General Officer in command may also be assigned an OSJA, even if there is no general court-martial convening authority. OSJA provides all legal services to the organization except those which must be provided independently. The OSJA normally is composed of a Staff Judge Advocate (SJA), a Deputy Staff Judge Advocate (DSJA), Division Chiefs, judge advocates, a Legal Administrator, a Chief Legal Noncommissioned Officer (CLNCO), legal specialists, and federal civilian legal support staff.

The *Staff Judge Advocate (SJA)*, the senior judge advocate, is a member of the commander's personal staff⁴⁰ and, as such, communicates directly with the commander to provide legal advice for all matters affecting morale, good order, and discipline of the command. Additionally, the SJA is a member of the commander's special staff.⁴¹ As such, the SJA serves under the supervision of the Chief of Staff, provides legal services to the staff, and coordinates with other staff members to provide responsive legal services throughout the organization.

The SJA, as a field representative of TJAG, provides technical supervision over all JAGC personnel and legal services in the command, including planning and resourcing legal support, conducting and evaluating training, and assignment and professional development of JAGC personnel

assigned to the command. The SJA may also use the legal technical channel to communicate with TJAG and other Supervisory Judge Advocates.⁴²

The SJA is responsible for all legal services required by the command in operational law and the core legal disciplines described in Chapter 3. Normally, the SJA's duties include:⁴³

- Providing military justice advice and performing military justice duties prescribed in the Uniform Code of Military Justice.
- Resolving legal problems regarding administrative boards, investigations, or other military tribunals.
- Technical supervision and training of legal personnel in the command and its subordinate units.
- Providing legal advice and assistance concerning contracts, health care, environmental matters, and compensation matters.
- Providing legal counsel to the civilian personnel office, equal employment opportunity office, and the command.
- Providing counsel to the family advocacy Case Review Committee.
- Serving as the command ethics counselor.
- Providing international and operational law assistance, to include advice and assistance to implement the DoD Law of War Program.
- Assisting with litigation in which the United States has an interest.
- Operating the command's legal assistance, claims, procurement fraud, federal magistrate court, victim-witness assistance, and military justice training programs.
- Assisting in implementing training programs for reserve component legal personnel and units.
- Providing legal advice concerning intelligence activities.

The *Deputy Staff Judge Advocate (DSJA)* is the second most senior judge advocate. While the SJA is the principal legal advisor to the command, the DSJA, acting for the SJA, is responsible for the organization, administration, and functioning of the OSJA; supervises legal services at a location during split-based operations (e.g., the Army of Excellence Corps DSJA supervises legal operations at the Corps Rear Command Post, or acts as provisional rear SJA when the SJA deploys with the commanding general); and manages collective training for all legal personnel.

Division Chiefs are responsible for providing all legal support within a particular core legal discipline, such as military justice or legal assistance. They supervise judge advocates, civilian attorneys, legal specialists, and civilian legal support staff in the delivery of legal support within the particular discipline; advise the SJA concerning all matters falling within the scope of the particular discipline; and train

subordinates in the legal skills required by the discipline.

Judge advocates perform legal duties in one or more particular legal disciplines under the supervision of the SJA and Division Chief. They review actions for legal sufficiency; investigate factual matters related to legal actions; write legal opinions; advise commanders, staff officers, and personnel; participate in staff working groups or teams; prepare legal actions; advocate before courts-martial and administrative decision-making bodies; and provide legal assistance and other necessary client services to soldiers and their family members. Judge advocates supervise legal specialists and civilian legal support staff, who assist in the performance of these functions.

Civilian Attorneys assigned to the SJA office perform legal duties described in the previous paragraph, except advocating before courts-martial. They regularly provide great depth of expertise in a particular legal discipline. They also have supervisory responsibilities, which may include Division Chief responsibilities.

The *Legal Administrator*, a warrant officer with special training in law office management and operations, serves as Chief of the Administrative Division and performs the following duties:

- Coordinates personnel actions for officers, NCOs, enlisted soldiers, and civilians.
- Serves as resource manager: develops fiscal requirements, executes program budget guidance, authenticates funding obligations,

monitors expenditures, and manages the Internal Control Program.

- Serves as information management officer (IMO), supporting correspondence, telecommunications, records management, automation, micrographics, forms, printing and publication, and visual aids.
- Serves as Security Officer.
- Monitors and certifies training records for all assigned and attached personnel.
- Advises the SJA on methods of improving the administration of legal services.
- Manages manpower staffing and utilization programs.
- Implements Army Law Library Service policies, procedures, and systems.
- Reviews and authenticates military justice and administrative documents.

The *Chief Legal Noncommissioned Officer (CLNCO)* is the senior enlisted soldier in the section and performs the following duties.

- Serves as principal advisor to the SJA, commanders, and their staffs concerning all legal specialists and paralegals.
- Ensures common soldier skill proficiency of all legal personnel, and MOS proficiency of all legal specialists.
- In coordination with the SJA, manages taskings by installation and higher headquarters.

- Provides technical supervision of legal specialists performing duties in support of the SJA, DSJA, and Division Chiefs.
- Reviews military justice and administrative documents and files.
- Supervises technical training of all legal specialists located at subordinate brigades and battalions, including legal specialists deploying as part of a separate legal section or a Brigade Operational Law Team (BOLT). Ensures timely legal technical and automation training, including use and care of the RDL.
- Assists the Legal Administrator in monitoring and certifying training records for all assigned and attached personnel.
- Ensures logistical support for each team in the SJA section, to include procurement, issue, turn-in, accountability of equipment, and preparation for predeployment, deployment, and redeployment.
- Coordinates the assignment of legal specialists.
- In conjunction with the DSJA, serves as liaison between unit staff sections and the OSJA to coordinate field training.
- Revises and updates the enlisted portion of the SJA's Field Standard Operating Procedures (FSOP).

Legal Specialists (all NCOs and enlisted soldiers with 71D MOS) provide paralegal and clerical support in all core legal disciplines under the supervision of the SJA, Division Chief, and judge advocates. They investigate

the facts relating to legal actions, conduct legal research, prepare legal documents, schedule appointments, assist clients under the supervision of an attorney, provide all logistical arrangements for courts-martial or administrative hearings, review legal documents and actions for technical accuracy, process claims, maintain records and statistics, and prepare reports of legal actions. Legal specialists with the additional skill identifier (ASI) C5 are court reporters. In addition to the above duties, they record and transcribe verbatim proceedings of courts-martial, administrative proceedings, Article 5 tribunals, and other proceedings as required by law or regulation.

Legal specialists at the battalion and brigade provide commanders basic paralegal services under the technical supervision of the SJA and subordinate judge advocates. They act as liaisons between their units and the OSJA. They prepare legal and administrative documents such as records of nonjudicial punishment, adverse administrative separations, courts-martial documents, powers of attorney, will worksheets, confinement orders, preliminary criminal investigation and AR 15-6 investigation report forms, Article 139 claims investigation report forms, and statistical reports concerning legal actions. They maintain official files for all unit legal actions. They apprise the commander of the status of all command legal actions.

Legal specialists must be proficient in managing a legal office in the field in support of operations. They must know how a commander and his staff operate

in a tactical operations center (TOC) or other headquarters structure. They must also perform traditional NCO functions—training and taking care of troops. In addition to legal, staff, and office skills, 71D personnel must train to proficiency in soldier common tasks. They must be able to survive on the battlefield, and be able to help other soldiers survive.

Finally, legal specialists maintain a deployment legal office package (forms, supplies, equipment, references, etc.) ready to deploy in support of the legal office and the command. When required, the legal specialist provides administrative support during Soldier Readiness Processing (SRPs), and Emergency Deployment Readiness Exercises (EDREs), and to any other mobilization preparation process.

Civilian Legal Support Staff may include paralegals, court reporters, legal clerks, legal secretaries, and other supporting staff who provide paralegal and administrative support under the supervision of the SJA, Division Chiefs, judge advocates, and civilian attorneys.

2.1.8 Command Judge Advocates

A Command Judge Advocate (CJA) is the senior judge advocate in a legal office serving a commander who is not a general court-martial convening authority, and who is not otherwise authorized an SJA. The CJA is the commander's personal legal advisor for all matters that affect the morale, good order, and discipline of the command and is a member of the commander's special staff. The CJA's relationship to the commander, subordinate

commanders, and staff is similar to that of an SJA. The Regimental Judge Advocate of the Ranger Regiment is an example of a CJA.

The CJA supervises the legal specialists. With their assistance, the CJA provides legal support in required legal disciplines to the commander and the staff. Normally, the host installation OSJA will provide legal support in the disciplines of legal assistance, military justice, and claims. Nevertheless, a CJA may provide such services in accordance with the policies of the commander and the SJA of the host installation or the next higher command, and consistent with professional responsibility requirements.

Law Center Officers in Charge (OICs)

An OIC of a Law Center is a judge advocate responsible for supervising the provision of all legal services in a designated military community. The Law Center is a branch office of a senior headquarters SJA office. Law Centers are particularly common in Europe. Unlike CJAs, OICs typically are responsible to provide legal support in all core legal disciplines and to supervise legal services provided by law center personnel. The OIC typically advises the installation and tactical commanders in that community.

2.2 JOINT LEGAL ORGANIZATIONS⁴⁴

Legal organizations are embedded in each joint organization, including the Office of the Chairman, Joint Chiefs of Staff; each unified, specified, and

subordinate unified command; and each joint task force. Army legal organizations support army organizations designated as a component command, or otherwise a part of a joint organization.

2.2.1 The Office of the Legal Counsel to the Chairman, Joint Chiefs of Staff

The Office of the Legal Counsel advises the Office of the Chairman of the Joint Chiefs of Staff concerning the legal basis for conducting operations, rules of engagement, and other international and domestic law affecting operations.

2.2.2 Unified, Specified, and Subordinate Unified Command Staff Judge Advocates

SJA offices in these commands provide legal support to the command. Their specific organization and functions vary according to the mission of the Unified, Specified, or Subordinate Unified Command. Nevertheless, these offices are composed of an SJA or Legal Advisor, judge advocates with required specialties from various services, legal specialists, and civilian employees. These offices provide legal advice in international and operational law, law of the sea, air and space law, military justice, administrative law, civil law, claims, legal assistance, and any other required areas of law.

2.2.3 Joint Task Force Staff Judge Advocate

When a Combatant Commander forms a Joint Task Force (JTF), the

combatant command SJA designs and staffs the JTF SJA office based on the JTF mission and organization. The JTF SJA provides the legal services required by the JTF, supervises legal services in organizations subordinate to the JTF, and coordinates additional legal support through the combatant command SJA. The JTF SJA will receive technical supervision from the combatant command SJA and will exercise technical supervision over legal personnel in organizations under JTF operational control.

2.3 MULTINATIONAL FORCE LEGAL ORGANIZATIONS

Legal organizations may be embedded in multinational headquarters to provide legal advice and support to multinational military operations.⁴⁵ These multinational headquarters may derive their authority from the United Nations, a regional alliance, a bilateral or multilateral international agreement, an ad hoc coalition agreement, or a combination thereof.⁴⁶ Regardless of the applicable international legal authority, U.S. Forces and personnel remain subject to the U.S. National Command Authorities (NCA) and domestic law.

Legal organizations in multinational headquarters provide advice concerning command authority, the legal basis for operations, rules of engagement and the use of force, the status of multinational forces, and other issues. Legal advisors in multinational headquarters must find legal solutions that satisfy the legal standards of the international community and each troop contributing nation, or must forward issues to

superior national and international authorities for resolution.

2.4 PROVIDING ARMY LEGAL SUPPORT FOR OPERATIONS

All the legal organizations described above provide legal support to operations in the deployment theater and at home station throughout all stages of the mobilization and operation. Organic legal organizations provide support to unit C2, sustainment, and support operations. JAGSOs and other reserve component judge advocates, such as the judge advocate sections GSUs, augment organic legal support in required core legal disciplines. SJAs of superior commands provide technical legal supervision and support to subordinate units. OTJAG, the Field Operating Agencies (USALSA & TJAGSA), and CLAMO provide additional required technical legal support.

The challenge for the SJA is to provide legal support to operations that meets the organization's mission-specific requirements. The SJA meets this challenge by detailing operational lawyers (judge advocates) to each key operational cell (e.g., G-3 Plans, G-3 Operations, Information Operations, targeting cells, tactical command posts, civil military operation centers, and Brigade main CPs), providing all core legal disciplines at each division or corps command post and home station, and coordinating technical legal supervision, technical legal support, and augmentation requirements.

2.4.1 Overview of Operational Law Support

Operational Law (OPLAW) is that body of domestic, foreign, and international law that directly affects the conduct of operations. OPLAW tasks support the command and control and sustainment of military operations, including the military decision-making process and the conduct of operations. OPLAW supports the commander's military decision-making process by performing mission analysis, preparing legal estimates, designing the operational legal support architecture, wargaming, writing legal annexes, assisting in the development of Rules of Engagement (ROE), and reviewing plans and orders. OPLAW supports the conduct of operations by maintaining situational awareness; advising and assisting with targeting, ROE implementation, and information operations. Judge advocates performing OPLAW also provide or facilitate support in the core legal disciplines. Therefore judge advocates performing OPLAW must be well-versed in all core legal disciplines, skilled in managing legal operations, and effective in relations with military commanders and staffs. The general OPLAW support concept is depicted in Figure 2-3, below.

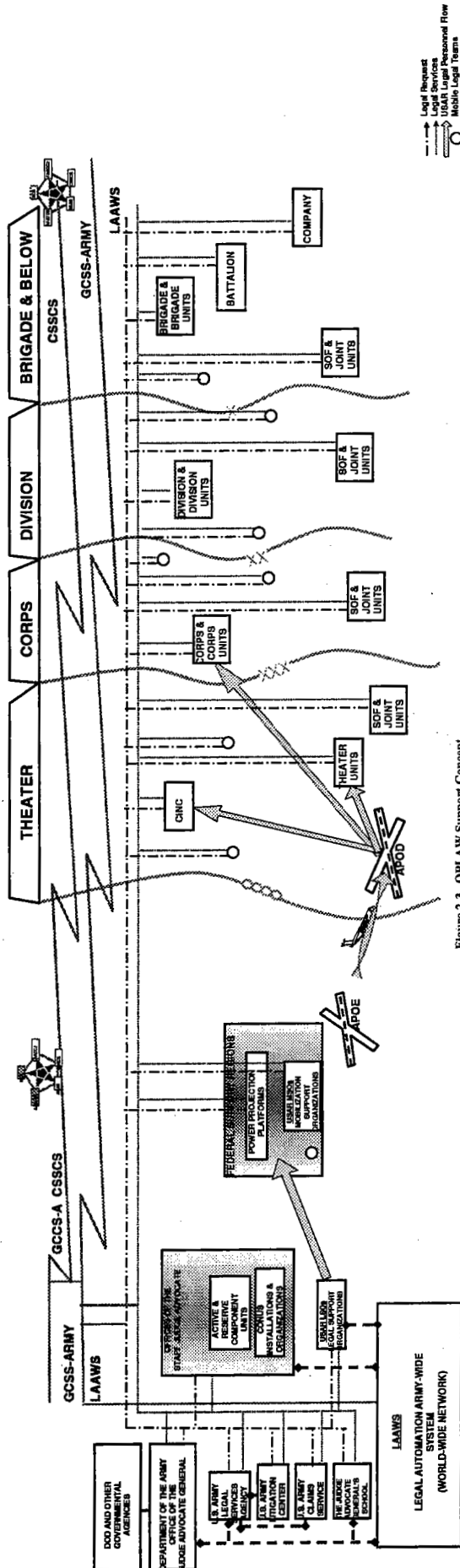


Figure 2-3. OPLAW Support Concept

Organizations on the left side of the diagram (DoD and other government agencies, OTJAG, CLAMO, USALSA, USARCS, and TJAGSA) provide technical legal support. Immediately to their right are depicted OSJAs, which support their parent organizations and deploy to provide required legal support. Beneath these are depicted LSOs, which deploy to augment organic legal support. MSOs support force projection and other mobilization and CONUS sustainment base missions, and can deploy as a follow-on mission. LSOs and MSOs are composed of LSTs, which provide legal support in a variety of disciplines. Within the deployment theater, organic legal organizations provide legal support, and are augmented by LSOs and LSTs (depicted by small circles throughout the theater, corps, division, and brigade areas) as required.

Legal organizations provide OPLAW support throughout all stages of mobilization and operations in the deployment theater and at home station. Legal personnel organic to deploying active and reserve component units support their units and unit personnel. Legal personnel organic to installations provide home station legal support. Legal personnel organic to nondeploying units at the installation may provide home station support subject to their unit readiness and operations. Mobilized LSOs deploy to the theater to support deployed forces; however, they may be employed in CONUS prior to deployment to assist MSOs consistent with the LSO's requirements to prepare and deploy.

MSOs provide legal support throughout CONUS during all stages of mobilization to active and reserve component units, organizations, installations, soldiers, and family members. Upon mobilization, they will be assigned to active component FORSCOM subordinate commands (most likely a Continental United States Army or CONUSA). They may be placed under the operational or tactical control of mobilization stations or RSCs, or of STARCs, in the event the STARC is mobilized or federalized. During peacetime, MSOs assist USAR and ARNG personnel in Personnel Readiness Programs. During the stages of mobilization, MSOs provide legal support for:

- mobilizing USAR and ARNG units at home station in Soldier Readiness Processing;
- mobilization stations during peak surges of mobilization and deployment;
- family members of mobilized USAR and ARNG personnel at home station or mobilization stations;
- mobilization stations during peak surges of redeployment and demobilization;
- redeployed and demobilized USAR and ARNG personnel and family members at home station.

Finally, MSOs may be required to deploy and provide legal support to deployed forces. For more information, consult Army Regulation 500-5, Army Mobilization and Operation Planning and Execution System (AMOPES).⁴⁷

The diagram also depicts communication and automation linkages from the company area to the CONUS sustaining base. Each Judge advocate must be linked to the Army Battle Command System (ABCS), particularly to Maneuver Control System – Phoenix (MCS-P), to Global Combat Support System – Army (GCSS-A), and to legal information networks through the Legal Automation Army-Wide System (LAAWS). Only then will judge advocates know the situation and have the complete and current legal information required to provide the proactive, timely, and accurate legal advice that will empower and sustain the force.

Not depicted in the diagram, but vital to effective legal support, are the equipment and transportation requirements. Legal organizations must be as capable as the units they support. The OSJA element in a corps, division, or brigade Command Post must have the workspace, communications and automation capabilities, and transportation assets to function in coordination with the staff. Other critical equipment requirements include radios linked with tactical nets, global positioning devices, and the RDL. (The RDL and its components are discussed in Chapter 4.) In addition, many legal functions require mobility: the SJA must travel to supervise legal services (as must the DSJA when managing legal services at another command post); foreign claims and war crimes investigation teams must travel to investigate claims and potential war crimes; judge advocates must attend Joint Military Commission meetings and meetings with international

organizations, nongovernmental organizations, and private volunteer organizations; trial and trial defense counsel must travel to counsel commanders or clients and investigate cases.

2.4.2 Tailoring Operational Law Support

The SJA begins tailoring legal support to an operation by analyzing METT-TC (mission, enemy, troops, terrain and weather, time available, and civilian considerations) to determine the potential legal issues, the extent of support required within each core legal discipline, and the legal resources available. Substantial and helpful information is available to assist the SJA in this analysis in the Operational Law Handbook, which is published annually by the International and Operational Law Department at TJAGSA, and in lessons learned on file with CLAMO.

Next, the SJA must design the legal support architecture for the operation. There are two requirements: first, judge advocates, and any required legal specialists, must deploy with each key operational cell; second, the SJA must provide support in all core legal disciplines to both the deployed force and home station, even if support in some disciplines is not deployed. These requirements place significant demands upon the legal organization. SJAs must consider the need for augmentation and address concerns through legal technical channels.

To meet these two requirements, there are two complementary strategies. First, the SJA may deploy a legal

organization equipped to provide support in all legal disciplines. This structure may contain a proportionate slice from each division. (Significant efficiencies are obtainable by deploying personnel skilled in multiple legal disciplines. Therefore, SJAs must ensure that judge advocates and legal specialists are trained in multiple disciplines.) Second, the SJA may deploy legal support in a particular legal discipline, while providing other legal support from the home station or other location. (For example, if a commander deploys an organization to perform a mission of brief duration and likely to involve claims issues, the SJA may deploy all or part of the claims division.) These approaches are not mutually exclusive; they may be blended to meet mission requirements.

Finally, the SJA must coordinate technical legal supervision and support. Judge advocates receive technical legal supervision (i.e., guidance, direction, and assistance in the discharge of their duties) from TJAG and SJAs of superior commands.⁴⁸ Judge advocates may receive technical legal support (i.e., legal information or expertise) from any Army legal organization. Technical legal supervision and support normally follow the chain of command. In joint operations, or when Army units are operationally controlled by other Army organizations, technical supervision follows operational control; superior parent and supported headquarters should both provide required technical support. Nevertheless, technical supervision and support arrangements must be coordinated for each specific core legal discipline. For example, military justice supervision and support could either lie with the parent

command or the joint headquarters. In allied or coalition legal organizations, technical legal supervision will be dual (national and international). SJAs supporting allied or coalition organizations must coordinate thoroughly to define the parameters of technical legal supervision, as well as to resolve the myriad legal concerns arising during operations.

2.5 SUMMARY

TJAG heads and directs all legal services in the Army, and provides legal support for operations at all levels of command. Embedded legal organizations (OSJAs or CJAs) in the active and reserve components and in joint organizations provide operational law and core legal discipline support to their parent organizations. Special legal units (JAGSOs) augment legal support as required by the mission. Judicial and trial defense services are provided by independent legal organizations in order to preserve the integrity of the military justice system. Joint and multinational legal organizations provide operational law support and supervise legal operations of subordinate units within the parameters of international and domestic law.

SJAs tailor, or task organize, legal support for each specific operation, by detailing judge advocates and any required legal specialists, to all key operational cells, providing support in all core legal disciplines to the deploying force and home station, and ensuring effective technical legal supervision and support. The result is responsive, proactive, flexible, and expandable legal support in every operational contingency.

Chapter 3 OPLAW and Core Legal Disciplines Supporting Army Operations

3.1 INTRODUCTION

The last chapter described legal organizations supporting operations, and how SJAs tailor, or task organize, to provide legal support to operations. This chapter describes OPLAW and the core legal disciplines (military justice, international law, administrative law, civil law, claims, and legal assistance) that Army legal organizations provide. Subsequent chapters will provide information about legal support to specific types of military operations.

As discussed in the previous chapter, legal support to each operation must consider the organization's mission-specific requirements, and include legal support in OPLAW and each core legal discipline. OPLAW and the core legal disciplines contribute directly to the command and control (C2), sustainment, and personnel service support required by the organization. Different aspects of a core legal discipline may support C2, sustainment, or personnel service support. For example, foreign claims are a sustainment function, while personnel claims are personnel service support. It is important that SJAs tailor legal support (OPLAW and core legal disciplines) to the organization's mission-specific requirements. Therefore, this chapter will describe OPLAW and the core legal disciplines, what tasks are performed, where they are performed, and how they support each phase of an operation from premobilization through demobilization.

CONTENTS	PAGE
INTRODUCTION.....	3-1
OPLAW.....	3-2
MILITARY JUSTICE.....	3-3
INTERNATIONAL LAW.....	3-6
ADMINISTRATIVE LAW.....	3-7
CIVIL LAW.....	3-9
CLAIMS.....	3-11
LEGAL ASSISTANCE.....	3-13
SUMMARY.....	3-16

3.2 OPLAW

OPLAW is that body of domestic, foreign, and international law that directly affects the conduct of operations.

OPLAW supports the command and control of military operations, to include the military decision-making process and the conduct of operations. OPLAW supports the military decision-making process by performing mission analysis, preparing legal estimates, designing the operational legal support architecture, wargaming, writing legal annexes, assisting in the development and training of Rules of Engagement (ROE), and reviewing plans and orders. OPLAW supports the conduct of operations by maintaining situational awareness, and advising and assisting with targeting, ROE implementation, and information operations. OPLAW also involves the provision of core legal disciplines that sustain the force.

SJAs normally provide OPLAW support at each Brigade Headquarters (Main CP), and at each key operational cell at every higher level of command (TAC CP, Main CP, Rear CP, G-3 Plans, G-3 Operations, Information Operations, and Targeting Cell). OPLAW support is also provided at each joint and multinational headquarters. Some missions will also require OPLAW support at battalion level, or in specialized units or operational cells. This is increasingly the case in peace operations and disaster relief.

As OPLAW directly affects the conduct of military operations, its tasks must generally be performed throughout

all phases of any operation, from before mobilization through demobilization. Nevertheless, the OPLAW Judge Advocate's (OPLAW JA's) focus will change during these phases. The focus during premobilization, mobilization, and predeployment will be on OPLAW military decision-making functions. The focus shifts toward tasks related to the conduct of operations from deployment through demobilization. During all phases, however, the OPLAW JA must provide or facilitate support in core legal disciplines required to sustain the organization.

Before mobilization, OPLAW JAs and legal specialists should conduct contingency planning, deployment preparation, and training. OPLAW JAs must proactively develop staff skills and relationships at all times, not merely before deployment. Deployment preparation, a cooperative effort between the OPLAW JA, the CLNCO, the Legal Administrator, and other key personnel, should include developing SOPs, identifying deploying personnel, marshaling resources, and establishing liaisons. Training before mobilization should develop legal personnel in their soldiering and legal skills, provide mission-related legal information to unit personnel, integrate legal personnel into unit training events, and establish relationships with reserve component legal personnel who will support legal operations upon mobilization.

During mobilization and predeployment, OPLAW JAs, with the assistance of legal specialists, should receive and integrate mobilized legal personnel who are supporting deploying and non-deploying units; conduct

mission briefings for deploying personnel regarding ROE, general orders, code of conduct, law of war, and other appropriate legal topics; conduct final mission planning; and coordinate legal support for individual deployment readiness.

During deployment and entry, OPLAW tasks related to the conduct of operations become more critical. OPLAW JAs must maintain situational awareness to provide effective advice about targeting, ROE, and legal aspects of current operations (including information operations). For this reason, judge advocates should deploy with their RDLs, vehicles, radios, and global positioning devices in a sequence that ensures their presence in key operational cells at all times. Deploying legal specialists help the OPLAW JA maintain situational awareness during the operation by attending briefings, monitoring email traffic, tracking the battle, and providing other required assistance. Upon entry, OPLAW JAs must organize and coordinate the delivery of legal services in all core legal disciplines in accordance with the legal annex to the OPLAN or OPORD. Finally, even during fast-paced operations, OPLAW JAs must continue to perform OPLAW military decision-making process functions in support of the staff's operational planning.

During redeployment and demobilization, OPLAW JAs and legal specialists must perform several recovery tasks: assist the redeployment of legal personnel and equipment, participate in the command's after-action reviews and lessons learned processes, and catalogue and retain legal

files and journals. SJAs should forward after action reports and all pertinent legal documents, memoranda, email, et cetera, to the CLAMO, and integrate them into future contingency planning, deployment preparations, and training.

3.3 MILITARY JUSTICE

Military justice is the administration of the Uniform Code of Military Justice (UCMJ), and the disposition of alleged violations by judicial (courts-martial) or nonjudicial (Article 15, UCMJ) means. The purpose of military justice, as a part of military law, is "to promote justice, to assist in maintaining good order and discipline in the armed forces, to promote efficiency and effectiveness in the military establishment, and thereby to strengthen the national security of the United States."⁴⁹

TJAG is "responsible for the overall supervision and administration of military justice within the Army."⁵⁰ The commander is responsible for the administration of military justice in the unit, and must communicate directly with the SJA about military justice matters.⁵¹

There are three components of military justice, each with its distinct functions. First, the SJA is responsible for military justice advice and services to the command. The SJA advises commanders concerning the administration of justice, the disposition of alleged offenses, appeals of nonjudicial punishment, and action on court-martial findings and sentences.⁵² The SJA supervises the administration and prosecution of courts-martial,

preparation of records of trial, the victim-witness assistance program, and military justice training.⁵³

Second, the Chief, United States Army Trial Defense Service "exercises supervision, control, and direction of defense counsel services in the Army."⁵⁴ Judge advocates assigned to the Trial Defense Service advise soldiers and represent soldiers before courts-martial. These judge advocates also represent soldiers in adverse administrative hearings.

Third, the Chief Trial Judge, United States Army Trial Judiciary provides military judges for general and special courts-martial, supervises military judges, promulgates rules of court, and supervises the military magistrate program.⁵⁵ Military Judges assigned to the Trial Judiciary preside over courts-martial, exercise judicial independence in the conduct of courts-martial, conduct training sessions for trial and defense counsel, and perform or supervise military magistrate functions.⁵⁶ Military magistrate functions include the review of pretrial confinement and confinement pending the outcome of foreign criminal charges; and the issuance of search, seizure, or apprehension authorizations.⁵⁷

Military justice services are semi-centralized to facilitate timely, efficient delivery. Normally, courts-martial are processed at theater, corps, division, or other headquarters commanded by a general court-martial convening authority. Joint Force Commanders, and Army Brigade and Battalion Commanders also have court-martial convening authority, and may

require support to conduct courts-martial. Trials may be held at the main or rear command post. The convening authority may designate where the court-martial will meet IAW Rules for Courts-Martial (RCM) 504(d) and RCM 906(b)(11) and consistent with rulings of the military judge. SJAs provide military justice advice to general court-martial convening authorities, including Joint Force Commanders with general court-martial authority. Other judge advocates provide military justice advice to subordinate commanders. Legal specialists in battalion, squadron, and higher headquarters prepare and manage military justice actions, and provide other technical legal and administrative support for military justice. As the situation requires, LSTs specializing in criminal law may assist theater, corps, or division military justice operations. In multinational organizations, each troop contributing nation is responsible for the discipline of its military personnel. Thus, the U.S. element of the multinational organization will require military justice support.

Trial defense and judiciary services are provided on an area basis under the independent supervision and control of the U.S. Army Trial Defense Service and U.S. Army Trial Judiciary, respectively. Trial Defense Counsel will normally be located with SJA sections at theater, corps, and division, from where they travel throughout the operational area to provide advice and services as far forward as required. Military Judges are normally collocated with SJA sections at theater, corps, and division, depending upon judicial workloads. As the situation requires, LSTs specializing in trial defense or judiciary services assist

wherever needed in the theater. The Chief, U.S. Army Trial Defense Service, and Chief Trial Judge, U.S. Army Trial Judiciary, supervise Defense Teams and Military Judge Teams, respectively.

Military justice support must transition through the phases of military operations smoothly, providing continuity in jurisdiction and responsive support to the deployment theater and home station. Critical to success are prior planning, mission training, and staff augmentation.

Before mobilization, the primary focus is planning. The SJA's planning for military justice operations should include the preparation of key personnel for deployment, the identification and marshaling of resources and personnel to support split-based operations, the identification and alignment of court-martial convening authorities, the guidance for disposing of pending cases upon deployment, the selection of court-martial panels in the deployment theater, the content of a general order for the operation, the strategy for supporting military justice in the deployment theater and at the home station, and the coordination of support for trial defense and judiciary services.⁵⁸ The supporting Regional Defense Counsel (RDC) must develop an operation support strategy, prepare personnel for deployment, and marshal resources. Of particular importance are the RDC's plans for mobility in theater and technical supervision of deployed Defense Counsel. The supporting Chief Circuit Judge must likewise plan for operations.

During mobilization and predeployment, the SJA must execute

the military justice transition and conduct mission training. Transition tasks may include aligning the convening authority structure for the deployment theater and home station, ensuring units and personnel are assigned or attached to the appropriate organization for the administration of military justice, requesting or accomplishing required designations of home station convening authorities, transferring individual cases to new convening authorities when necessary, and publishing a general order for the operation.⁵⁹ Mission training will include briefings to deploying and home station commanders concerning military justice operations, and briefings to deploying soldiers concerning the terms of the general order for the operation.⁶⁰

During deployment and entry, the SJA must ensure the military justice support arrangements are in place and operating properly. The SJA should ensure orders assigning units and personnel clearly indicate which commander has nonjudicial punishment and court-martial authority. Rear detachment commanders at the home station will require military justice training, which should emphasize the commander's authority and responsibility, and the prevention of unlawful command influence.⁶¹ Finally, the SJA should expect an increase in the home station military justice workload, and must ensure that resources are properly allocated between the deployment theater and home station.⁶²

During redeployment and demobilization, the SJA transitions back to the original home station military justice structure. This will

normally include returning to the original convening authority structure, ensuring units and personnel are assigned or attached back to the appropriate organization for the administration of military justice, revoking the designations of home station convening authorities established for the operation, transferring individual cases, and rescinding the general order for the operation.

3.4 INTERNATIONAL LAW

International law is the application of international agreements, international customary practices, and the general principles of law recognized by civilized nations to military operations and activities. Within the Army, the practice of international law also includes foreign law, comparative law, martial law, and domestic law affecting overseas, intelligence, security assistance, counter-drug, and civil assistance activities.⁶³

The SJA's international law responsibilities include: implementation of the DoD Law of War (LOW) Program, including LOW training, advice concerning the application of the LOW (or other humanitarian law) to military operations, the determination of enemy prisoner of war (EPW) status, and supervision of war crime investigations and trials; assistance with international legal issues relating to U.S. forces overseas, including the legal basis for conducting operations, status of forces agreements, and the impact of foreign law on Army activities and personnel; the monitoring of foreign trials and confinement of Army military and civilian personnel and their

dependents; assistance with legal issues in intelligence, security assistance, counter-drug, and civil assistance activities; advice to the command concerning the development of international agreements; and legal liaison with host or allied nation legal authorities.⁶⁴

Normally, the SJA provides international law support at the main and rear command posts in Army of Excellence divisions and corps, and main command posts in Force XXI divisions and corps, TAACOM or TSC headquarters, Theater Army headquarters, and each joint and multinational headquarters. In addition, international law support may be required at brigade and battalion headquarters.

International Law tasks will vary from phase to phase, but are designed to ensure operational capability and support international legitimacy throughout all phases of an operation.

Before mobilization, international law planning is preeminent. The SJA and international law attorneys must thoroughly understand the contingency plan and the international law affecting the planned operation. They must ensure the contingency plan complies with international legal obligations, including obligations to EPWs and civilians. They must also identify and obtain relevant international agreements (e.g., status of forces agreements, exchanges of diplomatic notes, and acquisition and cross-servicing agreements), identify requirements for additional agreements, and forward these requirements through higher

headquarters to the proper negotiation authority. International law planning objectives include informing the commander and staff of the international legal obligations on the force, minimizing legal obligations or their effects on the force, protecting the legal status of unit personnel, ensuring rights of transit, and providing responsive and economical host nation support. At the same time, international law attorneys are responsible for training unit personnel on the LOW and other international law affecting potential operations.

During **mobilization and predeployment**, establishing liaison and briefing deploying personnel are the principal international law tasks. The SJA should establish liaison with the International Committee of the Red Cross (ICRC), the country team for the area of operations, legal officials in the host nation, and other government, nongovernmental, international, and private voluntary organizations, as directed by the commander. The purposes of this liaison are to establish productive relationships that will help sustain the operation; coordinate the legal aspects of the deployment and entry; confirm understanding of agreements concerning status of forces⁶⁵, rights of transit, basing, and host nation support; and provide assurance of compliance with international legal requirements. Briefings to deploying personnel should cover the legal basis for the operation, the legal status of deploying personnel, relevant country law, guidance on the treatment of civilians in the area of operations,⁶⁶ and the applicability of the LOW or other humanitarian law.

During **deployment and entry**, the SJA's principal international law tasks are advising the command and managing legal processes. These tasks require continuous liaison with the country team, host nation legal officials, the ICRC, and other agencies related to the operation; and effective integration into the headquarters staff. Advice to the command may involve the law of war, including advice to the EPW team; interpretation of international agreements; treatment of civilians or foreign diplomats; assistance to international organizations, U.S. or host nation government organizations, nongovernment organizations (NGOs), or private volunteer organizations (PVOs); civil affairs; and other international legal matters. Legal processes include the investigation and trial of war crimes, Article V tribunal proceedings, foreign criminal trials of U.S. personnel, foreign civil or administrative proceedings, and proceedings conducted under occupation or martial law.

During **redeployment and demobilization**, the SJA's international law priority is to resolve legal issues remaining from the deployment or relating to redeployment. Significant tasks may include coordinating the legal aspects of base closures, resolving host nation support issues, managing war crimes investigations, monitoring foreign criminal proceedings, and coordinating with the ICRC for repatriation of prisoners of war.

3.5 ADMINISTRATIVE LAW

Administrative law is the body of law containing the statutes, regulations,

and judicial decisions that govern the establishment, functioning, and command of military organizations. The practice of administrative law includes advice to commanders and litigation on behalf of the Army involving many specialized legal areas, including military personnel law, government information practices, investigations, relationships with private organizations, labor relations, civilian employment law, military installations, and government ethics.⁶⁷

Administrative law attorneys perform the following functions: advise commanders, review actions, and litigate cases involving military personnel law; advise Army officials regarding their obligations under the Freedom of Information Act (FOIA) and Privacy Act; advise investigating officers, review investigations for legal sufficiency, and advise appointing authorities concerning investigative findings and recommendations; advise Army officials concerning support for and relationships with private organizations; advise Army officials concerning labor relations, including certifying and negotiating with labor unions, grievances and arbitration, and unfair labor practice allegations; advise Army officials concerning the recruiting, hiring, evaluating, and disciplining of employees, and represent the Army in litigation arising from employee grievances and discrimination complaints; advise installation commanders concerning the legal authorities applying to military installations; and advise Army personnel concerning government ethics, and supervise the command financial

disclosure and ethics training programs.⁶⁸

Administrative law support is usually provided at brigade headquarters, main and rear command posts in Army of Excellence divisions and corps, main command posts in Force XXI divisions and corps, COSCOM headquarters, and at each higher army, joint, and multinational headquarters. Because of the vast scope of issues they face, administrative law attorneys, especially, must be capable of conducting specific technical legal research and writing.

Administrative law support must be provided during all phases of an operation. The legal research capabilities and technical support structure must be robust to provide specialized legal knowledge and the flexibility to resolve different issues as an operation moves through its phases.

Before mobilization, administrative law attorneys must identify the issues likely to arise in the operation and provide policy guidance in the OPLAN. Consideration of the likely legal issues must take into account the participating organizations – joint, allied or coalition, international, non-governmental, and private. The plan should include policy guidance concerning access by non-DoD personnel to unit facilities and services.⁶⁹

During mobilization and predeployment, administrative law attorneys must provide prompt guidance to commanders concerning military personnel issues that typically arise immediately before deployment, such as conscientious objection and family care

plan failures.⁷⁰ They should also brief deploying personnel concerning issues arising in the theater, e.g., family care plans and foreign gifts.⁷¹

During **deployment and entry**, administrative law attorneys will provide advice and assistance with the legal issues that arise in theater. They should be prepared to spend considerable time and effort on command investigations, as these may have a significant impact on the unit and mission.⁷² They must also, even in a deployed environment, supervise the government ethics program, including the filing of financial disclosure forms.⁷³

During **redeployment and demobilization**, administrative law attorneys will assist with issues that arise, and will continue to manage the legal aspects of ongoing investigations and other actions as they redeploy to home station.

3.6 CIVIL LAW

Civil law is the body of law containing the statutes, regulations, and judicial decisions that govern the rights and duties of military organizations and installations with regard to civil authorities. The practice of civil law includes contract law, fiscal law, environmental law, as well as many other specialized areas of law.⁷⁴

Contract law is the application of domestic and international law to the acquisition of goods, services, and construction. The practice of contract law includes battlefield acquisition, contingency contracting, bid protests and contract dispute litigation,

procurement fraud oversight, commercial activities, and acquisition and cross-servicing agreements.⁷⁵

The SJA's contract law responsibilities include furnishing legal advice and assistance to procurement officials during all phases of the contracting process, overseeing an effective procurement fraud abatement program; and providing legal advice to the command concerning battlefield acquisition, contingency contracting, Logistics Civil Augmentation Program (LOGCAP), Acquisition and Cross-Servicing Agreements (ACSAs), the commercial activities program, and overseas real estate and construction.

Legal counsel must participate fully in the acquisition process, make themselves continuously available to their clients, involve themselves early in the contracting process, communicate closely with procurement officials and contract lawyers in the technical supervision chain, and provide legal and business advice as part of the contract management team.⁷⁶ To accomplish this, SJAs usually provide contract law support at the main and rear command posts in Army of Excellence divisions and corps, main command posts in Force XXI divisions and corps, COSCOM, Theater Support Command Headquarters, and each higher army and joint headquarters. Contract law advice may also be required at brigade or battalion headquarters. SJAs should deploy a contract law attorney with contracting Early Entry Modules (EEM). OPLAW JAs supporting a DISCOM or COSCOM should be trained in contract law. Expertise may be required at the multinational command headquarters to

advise concerning international acquisition agreements.

Fiscal law is the application of domestic statutes and regulations to the funding of military operations, and support to non-federal agencies and organizations.

The SJA's fiscal law responsibilities include furnishing legal advice on the proper use and expenditure of funds, interagency agreements for logistics support, security assistance, and support to non-federal agencies and organizations.

SJAs usually provide fiscal law support at the main and rear command posts in Army of Excellence divisions and corps, main command posts in Force XXI divisions and corps, DISCOM, COSCOM, TAACOM/ TSC headquarters, and each higher army and joint headquarters. Expertise may also be required at the multinational command headquarters to advise concerning international support agreements.

Environmental law is the body of law containing the statutes, regulations, and judicial decisions relating to Army activities affecting the environment to include navigable waters, near-shore and open waters and any other surface water, groundwater, drinking water supply, land surface or subsurface area, ambient air, vegetation, wildlife, and humans.⁷⁷ Overseas, host nation law may also affect Army operations.

SJAs provide legal advice and services on all aspects of environmental matters, to include representing Army

activities in environmental litigation and at hearings before local, state, or federal agencies in coordination with the Chief, Environmental Law Division, USALSA, and the Department of Justice (DoJ); monitoring state and federal environmental legislative and regulatory developments; providing advice concerning the appropriateness of any environmental enforcement activities; and reviewing all draft environmental orders, consent agreements, and settlements with Federal, state, or local regulatory officials before signature.⁷⁸

SJAs usually provide environmental law support at the main and rear command posts in Army of Excellence divisions and corps, main command posts in Force XXI divisions and corps, DISCOM, COSCOM, Theater Support Command Headquarters, and each higher army and joint headquarters.

Civil lawyers must support all phases of an operation;⁷⁹ nevertheless, the issues and requirements they face will change during each operational phase.

Before deployment, planning and training are the primary concerns. Contract lawyers assist the planning for contracting by identifying the legal authorities for contracting, obtaining relevant acquisition agreements or requesting their negotiation, helping the contracting team to define requirements and to establish procurement procedures for the operation, and reviewing the contracting support plan for legal sufficiency. Fiscal lawyers assist the planning by identifying funding authorities supporting the mission. Environmental lawyers assist the

planning by providing legal advice concerning environmental reviews and environmental requirements in the area of operations, and by reviewing plans to ensure plans address environmental law and policy requirements. The environmental plan should address policies and responsibilities to protect the environment, certification of local water sources, waste management, hazardous material management, protection of flora and fauna, archeological and historical preservation, and the base field spill plan.⁸⁰

During **mobilization and predeployment**, support to the contracting and real estate EEMs is important. A contract lawyer should deploy with the contracting EEM; an environmental lawyer should deploy with the real estate EEM. In preparation for deployment, these judge advocates or civilian attorneys must marshal resources, assist the EEM's final coordination to include confirming warrants, funding sources and environmental legal requirements, and establish liaison with the country team in theater. Upon arrival in theater, the contract lawyer and environmental lawyer support the EEM missions of facilitating the deployment and entry of forces. The environmental lawyer should ensure an environmental survey is completed to provide a baseline against which later claims for damage may be assessed.⁸¹

During **deployment and entry**, civil law support must be responsive to force requirements. SJAs must plan for additional contract law and fiscal law support as the theater matures, because

contracting and fiscal issues will increase in number and complexity.⁸² SJAs should encourage the use of Acquisition Review Boards, as these promote prudent management of resources and proactive resolution of logistical support issues.⁸³ SJAs must maintain close coordination with the organization's environmental team and civil affairs section, and liaison with the country team and local environmental legal authorities.

During **redeployment and demobilization**, civil lawyers support force redeployment and close-out. Contracts for subsistence, temporary lodging, or transportation are required to allow logistics units to redeploy. During close-out, contract and environmental claims or disputes will arise. Civil lawyers help contracting and real estate officials resolve claims or disputes. When claims or disputes are not resolved, the civil lawyer will support the contracting and real estate personnel who are responsible for litigation.⁸⁴ Civil lawyers are normally required until all forces leave the area, and therefore normally redeploy last. Even after redeployment, unresolved contracting and environmental issues may require legal support.

3.7 CLAIMS

The Army Claims Program investigates, processes, adjudicates, and settles claims on behalf of and against the United States world-wide "under the authority conferred by statutes, regulations, international and interagency agreements, and DoD Directives."⁸⁵ The Claims Program supports commanders by preventing

distractions to the operation from claimants, promoting the morale of Army personnel by compensating them for property damage suffered incident to service, and promoting good will with the local population by providing compensation for personal injury or property damage caused by Army or DoD personnel.⁸⁶ Categories of claims include claims for property damage of soldiers and other employees arising incident to service, torts alleged against Army or DoD personnel acting within the scope of employment, and claims by the United States against individuals who injure Army personnel or damage Army property.⁸⁷

The Secretary of the Army (SA) heads the Army Claims System.⁸⁸ TJAG supervises the Army Claims Program and settles claims in accordance with delegated authority from the SA.⁸⁹ The U.S. Army Claims Service (USARCS) administers the Army Claims Program and designates area claims offices, claims processing offices, and claims attorneys.⁹⁰ SJAs, or other supervisory judge advocates, operate each command's claims program and supervise the area claims office (ACO) or claims processing office (CPO) designated by USARCS for the command.⁹¹ ACOs and CPOs are the normal claims offices at Army installations that investigate, process, adjudicate, and settle claims against the United States; and identify, investigate, and assert claims on behalf of the United States.⁹² Claims attorneys at each level settle claims within delegated authority and forward claims exceeding that authority to the appropriate settlement authority.⁹³

Claims must be investigated and paid in an area of operations.⁹⁴ In multinational operations, unless otherwise specified in applicable agreements, a troop contributing nation is generally responsible to resolve claims arising from its own operations. Foreign claims against the U.S. will normally be resolved by the service assigned claims responsibility for the area. Claims attorneys should consult DoD Directive 5515.8, Single-Service Assignment of Responsibility for Processing of Claims (June 1990). U.S. personnel claims will normally be resolved by the parent service. Army claims services are normally provided in the main or rear command posts in Army of Excellence divisions and corps, main command posts in Force XXI divisions and corps, the Theater Support Command headquarters, and Theater Army headquarters. While claims services are centrally processed at these locations, claims personnel must travel throughout the area of operations to investigate, negotiate, and settle claims.

Before mobilization, commanders should appoint unit claims officers (UCO); UCOs document and report incidents to claims offices that might result in a claim by or against the United States.⁹⁵ The SJA and Chief of Claims should develop the claims architecture for the planned operation, and provide training for deployable claims attorneys, legal specialists, and UCOs. The claims architecture should prescribe the technical chain of claims authority, identify additional required claims processing offices or foreign claims commissions, and describe the claims procedures applying during the operation. Claims architecture planning

factors include the type and duration of deployment, the area to which deployed, the existence of international agreements governing the presence of U.S. personnel and the processing of claims, host nation law, and service claims responsibility for the area.⁹⁶ Claims procedures should describe how claims are received, investigated, processed, adjudicated, and paid.⁹⁷ Training for claims personnel should cover foreign claims procedures, prevention of property damage and personal injury, investigative techniques, and documentation of preexisting damage.⁹⁸

During **mobilization and predeployment**, SJAs and Chiefs of Claims should provide preventive law advice concerning home station storage of personal property, and information briefings to deploying personnel about theater claims policies, including policies concerning any types or amounts of personal property for which compensation will not be paid. SJAs and Chiefs of Claims should also coordinate with USARCS to facilitate the appointment of Foreign Claims Commissions or Claims Processing Offices.⁹⁹

During **deployment and entry**, claims personnel establish the claims operation and perform claims services. When establishing the claims operation, the senior claims attorney in theater should inform host nation authorities how claims will be processed, provide information to the local population about claims procedures, and obtain translation services and local legal advice.¹⁰⁰ Critical at this point are efforts by claims personnel and UCOs to document the existing condition of base

camp, unit locations, or transportation routes; good documentation at the beginning of an operation will enable accurate payment of legitimate claims and prevent payment of fraudulent or inflated claims.¹⁰¹ The digital camera that is a component of the RDL is very useful for this purpose. When performing claims services, the senior claims attorney should coordinate with UCOs to assist them with claims investigations; with Civil Military Operations (CMO) to facilitate liaison with local officials, learn about local customs, and provide CMO personnel information about claims procedures; and with military police and military intelligence personnel to share information.¹⁰² Throughout the operation, claims personnel must travel throughout the area of operations to receive, investigate, and pay claims.¹⁰³

During **redeployment and demobilization**, the senior claims attorney must ensure all filed claims are paid, closed, or transferred to a claims office with post-deployment responsibility for the area. Claims personnel at home station must be prepared to receive and process claims by deployed personnel for damage to property damaged in storage during deployment.

3.8 LEGAL ASSISTANCE

"Wherever you have judge advocates among soldiers, you will have the practice of Legal Assistance."¹⁰⁴

Captain Nicole Farmer

Legal assistance is the provision of personal civil legal services to soldiers,

their family members, and other eligible personnel.¹⁰⁵ The mission of the Army Legal Assistance Program is “to assist those eligible for legal assistance with their personal legal affairs in a timely and professional manner by – (1) Meeting their needs for help and information on legal matters; and (2) Resolving their personal legal problems whenever possible.”¹⁰⁶ “From an operational standpoint, the mission of legal assistance is to ensure that the soldiers’ personal legal affairs are in order prior to deployment, and then, in the deployment location, to meet the soldiers’ legal assistance needs as quickly and as efficiently as possible.”¹⁰⁷ The Army Legal Assistance Program promotes morale and discipline, and thereby contributes directly to mission accomplishment.

Legal assistance attorneys, and legal staff working under their supervision, provide legal assistance in a variety of settings, including combat readiness exercises, premobilization legal preparation (PLP), soldier readiness program processing (SRP), demobilization briefings, noncombatant evacuation operations, client interviews, informal requests for assistance, federal and state income tax assistance, and preventive law programs.¹⁰⁸ They provide extensive legal services: ministerial and notary services, legal counseling, legal correspondence, negotiation, legal document preparation and filing, limited in-court representation, legal referrals, and mediation.¹⁰⁹ They handle a wide variety of cases: family law, estates, real property, personal property, economic, civilian and military administrative

matters, torts, taxes, and civilian criminal matters.¹¹⁰

Legal assistance is provided at the Theater Army headquarters, Theater Support Command headquarters, main and rear command posts in Army of Excellence divisions and corps, and main command posts in Force XXI divisions and corps, and as required at brigade or lower echelons.¹¹¹ While each service and each troop contributing nation is responsible to provide legal assistance for its personnel, some legal assistance may be required at joint or multinational headquarters.

Before mobilization, active and reserve component SJAs should conduct regular and proactive preventive law programs, resolve legal concerns of soldiers, their families, and other eligible personnel prior to deployment, and plan for mobilization and deployment processing. In conducting such programs, SJAs should coordinate with and involve the reserve component judge advocates (such as MSO JAGSOs or the judge advocate sections of GSUs) which will be assigned to assist their organizations upon mobilization, or with whom they have developed training associations. Preventive law programs provide information to service members and families that enable them to avoid legal problems, or to identify concerns and seek prompt assistance.¹¹² Regular SRP processing, along with reserve component PLP, ensures soldiers and emergency-essential civilian employees have their legal affairs in order and are prepared for deployment. Because legal needs may not be met upon deployment, SJAs must plan to provide legal assistance to large numbers of personnel

preparing to deploy. SJAs must also plan to provide legal assistance to personnel in the deployment theater and family members at home station, mobilization stations, or elsewhere during the operation.¹¹³ The MSOs and the judge advocate sections of the GSUs described in Chapter 2 provide SJAs the capability to provide this surge and sustainment legal assistance.

During **mobilization and predeployment**, the SJA and Chief of Legal Assistance should manage SRP processing, coordinate with the local bar and courts concerning current legal assistance issues or stays required by the mobilization or deployment, provide legal assistance briefings for family members, and resolve as many legal concerns as possible before deployment.¹¹⁴ SRP processing should review, at a minimum, Soldiers' Group Life Insurance (SGLI) beneficiary designations, requirements for wills or powers of attorney, the existence of Soldiers and Sailors Civil Relief Act issues or any pending civilian or military charges, the receipt of Geneva Convention briefings, and family care plan concerns.¹¹⁵ Providing advance SRP packets to deploying soldiers enables them to consider their legal needs in advance, to come to the SRP with the information needed to process efficiently, and to leave with the legal products and advice they require.¹¹⁶

During **deployment and entry**, SJAs must provide legal assistance both in the deployment theater and at home station. Due to the special attorney-client relationship and the possibility of conflicting interests between commanders and soldiers, the SJA

generally designates specific judge advocates as legal assistance attorneys. Because of the increased demand for legal assistance services during deployments, the SJA may allow judge advocates who are not legal assistance attorneys to provide legal assistance services when consistent with professional standards. The SJA will rely heavily on the judge advocates assigned to GSU supporting the installation and the MSO supporting the deployment. Also, the SJA may seek support from the Senior Defense Counsel, who may assign Trial Defense Counsel to provide legal assistance consistent with the Trial Defense mission.¹¹⁷ In theater, legal assistance attorneys should be prepared to resolve the full range of legal assistance cases, and to provide federal and state income tax assistance.¹¹⁸ The Chief of Legal Assistance in theater, should establish liaison with the U.S. Consulate, and ensure effective communication and courier service between legal assistance offices in theater and home station.¹¹⁹ At home station, in addition to providing legal assistance to the home station, the legal assistance office must provide required assistance to deployed legal assistance attorneys and provide legal assistance briefings to family members.¹²⁰

During **redeployment and demobilization**, the SJA and Chief of Legal Assistance must resolve legal assistance matters in the deployment theater, or coordinate to ensure they are resolved after redeployment, and resolve matters at home station that arose or remained unresolved during the operation.

3.9 SUMMARY

The JAGC provides comprehensive legal support to operations across the spectrum and throughout all phases of military operations. Staff Judge Advocates ensure OPLAW and core legal disciplinary support at each level of command from the theater through brigade, and at lower echelons as required. This chapter described, in general terms, what legal support is provided. The following chapters will describe how legal support is provided to specific types of operations.

Chapter 4 Legal Support in Theater Operations

Theater command structures and campaign planning originated in World War II and have existed, with variations, ever since. In the 1980s, during digestion of the hard lessons of Vietnam, the services . . . adopted [the] concept of an intermediate level of war, between the strategy from Washington and the tactics of the battlefields. Operational art received its formal designation in the 1982 version of the Army's Field Manual 100-5, with the other services closely following. The present flowering of joint doctrine, still in progress, has been marked in Congress by the passage of the Goldwater-Nichols Act in 1986. At last, the United States has begun to place in print ideas and techniques in ferment since the time of Lincoln and Grant . . .

Lieutenant Colonel Daniel K. Bolger
*Savage Peace*¹²¹

CONTENTS	PAGE
THE THEATER.....	4-2
Key Terms and Distinctions.....	4-2
Communications Zone and	
Combat Zone.....	4-3
Strategy.....	4-4
Structures of Command and	
Coordination.....	4-4
Command, Control, and	
Support Relationships.....	4-8
PLANNING AND DECISION	
MAKING.....	4-10
Planning.....	4-11
Functions of Staffs.....	4-11
The Military Decision Making	
Process.....	4-12
Decision Making in a Time-	
Constrained Environment.....	4-18
SJA Planning, Decision-	
Making, and Orders.....	4-20
LEGAL SUPPORT IN THEATER.....	4-21
Introduction.....	4-21
Overseas Presence and Force	
Projection.....	4-21
Legal Support in Theater.....	4-23
The United States as a	
Theater.....	4-24
Technical Channels.....	4-24
MATERIEL.....	4-25
Legal Automation.....	4-25
Mobility.....	4-28
Communications.....	4-29
TRAINING.....	4-30
Principles of Training.....	4-30
Mission Essential Task Lists...	4-32
Planning for Training.....	4-35
LEGAL SUPPORT AND SPECIAL	
OPERATIONS.....	4-36
Legal Support and Special	
Operations.....	4-38
Legal Support and Civil Affairs	4-39

Though many Law of War problems arose, . . . judge advocates [in theater] also dealt with a significant number of other legal issues. . . . As so aptly stated by one judge advocate involved, somewhat tongue-in-cheek, "You can only tell the C.O. that he can't shoot the prisoners so many times. You reach a point at which when the boss has run out of beans and bullets, has certain equipment requirements, and has the locals clamoring to be paid for property damage, you have to be prepared to provide the best possible legal advice concerning these issues as well."

Lieutenant Colonel David E. Graham
*Operational Law-A Concept Comes of Age*¹²²

4.1 THE THEATER

Operational art is best understood within the context of a theater, a geographical area outside the continental United States for which a Commander-in-Chief (CINC) of a unified command has been assigned military responsibility.¹²³ The theater is the setting within which United States commanders determine when, where, and for what purpose major forces will be committed. It is the setting into which forces are deployed and later inserted into or withdrawn from operations. It is the setting within which optimal effect can be made of the resources of personnel, materiel, and time because the commander is consciously employing them to achieve desired strategic ends.¹²⁴

Legal support to operations is the comprehensive set of professional legal functions and disciplines needed to support worldwide operations. Due to the modern national security structure of the United States, these worldwide operations involve military forces projected into and within theaters.

Accordingly, judge advocates must have a detailed understanding of the terms, distinctions, and structures of command and coordination associated with theater operations. They must also understand several separate but complementary relationships of command, control, and support that are exercised within theaters.

4.1.1 Key Terms and Distinctions

Theaters may be described as either *continental*, i.e., European Command (EUCOM), Central Command (CENTCOM) or Southern Command (SOUTHCOM), or *maritime*, i.e., Pacific Command (PACOM), or *littoral* based on their dominant geographic characteristics.¹²⁵ A unified combatant commander who has a geographic *area of responsibility*—recall that the CINCs of Transportation Command (TRANSCOM), Special Operations Command (SOCOM), Strategic Command (STRATCOM), and Space Command (SPACECOM) do not—is also referred to as a *theater commander*.¹²⁶ United States Joint Forces Command (USJFCOM), formerly

Atlantic Command (ACOM), maintains its Atlantic area of responsibility.

Because unified commands were created following World War II to integrate the separate services into an efficient warfighting team,¹²⁷ a CINC's theater is sometimes called a *theater of war*, regardless whether combat operations are taking place within it. This theater of war may be subdivided into subordinate *theaters of operations*, which may be further subdivided into *areas of operations* (AO). The CINC has great freedom to organize his theater, and he will frequently designate other areas of significance, such as *joint operations areas* (JOA), *joint zones* (JZ), and *joint rear areas* (JRA).

4.1.2 Communications Zone and Combat Zone

One traditional organizational device divides the theater of war into a *communications zone* (COMMZ) and a *combat zone* (CZ). The COMMZ and the CZ are contiguous and do not overlap.¹²⁸ The COMMZ is the rear part of a theater of operations, and it contains the lines of communications, air and sea ports, establishments for supply, maintenance, field services, personnel support, health services and evacuation, and other agencies required for the immediate support and maintenance of the field forces. The COMMZ reaches back to the continental United States or to another CINC's area of responsibility.

The CZ is the territory forward of the COMMZ. In the European theater, the boundary line falls at the Army group rear boundary: that is, everything forward of the Army group rear

boundary was the CZ. The CZ is the area required by operational and tactical forces for the conduct of operations. The depth of the CZ depends on the forces involved, the nature of planned operations, the lines of communications, the terrain, and enemy capabilities. Normally, the CZ is divided into corps and division areas.

Noncombat contingencies and contingencies that involve sporadic or isolated combat create the need for alternatives to the CZ device. A contingency is "[a]n emergency involving military forces caused by natural disasters, terrorists, subversives, or by required military operations."¹²⁹ Contingencies cause CINCs to designate areas of conflict (AOC), geographic areas where hostilities are imminent, and areas of assistance (AOA), areas where forces conduct humanitarian assistance or other support operations unopposed.¹³⁰

Commanders, SJAs and other Army leaders deploying forces to a theater of operations must understand yet another distinction. A *developed or mature theater* is typically one in which the United States has an existing overseas presence, to include a support structure of communications, logistics, air defense, ports, etc. An *undeveloped or immature theater* lacks one or more of these features. When projecting force to an immature theater, leaders must choose between creating a support base in the theater or operating with external support.¹³¹

4.1.3 Strategy

The President, in collaboration with several executive branch departments and agencies, develops the National Security Strategy. In turn, the Chairman of the Joint Chiefs of Staff develops the National Military Strategy to assist the President and the Secretary of Defense (who are called the *National Command Authorities* or NCA) in directing the armed forces toward broader national security goals.

Currently, the National Military Strategy describes two fundamental strategic military objectives derived from the National Security Strategy.¹³²

- *Promote peace and stability* through deterrence, peacetime engagement activities, and active participation and leadership in alliances; and, when necessary,
- *Defeat adversaries.*

The overlapping and interrelated strategic concepts that allow the military to achieve these objectives are *strategic agility, overseas presence, power projection, and decisive force*, which are discussed more fully later in this chapter.

The CINCs develop theater strategies consistent with the two national strategic documents. The development of theater strategy involves careful analysis of the METT-TC unique to the theater.¹³³

The development of separate theater strategies permits the creation of a *Unified Command Plan (UCP)*. The President approves the UCP, which sets forth basic guidance to all unified

combatant commanders; establishes their missions, responsibilities, and force structure; delineates the geographical boundaries of CINC areas of responsibility (related but technically distinct from theaters of war); and specifies functional responsibilities for functional combatant commanders.

4.1.4 Structures of Command and Coordination.

Operations within a theater are invariably joint and often multinational. They also often involve many governmental agencies, nongovernmental organizations, and private organizations. Judge advocates cannot practice operational law without knowing the various key players in a theater and the structures through which the CINC orchestrates unified action among them. Judge advocates may consult the Joint Staff Officers Guide, Armed Forces Staff College Publication 1 (1997) for further information. *Unified action* is the wide scope of actions—including the synchronization of military activities with those of governmental and nongovernmental agencies—taking place in a theater. Unified action integrates combinations of single-service, joint, multinational and interagency activities to achieve a military end state that supports the strategic end state.¹³⁴

4.1.4.1 Joint

The term joint, as the definition of joint task force implies, refers to military actions involving two or more military departments: Army, Navy/Marine Corps, Air Force. It may also refer to the actions of two or more elements of the

same service that are commanded by separate CINCs, such as Army mechanized infantry and Army special forces.

A *joint task force (JTF)* consists of elements of two or more services (Air Force, Army, Navy, Marines) operating under a single commander. The Secretary of Defense (SECDEF), as well as the CINCs, may establish JTFs, which are created to perform theater missions having specific limited objectives or missions of short duration.

There are other types of joint command. One of these is the *subordinate unified command*, which, unlike a JTF, has broader, enduring objectives or missions. Examples of subordinate unified commands are Alaskan Command (ALCOM), U.S. Forces Japan (USFJ), and U.S. Force Korea (USFK), all of which fall within the area of responsibility of CINC PACOM. Another type of joint force that a CINC may create within a theater is the *functional component command*, which focuses on operational responsibilities that cut across service lines. The four types of functional component commands are the Joint force land component command (JFLCC), the Joint force air component command (JFACC), the Joint force maritime component command (JFMCC), and the Joint force special operations component command (JFSOCC).

The judge advocate will encounter a great number and variety of joint boards, cells, and other joint organs within a theater. For instance, land forces participate in the joint targeting process

as defined by the *Joint Force Commander (JFC)*, a generic term for a commander of the various joint forces outlined in the previous section of this chapter. JFCs may delegate targeting oversight functions to a subordinate commander, or they may establish a *Joint Targeting Coordination Board (JTCB)* within their staff either as an integrating center for this effort or as a JFC-level review mechanism. While the JTCB maintains a campaign-level perspective-and thus is not involved in selecting specific targets and aim points or in developing attack packages-an OPLAW JA must serve on this board.

There are many other examples. For instance, the JFC may establish a series of joint logistics centers, offices, and boards to coordinate the joint logistics effort. Judge advocates may be called upon to furnish legal advice to these organizations, which include the following:

- Joint Transportation Board.
- Joint Movement Center .
- Joint Petroleum Office.
- Joint Civil-Military Engineering Board.
- Joint Facilities Utilization Board.
- CINC Logistic Procurement Support Board.
- Theater Patient Movement Requirements Center.
- Joint Blood Program Office.
- Joint Mortuary Affairs Office.
- Joint Materiel Priorities and Allocation Board.

4.1.4.2 Multinational (Combined)

The term *multinational* describes operations conducted by more than one

nation. The term used within the North Atlantic Treaty Organization (NATO) for multinational operations is "combined," which means "[b]etween two or more forces or agencies of two or more allies."¹³⁵ Multinational operations take place within alliances, such as NATO, or coalitions.

- An *alliance* is a result of formal agreements between two or more nations for broad, long-term objectives. Alliances may afford the participant nations the time to establish formal, standard agreements for broad, long-term objectives. Alliance nations strive to field compatible military systems, establish common procedures, and develop contingency plans to meet potential threats in a fully integrated manner.
- A *coalition* is an ad hoc arrangement between two or more nations for common action. Nations usually form coalitions for focused, short-term purposes. In successful coalitions, all parties agree in commitment, even if the resources each invests are disproportionate. While each nation has its own agenda, each also brings value to the coalition, perhaps solely to add legitimacy to the enterprise.

4.1.4.3 Interagency

The term *interagency* describes activity between or among the military departments, the combatant commands, and one or more nonmilitary executive departments or agencies. Interagency coordination rests on principles in the Constitution, and a process governing

that coordination was established in the National Security Act of 1947. National level oversight of the interagency process comes from the National Security Council. Detailed guidance for Interagency Coordination During Joint Operations is in JOINT PUBLICATION 3-08: INTERAGENCY COORDINATION DURING JOINT OPERATIONS, Volumes I and II (9 October 1996).

A key vehicle for interagency coordination is the *Country Team*, a body headed by the Chief of Mission, the senior United States diplomat in a foreign country and usually someone holding Ambassadorial rank in the United States foreign service.¹³⁶ Because a representative of the United States Agency for International Development (USAID) typically serves in the Country Team, and because USAID has a lead role in coordinating the efforts of NGOs and PVOs in foreign lands, these organizations also fall under the umbrella of interagency coordination. However, United States military forces coordinate directly with NGOs and PVOs, often through the vehicle of a *Civil-Military Operations Center (CMOC)* or Humanitarian Operations Center in a disaster relief operation.

4.1.4.4 The Army in a Theater Command

A major component of the concept of modern theater operations is this: when the Army operates outside the United States, the area to which the Army forces deploy is the responsibility of a unified combatant commander. He provides strategic direction and operational focus to his forces by

developing strategy, planning the theater campaign, organizing the theater, and establishing command relationships for effective unified action.

Where combatant commanders have a continuing requirement for land combat power or support, Army forces are assigned to their respective commands. In addition to forces assigned in peacetime, a document called the *Joint Strategic Capabilities Plan (JSCP)* apportions major Army forces by type to a CINC for deliberate planning. In response to crises or actual situations, Army forces are allocated to the CINC. The combatant commander responding to a crisis rarely has sufficient Army units assigned to meet operational requirements. The SECDEF through CJCS directs other CINCs to support the engaged combatant commander with augmentation forces. Augmentation forces pass to the command of the supported CINC at a specific location or circumstance, designated *transfer of authority (TOA)*.

Army forces in a joint force operate within a single chain of command that has two distinct branches—one for operations and another for administration and logistics. The Secretary of the Army is responsible for the administration and support of all *ARFOR*—a term that denotes Army headquarters and forces assigned to a joint force commander or multinational command. The Secretary of the Army fulfills this responsibility through the Army service component command (ASCC) aligned with each of the combatant commands. The ASCC provides support to the Army Forces (ARFOR) through *administrative*

control (ADCON), which is subject to the *combatant command (COCOM)* authority vested in all combatant commanders.

Each unified and subordinate unified command includes an ASCC, which consists of the ASCC commander and all those elements under his command. The ASCC commander maintains the ADCON link between his forces and Department of the Army; simultaneously, the ASCC maintains the operational link with the theater CINC (i.e., COCOM link). The ASCC plans and executes support operations to sustain ARFOR within the theater (Title 10 U.S.C. Chapters 303 and 305), and provides support to other services in accordance with executive agent responsibilities (Title 10 U.S.C. Chapter 6).

ASCC responsibilities are described in *Joint Pub 0-2, Unified Action Armed Forces*. Operational responsibilities include:

- Recommending to the CINC or subunified commander the proper employment of Army component forces.
- Accomplishing operational missions as assigned.
- Selecting and nominating specific units of the Army for assignment to subordinate theater forces.
- Informing the CINC of Army logistics support effects on operational capabilities.
- Providing data to supporting operation plans as requested.
- Ensuring signal interoperability.

Army commanders at all levels are responsible to the ASCC for conducting Army-specific functions such as internal administration, discipline, training, normal logistics functions, and for service intelligence matters and oversight of intelligence activities to ensure compliance with laws, policies, and directives.

4.1.5 Command, Control, and Support Relationships

The distinction between COCOM to ADCON is better understood within the context of the full array of command, control, and support relationships. Four of the relationships stem from what are known in joint doctrine as "command authorities."

- Combatant Command
- Operational Control
- Tactical Control
- Support

The three additional relationships stem from other authorities.

- Coordinating Authority
- Administrative Control
- Direct Liaison Authorized

Practice of operational law requires familiarity with this full array.

- ***Combatant Command.*** COCOM is the command authority authorized by Title 10, U.S. Code, Section 164, or as directed by the President in the UCP to combatant command commanders (unified or specified). COCOM provides full authority to organize and employ commands and forces as the combatant commander considers necessary to accomplish

assigned missions. This authority enables the CINC to organize and employ his commands and forces, assign tasks, designate objectives, and give authoritative direction over all aspects of military operations, joint training, and logistics necessary to accomplish the assigned missions. The CINC normally exercises COCOM through his service component commanders. COCOM is not transferable.

- ***Operational Control.*** Commanders at or below the combatant commander exercise operational control (OPCON). OPCON is inherent in COCOM and is the authority to perform the functions of command over subordinate forces. The CINC may delegate OPCON to his subordinates. OPCON is the most authority with which subordinates can direct all aspects of military operations and joint training needed to accomplish any assigned mission. A commander with OPCON may control forces from one or more services. OPCON does not normally include the authority to direct logistics, administration, discipline, internal organization, or unit training. The service component commander retains his service responsibility and authority for forces under OPCON of another command. Judge advocates must be aware of how the U.S. and North Atlantic Treaty Organization (NATO) use the term and must not interchange the U.S. sense with the NATO sense. The NATO term OPCON more closely resembles the U.S. definition of TACON.

- **Tactical Control.** The CINC uses TACON to limit the authority to direct the tactical use of combat forces. TACON is authority normally limited to the detailed and specified local direction of movement and maneuver of the tactical force to accomplish an assigned task. TACON does not provide organizational authority or administrative and support responsibilities. The service component continues to exercise these authorities.
- **Support.** The CINC identifies support relationships for one force to aid, assist, protect, or logistically support another force. The supporting force gives the needed support to the supported force. Establishing supported and supporting relationships between components is a useful option to accomplish needed tasks. This concept applies equally to all dimensions of the joint force organized by the CINC. Each subordinate element of the joint force can support or be supported by other elements. Normally an establishing directive is issued to specify the purpose of the support relationship, the effect desired, and the scope of the action to be taken. Joint Pub 0-2 states, "Unless limited by the establishing directive, the commander of the supported force will have the authority to exercise general direction of the supporting effort." The execution of general direction includes the designation and prioritization of targets or objectives, timing and duration of the supporting action, and other instructions necessary for

coordination and efficiency. The supporting commander is responsible for ascertaining the needs of the supported commander. The supporting commander must fulfill those needs from within the existing capabilities, priorities, and requirements of other assigned tasks. The categories of support are general, mutual, direct, and close.

➤ **General Support.**

General support provides designated support to an entire supported force and not to any particular subdivision. General support is the most centralized support relationship. For combat units, this relationship provides the most flexibility for influencing the battle during conduct of operations and is used when the enemy situation is unclear. It is more commonly used in the defense than the offense.

➤ **Mutual Support.** Mutual support describes actions that units provide one another against an enemy because of their assigned tasks, their positions relative to one another and to the enemy, and their inherent capabilities.

➤ **Direct Support.** Direct support provides designated support to a specific force and authorizes the supported force to seek this support directly. The supporting force provides support on a priority basis to the supported force.

Also, the supporting force may provide support to other forces when it does not jeopardize the mission or put the supported force at risk. The authority to accomplish support of other than directly supported forces rests with the higher tactical or operational commander but also may be delegated. An example of this support is when the elements of a general support artillery brigade assigned a direct support mission are diverted temporarily to support a force other than the designated force.

➤ **Close Support.** The fourth alternative, close support, is that action of the supporting force against targets or objectives that are sufficiently near the supported force as to require detailed integration or coordination of the supporting action with the fire, movement, or other actions of the supported force.

- **Coordinating Authority.** Coordinating authority is a consultation relationship between commanders, but not an authority to exercise control. The CINC and other subordinate commanders designate coordinating authority to assist during planning and preparation for actual operations. The CINC specifies coordinating authority to foster effective coordination; however, coordinating

authority does not compel any agreements.

- **Administrative Control.** Administrative Control (ADCON) is the direction or exercise of authority necessary to fulfill military department statutory responsibilities for administration and support. ADCON may be delegated to and exercised by service commanders at any echelon at or below the service component command. The secretaries of military departments are responsible for the administration and support of their forces assigned or attached to unified commands. The secretaries fulfill this responsibility by exercising ADCON through the service component commander of the unified command. ADCON is subject to the command authority of the combatant commander.
- **Direct Liaison Authorized.** Direct Liaison Authorized (DIRLAUTH) is the authority granted by a commander at any level to a subordinate commander to coordinate an action directly with a command or agency within or outside the command. DIRLAUTH is a coordination relationship, not a command relationship.

4.2 PLANNING AND DECISION-MAKING

The practice and delivery of legal support in theater operations require full participation of legal personnel in the planning and decision-making processes of their commands. It also calls upon SJAs and DSJAs to adhere to time-

honored principles in their own planning and decision-making. This part of the chapter outlines these processes and principles.

4.2.1 Planning

The art of planning is not to predict, but to anticipate. The most certain way to constrain unpredictability is to seize the initiative, maintain the momentum, and exploit success. Setting the terms of battle at the outset and never letting the enemy recover should be the aim of every plan for offensive and defensive operations. Every success must be exploited, and every exploitation must lead to the next success. Planning, therefore, never loses its focus on execution. The plan is a continuous, evolving framework that maximizes opportunities -- a point of reference rather than a blueprint. Because the planning process itself generates common understanding, planning has a value that extends beyond the plan itself.

Success in planning rests on the ability to accomplish four tasks:

- Understand the full scope of the situation.
- Analyze the situation to discern what is important -- the key elements of operational design.
- Devise simple, effective, and flexible plans.
- Prepare the force to execute those plans.

According to *Field Manual 100-5, Operations*, plans reflect a fundamental operational design—a linkage of ends, ways, and means. Key conceptual tools that express this design include:

- Strategic end state.
- Objectives.
- Lines of operation.
- Mission
- Commander's intent
- Concept of operations
- Battlespace
- Rules of engagement

4.2.2 Functions of Staffs

All staffs perform five common functions:

- *Providing Information*—The staff collects, collates, analyzes, and disseminates information that flows into the headquarters. The staff rapidly processes and provides significant elements of this information to the commander. The staff is always sensitive to changes in the battle that may warrant the commander's attention.
- *Making Estimates*—The staff prepares estimates to assist the commander in decision-making. A staff estimate consists of significant facts, events, and conclusions (based on current or anticipated situation) and recommendations on how available resources can be best used. Efficient planning depends on continuing estimates by staff officers. Failure to make these estimates may lead to errors and omissions in the development of a course of action.
- *Making Recommendations*—Staff officers make recommendations to assist the commander in reaching decisions and establishing policies. Staff officers also offer recommendations to one another and

to subordinate commanders. In the latter case, recommendations are for assistance only; they do not carry implied command authority.

- *Preparing Plans and Orders*— The staff prepares and issues plans and orders to carry out the commander's decisions, ensuring coordination of all necessary details. The commander may delegate authority to staff officers to issue plans and orders without his personal approval.
- *Supervise the Execution of Decisions*—The staff assists the commander by ensuring that subordinates carry out the command decision. Staff supervision relieves the commander of much detail, keeps the staff informed of the situation, and provides the staff with the information needed.

At battalion level and higher, the commander is authorized a staff to assist him. *Field Manual 101-5, Staff Organization and Operations* contains detailed guidance on the composition, organization, and functions of military staffs and on the preparation of plans and orders. *The Joint Operations Planning and Execution System (JOPEs)* contains similar guidance for joint staffs.

4.2.3 The Military Decision Making Process

Decision-Making. Decision-making is part of operational art. A commander and staff will continually face situations involving uncertainty, questionable or incomplete data, and multiple alternatives. They must determine not only what to do, but also whether a

decision is necessary. Good decisions result from a logical and orderly process that consists of:

- Recognizing and defining the problem;
- Gathering the facts and making assumptions needed to determine the scope of and the solution to the problem;
- Developing possible solutions to the problem;
- Analyzing and comparing possible solutions; and
- Selecting the best solution to the problem.

Military command posts typically apply this basic decision-making and problem-solving model in two contexts: first, when they are preparing estimates of the situation prior to issuing an operations plan or order, and, second, when they are preparing staff studies in search of solutions to specific problems. The estimate is the principle problem-solving vehicle in tactical and operational settings; the staff study is the norm in administrative settings. This section discusses only the former.

Estimates. The *estimate of the situation* involves collection and analysis of relevant information for developing, within the time limits and available information, the most effective solution to a problem. The staff officer prepares a *staff estimate* in order to provide conclusions and recommendations to the commander. The commander uses a *commander's estimate* to arrive at a decision. Estimates may be written, but are usually a mental process following the problem-solving format outlined above.

Army doctrine calls upon commanders and staffs to revise estimates continuously—throughout the military decision making process—as factors affecting the operation change, as new facts are recognized, as assumptions are replaced by facts or are rendered invalid, or as the mission changes.

Staff estimates analyze the influence of factors within particular staff officers' fields of interest on the accomplishment of the command's mission. In coordination with other staff officers, the officer preparing an estimate develops feasible courses of action, and then analyzes and compares those feasible courses of action. The results are conclusions and recommendations.

These conclusions are presented to the commander, who thus may hear a personnel estimate, an intelligence estimate, an operation estimate, a logistic estimate, a civil-military operations estimate and any other desired staff estimates before arriving at his own estimate. The commander bases his estimate on the METT-TC, on personal knowledge of the situation, on ethical considerations, as well as on the staff estimates. The result is a decision, which can be incorporated into a plan or order and then executed by subordinate units.

Receipt of Mission. The parallel estimates developed by staff and commander are the heart of the elaborate decision-making process. The decision-making cycle begins upon *receipt of a mission*, which the higher headquarters assigns or the commander simply deduces from formal or informal communications with his senior

commanding officer. Even before closely analyzing the mission, the commander at this point may seek more *information* about the current situation and about the mission itself, and he may or may not ask the staff to assist him at this early point.

Mission Analysis. The commander then conducts a rather formal *mission analysis* so as to obtain a clear understanding of what it is he is being asked to do. Mission analysis involves identifying the tasks that must be performed, the purpose to be achieved through accomplishing the assigned tasks, and the limitations on his unit's actions, if any. Some tasks will be specified in the operation plan or order received from higher headquarters. Other tasks may be implied. The limitations a commander may discern will include a variety of constraints upon either the operation or the planning process. Examples are phrases in a higher headquarters order that specify "Be prepared to . . . , " "Not earlier than . . . , " "Not later than" Time is a frequent limitation.

Restated Mission. The *restated mission* is what results from the commander's mission analysis. It becomes the basis of the commanders and staff estimates. If these are written, it is paragraph 1. Later, when the commander issues the operation plan or order, this restated mission will be paragraph 2 of that document.

Planning Guidance. The commander may provide *planning guidance* to the staff when he announces his restated mission or at any other point in the process. The goal is to provide a

common point of departure for the different staff elements without introducing bias into their estimates. He may, for instance, issue definite guidance on whether and how a particular weapons system will be used. He may request that a particular course of action be developed or eliminated altogether. The frequency, amount, and content of planning guidance will vary with the mission, time available, situation, information available, and experience of the commander and the staff.

Course of Action Development.

Relying upon the restated mission, any planning guidance, and estimates, the coordinating staff officers then prepare courses of action. The ongoing estimate process is interactive within a particular decision cycle.¹³⁷ Staff officers exchange information while concurrently analyzing how relevant factors from their disciplines affect the courses of action. Furthermore, the development of courses of action itself is interactive. The operations officer (U-3/J-3/G-3/S-3) will frequently sketch the tentative schemes of maneuver and supporting fires (see section below on plans and orders) he is considering as part of the operations estimate. The intelligence officer (U-2/J-2/G-2/S-2) or logistics officer (U-4/J-4/G-4/S-4) might quickly identify one of these schemes of maneuver as not feasible,¹³⁸ enabling another course of action to be developed before a series (usually three) of courses of action is formally incorporated into the staff estimates that are briefed to the commander.

Course of Action Analysis (War Gaming). The chief of staff or

executive officer ensures that staff estimates are coordinated, that differences of opinion are identified and resolved, and that only issues requiring the commander's personal attention are presented to him for decision. However, he must take great care not to gloss over or compromise genuine issues for the sake of presenting a common option to the commander. In some units, the Chief of Staff consolidates the various staff estimates and presents one overall staff estimate to the commander. The Courses of Action contained in the estimates are war gamed to determine strengths, weaknesses, and details.

Course of Action Comparison and Selection.

The commander considers modifying the courses of action evaluated in the staff estimates and war gamed, and then, if necessary, returns them for another round of analysis and comparison by the staff. If satisfied with the courses of action as formulated, the commander is to compare all of the courses of action validated by the staff as feasible. Then he makes a decision by adopting the one he thinks is optimal.

Course of Action Approval.

Having decided on a course of action to accomplish the mission, the commander announces his decision and concept to key members of the staff. Subordinate commanders may also be present. The concept is the commanders description of how he visualizes the conduct of the operation. The commander may announce his decision and concept orally and in sufficient detail so staff officers and subordinate commanders understand what they must do and, if necessary, can execute the operation without further instructions.

The staff prepares and issues a *plan or order* that expresses the commander's decision and concept of the operation. Plans and orders may be under constant refinement from the moment they are issued. After a decision is transmitted to units for execution, facts and situations that pertained when the order was published may change. The commander, the staff, and subordinate commanders and staff receive feedback through reports and personal observations, and they use feedback to evaluate whether the mission is understood and, later, whether it is being accomplished.

Plans and Orders. The staff develops an operation plan (OPLAN) from the course of action selected by the commander, specifying that at a particular time or under certain conditions that OPLAN will be issued as an operation order (OPORD). When forces are to conduct an operation immediately, the staff prepares an OPORD without putting it on the shelf as an OPLAN. Army doctrine recognizes five distinct types of combat orders.

- The **operation order (OPORD)** is the first type. It gives subordinate commanders the essential information needed to carry out an operation, namely, the situation, the mission, the commander's concept, the assignment of tasks, and the support and assistance to be provided.
- The second type is the **warning order (WARNO)**. A warning order gives preliminary notice of actions or orders that are to follow. The purpose behind a warning order is to

give subordinates maximum time for preparation. They have no prescribed format but should contain four essential elements—the addressees, the nature of the operation, the time of the operation, and the time and place the OPORD or OPLAN is to be issued.

- The third type is the **fragmentary order (FRAGO)**. A FRAGO is normally used to issue supplemental instructions to a current OPORD while the operation is in progress. It may be written but often is oral. Although doctrine prescribes no format for the FRAGO, commands typically write them in the basic format of the five-paragraph OPORD to prevent confusion. The OPLAW JA must have timely access to FRAGOs to ensure compliance with the LOW, ROE, and other legal requirements.
- The fourth type is the **service support order (SSORD)**. The SSORD provides the plan for service support of operations, including administrative movements. It provides information to supported elements and serves as a basis for the orders of supporting commanders to their units. SSORDs may be issued either with an OPORD or separately, when the commander expects the CSS situation to apply to more than one operation plan or order. At division and corps levels of command, the SSORD may replace an OPORD's service support annex. If that happens, the staff refers to the existence of the SSORD in paragraph 4 of the OPORD.
- The fifth type of combat order is the **movement order**. The movement

order is a stand-alone order that facilitates an uncommitted unit's movement. The movements are typically administrative, and troops and vehicles are arranged to expedite their movement and to conserve time and energy when no enemy interference (except by air) is anticipated. Normally, these movements occur in the communications zone. The G4 (S4) has primary coordinating staff responsibility for planning and coordinating movements. However, he receives assistance from other coordinating and special staff officers (such as the G3 (S3), PM, MP, transportation officers, and movement-control personnel). The G4 (S4) is also responsible for preparing, publishing, and distributing the movement order.

All types of orders should meet general standards of clarity, internal consistency, and completeness. Orders should use doctrinally-established terms. They should be sufficiently detailed to permit subordinate commanders to accomplish the mission without further instructions. They should be sufficiently detailed to permit subordinate commanders to know what other units are doing. They should be focused on essential tasks. They should not limit the initiative of subordinate commanders by prescribing details of execution that lie within their province. They should not include qualified directives such as "try to hold," or "as far as possible."

Standing operating procedures (SOPs) are indispensable to effective orders. SOPs detail how forces will

execute unit-specific techniques and procedures that commanders standardize to enhance effectiveness and flexibility. Commanders and other leaders use SOPs to standardize routine or recurring actions not needing their personal involvement. They develop SOPs from doctrinal sources, applicable portions of the higher headquarters' published procedures, the commander's guidance, and techniques and procedures developed through experience. The SOP must be as complete as possible so that new arrivals or newly attached units can quickly become familiar with the unit's normal routine. In general, SOPs apply until commanders change them to meet altered conditions or practices. The benefits of SOPs include—

- Simplified, brief combat orders.
- Enhanced understanding and teamwork among commanders, staffs, and troops.
- Established synchronized staff drills (battle drills).
- Established abbreviated or accelerated decision-making techniques.

The operations officer is responsible for preparing, coordinating, authenticating, publishing, and distributing the command's tactical and administrative SOP, with input from other staff sections. There is no prescribed form, but subordinate unit SOPs should follow, insofar as possible, the form of the next higher headquarters SOP.

The Operation Order. The body of the basic OPORD consists of the task organization and five main paragraphs. The task organization indicates the

internal ordering of elements for accomplishing a specific mission as well as the command relationships between units.

- *Paragraph 1 (Situation)* of the OPORD always contains three subparagraphs: enemy forces, friendly forces, and attachments and detachment. OPLANS contain a fourth subparagraph: assumptions. The purpose of paragraph 1 is simply to give an overview of the general situation so subordinate commanders have an understanding of the environment in which they will be operating. This paragraph contains no orders. Paragraph 1b contains the mission of the higher headquarters, the missions of the units on the left and right, the missions of the units to front and rear, and the missions of other elements supporting the higher headquarters mission.
- *Paragraph 2 (Mission)* is a clear, concise statement of the task to be accomplished. It contains the who, what, when (date-time group), where (generally grid coordinates) and why. As mentioned in the previous section, the mission statement is the restated mission generated by the commander's mission analysis. The mission statement does not contain subparagraphs.
- *Paragraph 3 (Execution)* contains the guts of the OPORD—the commander's intent and four subparagraphs. The commander's intent states why the force has been tasked to accomplish its assigned missions, what results are expected, how they facilitate future operations, and in broad terms, how the

commander visualizes achieving those results. It also describes the disposition and condition of the command following mission accomplishment.

- Subparagraph 3a, the *concept of the operation*, is the same commander's concept articulated following estimates during the decision-making process outlined above. It is a word picture of how an operation is to be executed with sufficient detail to ensure appropriate action by subordinates. It includes the scheme of maneuver, which addresses the placement and movement of major maneuver elements. It also provides the primary mission of each maneuver element. The first portion of this subparagraph contains a brief summary of all critical fires that will support the scheme of maneuver. The concept subparagraph also may address civil affairs, intelligence, electronic warfare, engineers, and other support crucial to maneuver.
- Subparagraph 3b, *tasks to maneuver units*, lists units that are organic, attached or OPCON to the issuing headquarters. Each maneuver unit is listed in a separate subparagraph in the order in which each was listed in the task organization. Missions or tasks not listed in the concept of operation are stated clearly and concisely. This subparagraph does not state tasks if those tasks are shown graphically on an operation

overlay that may be annexed to the OPORD. Nor does it state tasks that appear in the coordinating instructions subparagraph.

- Subparagraph 3c, *tasks to combat support units*, is self-explanatory.
- Subparagraph 3d, *coordinating instructions*, contains instructions and details applicable to two or more subordinate elements. Rules of engagement may be listed here, as well as in an annex to the OPORD.
- *Paragraph 4 (Service Support)*, contains a statement of the logistical and personnel arrangements in support of the operation that are of interest to supported units. Lengthy details may be included in an annex and referenced here. At division and higher levels of command, reference frequently will be made to an admin/log order.
- *Paragraph 5 (Command and Signal)* contains information pertaining to command and control of the unit.
 - Subparagraph 5a, *command*, includes the locations of the three command posts (tactical, main, and rear) of the issuing unit, axis of displacement (if not shown graphically on an accompanying overlay), and the location of the command group, as well as the location of the alternate command posts. This subparagraph may also contain liaison requirements if these are different from those stated in the SOP.

- Subparagraph 5b contains mission-specific information pertaining to communications. As a minimum, it must contain an index of the *signal operation instructions (SOI)*.

Annexes are separate documents attached to plans and orders. They provide details in specific areas without complicating the basic order. An *appendix* amplifies a particular annex. Annexes and appendices use the five-paragraph operation order format when to do so makes sense. The mission paragraph of each annex prescribes the mission of the units or elements performing the actions directed within the annex. Annexes are lettered alphabetically using capital letters. Appendices are numbered serially with Arabic numerals. Rules of engagement for the operation are contained in Annex E to the OPLAN or OPORD, while legal support matters are contained in Appendix 4 to Annex I (Service Support).¹³⁹ Other annexes and appendices in the OPORD may contain important information for legal personnel.

4.2.4 Decision Making in a Time-Constrained Environment.

The two sections immediately preceding this one describe what is referred to today as the Military Decision-Making Process (MDMP). This deliberate model was the only one taught by the Army to its officers in the 1980s. Today, the MDMP remains the preferred process for analyzing in detail a number of friendly force options against the full range of reasonable and available enemy options. It is preferred

for developing an OPLAN when time is relatively unconstrained. It remains the subject matter for baseline instruction on decision-making in the Army's system for leader development and reflects time-honored principles. However, the Army recognizes a modified version of the MDMP for use in decision cycles that occur after operations commence. Some refer to this as the "combat decision-making process" or "CDP," although the MDMP remains the only doctrinally recognized "process." The CDP is best understood as selectively shortening the MDMP without substantially changing it. In theory, the MDMP is not intended to be a rigid, lockstep approach to arriving at a decision;¹⁴⁰ in practice, it may become unwieldy, particularly when faced with an enemy commander who may gain great advantage by shortening his decision cycle.

The CDP strives to prevent the commander- as military operations involve ever more technical and complex systems-from being submerged in vast oceans of information generated by the staff. The CDP seeks to give the commander the information he truly needs. It seeks to produce decisions that are "close enough" and have the virtue of being quickly made and passed onto subordinates for decentralized execution.

The CDP abbreviates the MDMP using four primary techniques.¹⁴¹ The first is to increase the commander's involvement, allowing him to make decisions during the process without waiting for detailed briefings after each step.

The second technique is for the commander to become more direct in his guidance, limiting options. This saves the staff time by focusing members on those things the commander feels are most important.

The third technique, and the one that saves the most time, is for the commander to limit the number of COAs developed and war gamed. In extreme cases, he can direct that only one course of action be developed. The goal is an acceptable COA that meets mission requirements in the time available, even if it is not optimal.

The fourth technique is maximizing parallel planning. Parallel planning means that several echelons conduct the MDMP at the same time.¹⁴² Although parallel planning is the norm, maximizing its use in a time-constrained environment is critical. In a time-constrained environment, the importance of warning orders increases as available time decreases. A verbal warning order now is worth more than a written order one hour from now. The same warning orders used in the full MDMP should be issued when the process is abbreviated. In addition to warning orders, units must share all available information with subordinates, especially Intelligence Preparation of the Battlefield (IPB) products, as early as possible.

While the steps used in a time-constrained environment are the same, many of them may be done mentally by the commander or with less staff involvement than during the full process. The products developed when the process is abbreviated may be the same as those developed for the full

process; however, they may be much less detailed and some may be omitted altogether.

One important feature of the CDP is emphasis on the *Commander's Critical Information Requirements (CCIR)*. The CCIR are developed and refined beginning at the mission analysis step of the MDMP,¹⁴³ but their role is particularly central to the CDP. CCIR enable the commander to reduce the abundant information generated during operations to a useable amount. They identify unknown items of information that are so crucial to the commander's decision-making process that knowledge or ignorance of them will directly affect success in the operation. By definition, the CCIR ensure that information transmitted to the commander is meaningful to him and can be processed by him prior to making a decision, even if the decision-making process has been abbreviated.

Typical CCIR include the following questions:

- Can the unit still meet the commander's intent?
- Where is the enemy? Doing what? How?
- Where are the friendlies? Doing what? How?
- What is the posture of the force in the next 6 hours, 12 hours, etc.?
- Where will the friendlies be in 6 hours, 12 hours, etc.?
- What are the problems of the enemy and how can we exploit them?
- What are our problems and how can we correct them?

- What are the opportunities of the enemy and how can we deny them?
- What are our opportunities and how can we exploit them?
- Do we need to change our concept? Task organization? Mission?

Paragraph 3d of the OPORD contains the CCIR.

4.2.5 SJA Planning, Decision-Making, and Orders.

The SJA also adapts the same orderly processes used by the command to plan, decide, and issue orders regarding the section's practice and delivery of OPLAW. The SJA assists the planning, decision-making and orders processes of the command through the OPLAW JA, who reviews all plans and orders for operational law issues, contributes to staff estimates, and otherwise aids in operational design and execution. In particular, the SJA and DSJA ensure that the section develops and continually revises its SOP, taking every opportunity to separate boilerplate from truly useful material.¹⁴⁴ An SJA section SOP (and each division or team SOP) must be a living document that is used in day-to-day functions and is frequently updated.

The SOPs are always works in progress. Judge advocates and legal personnel pour into the SOPs those checklists and procedures that come out of their own experience. They must incorporate information that is built upon the experience of others, such as lessons learned from military operations in Haiti, the Persian Gulf, or the Balkans. Still, the SOPs must be put to

the test through field application. Development is a constant and iterative process.

4.3 LEGAL SUPPORT IN THEATER

4.3.1 Introduction.

A solid grasp of the theater and associated concepts introduced in the first part of this chapter makes possible a more precise understanding of how legal support is practiced and delivered. When Army forces are not actually conducting operations in a theater, the JAGC supports the mission of the Army and its major commands within CONUS to prepare those forces for eventual employment by a CINC within a theater. That preparation is a massive job, and it consists of everything necessary to organize, train, and equip Army forces "primarily for prompt and sustained combat incident to operations on land" and "for the effective prosecution of war."¹⁴⁵

The day-to-day mission of readiness—organizing, training, and equipping forces for operations—inevitably involves Army commanders and judge advocates in legal issues, questions, and cases that may seem only remotely "operational." Judge advocates serving throughout the major commands of the Army and in the FOAs of TJAG will often, properly, conceive of themselves as practicing within a narrow portion of a single legal discipline.

Hence the judge advocate defending the Army in multibillion-dollar environmental litigation is practicing "federal litigation" and "environmental

law" within the Civil Law discipline. That judge advocate is also principally discharging the advocate role. Hence the judge advocate investigating a major allegation of procurement fraud may be practicing Contract Law within the Civil Law discipline while discharging principally a "judge" role. Hence the Staff Judge Advocate at a CONUS installation where advanced individual training is conducted may be counselor to the commander on detailed criminal law issues pertaining to improper relationships between instructors and trainees. In these and countless other examples from the daily legal practice of uniformed attorneys in CONUS, legal support reverts to its component core disciplines. These core legal disciplines also dominate the technical language used to describe that daily practice.

For the environmental litigator, the procurement fraud investigator, and the training installation SJA in these examples, the terms "legal support to operations" and "OPLAW" serve as reminders of the readiness challenge that underwrites all of their work. It also reminds them of the need to remain generally competent across all legal disciplines in case their next assignments are to theaters. All judge advocates must be prepared to deliver legal support to operations.

4.3.2 Overseas Presence and Force Projection.

Force projection follows a general sequence, although stages overlap in time and space (for instance, mobilization and deployment may be continuous and occur simultaneously or sequentially). Force projection includes

eight stages,¹⁴⁶ each of which can be expected to generate OPLAW issues.

- **Mobilization Stage.** This is the augmentation of active component capability in preparation for war or national emergency. It includes activating all or part of the reserve components as well as assembling and organizing personnel, supplies, and materiel. The mobilization system, which is explained in *Army Regulation 500-5, The Army Mobilization and Operations Planning System (AMOPS)*,¹⁴⁷ includes five levels:
 - Selective mobilization.
 - Presidential selected reserve call-up.
 - Partial mobilization.
 - Full mobilization.
 - Total mobilization.
- **Predeployment Stage.** Activities in this stage ensure units are prepared to execute operations based upon their designed capability. It may include weeks or months of equipment refitting or training at a mobilization station.
- **Deployment Stage.** This stage requires forces to use strategic assets and host nation support, if available to move to the theater of operations. Force mix, combat capability, and sustainment must be flexible to effect changes during this operation. May include use of an Intermediate Staging Base close to the area of operations.
- **Forced Entry Stage.** Operations in this stage may be in direct support of host nation or forward presence forces. Conditions may require entry

in the absence of both under opposed or unopposed conditions.

- **Operations Stage.** This stage may include the full range of operations—operations in war, operations other than war, and domestic operations.
- **War Termination and Post-conflict Operations Stage.** This may include restoring order, reestablishing the host nation's infrastructure, and preparing forces for redeployment.
- **Redeployment and Reconstitution Stage.** This stage removes forces no longer required for post conflict operations, rebuilds unit integrity, and accounts for soldiers and equipment.
- **Demobilization Stage.** This is the process by which units, individuals, and materiel transfer from active to reserve status.

Each of these stages may trigger issues from any of the six core legal disciplines (see Chapter 3). However, some legal issues are particularly characteristic of certain stages. Thus reserve component personnel law issues frequently arise in mobilization. Conscientious objector applications and associated legal issues can be expected during mobilization and deployment. Transit agreements, host nation labor laws and other matters sounding in international, comparative, and foreign law can be expected in the deployment phase. Rules of engagement and international law will be particularly important during the entry phase. Fiscal law issues may be prominent in post-conflict—and so on.

4.3.3 Legal Support in Theater

Army legal personnel serve at several levels within a theater. Thus the Army Service Component Command (ASCC) and numbered Army include an SJA section. The ASCC has overall responsibility for providing and sustaining Army forces and conducting operations, however, the ASCC commander may direct a numbered Army commander to control the conduct of operations. The corps, division, and separate brigade commands subordinate to the ASCC also include SJA sections, as do various supporting theater army area commands (TAACOMs) or Theater Support Commands (TSCs), area support groups (ASGs), army special operations commands, and other units and functional commands (i.e., personnel commands, medical commands, engineer commands, etc.) in theater. The headquarters of smaller commands of Army forces frequently include CJA sections. See generally Chapter 2, which describes generic SJA, OIC, and CJA responsibilities.

Army judge advocates may also serve as *legal advisors* to theater CINCs, or as part of a legal advisor's section. Similarly, they may be assigned to serve on other joint staffs, such as the staff of a Joint Task Force or of a Joint Land Component Commander. This is particularly common when the Army commander in one of these joint forces is also the Joint Force Commander. The staffs of alliance or coalition military organizations also frequently include United States Army judge advocates.

Regardless of the level at which they serve, judge advocates and other legal

personnel must be organic and dedicated to these organizations in order to ensure responsive, effective OPLAW support.¹⁴⁸

Judge advocates assigned to Army units within an ASCC must learn the missions and characteristics of those units. Distinctive features and missions abound, but there are common features that reflect the strategic and operational purposes these units are designed to serve. This section will describe the features of TAACOMs/TSCs, ASGs, corps, and corps support groups. The common features of Army divisions and brigades are discussed in Chapter 5.

- ***Theater Area Army Command (TAACOM) or Theater Support Command (TSC)***. A TAACOM, or TSC, has three missions. First, it provides all combat service support, except movement control, to units located in or passing through its assigned area. This support includes the provision of legal services to soldiers and units without organic legal assets. Second, the TAACOM/TSC supports the corps with specified logistics support and coordinates area-related functions, such as populace control, with host nation elements. Third, the TAACOM/TSC is responsible for rear operations in its assigned area. The TAACOM/TSC accomplishes its support missions of supply, maintenance, and personnel services through area support groups (ASG).
- ***Area Support Group (ASG)***. The number of ASGs in a theater of operations depends on the size of the COMMZ and the number of troops supported. Normally, one ASG is assigned to a TAACOM/TSC for

every 15,000 to 30,000 troops receiving support in the COMMZ. The area an ASG supports depends on the density of military units and materiel requiring support, political boundaries, and identifiable terrain features.

- **Corps.** Corps are the largest tactical units in the United States Army and are the instruments by which higher echelons of command conduct maneuver at the operational level. The Army tailors corps for the theater and the mission. Once tailored, corps contain all the combat, combat support, and combat service support required to sustain operations for a considerable period. Corps consist of a headquarters that plans, directs, controls, and coordinates the corps operations and the mix of combat, combat support, and combat service support units. The Army Service Component Commander may assign to the corps divisions of any type required by the theater and the mission. Corps possess support commands and are assigned combat and combat support organizations based on their needs for a specific operation. Nondivisional units commonly available to corps to weight their main effort and to perform special combat functions include armored cavalry regiments, field artillery brigades, engineer brigades, air defense artillery brigades, aviation brigades, and separate infantry or armored brigades. Military police brigades, civil affairs brigades, chemical brigades, and psychological operations battalions are combat support organizations often found in corps. Special

operations forces also may support corps combat operations as required, particularly when a corps is conducting an independent operation. Corps combat service support organizations are the personnel group, the finance group, the corps support command, and JAGSOs.

- **Corps Support Command (COSCOM).** The COSCOM is the corps' principal logistics organization. It provides supply, field services, transportation, maintenance, and medical support to the corps' divisions and nondivisional units. The COSCOM is not a fixed organization and contains a mix of subordinate units as required by the size and configuration of the corps.

4.3.4 The United States as a Theater (Domestic Operations).

This is addressed separately in Chapter 7.

4.3.5 Technical Channels.

The command channel is the direct, official link through which one headquarters passes orders and instructions to subordinate headquarters.¹⁴⁹ The command channel links one commanding officer to another. A technical channel is a link between two headquarters that transmits orders, instructions, advice, recommendations, and information inappropriate for the command channel because of their volume, specificity, or routine nature.¹⁵⁰

The practice and delivery of legal support in operations rely heavily on technical channels. As described earlier, many modern legal problems are complex, demanding expertise and information that will only rarely reside at a single echelon of command. Technical channels—particularly when linked to expertise and information available at CLAMO and TJAGSA—make synergy possible even for judge advocates facing problems in distant theaters.

Those judge advocates and their supported commands benefit from two separate channels, corresponding to the two branches of the chain of command for Army forces in a joint force. Recall from earlier in this chapter that one branch of that chain of command is for operations and the other for administration and logistics. Similarly, one technical channel carries information and legal expertise associated with operations (command and control functions); the other carries information and expertise associated with administration and logistics (sustainment and personnel services support functions).

For example, the SJA advising the 10th Mountain Division at the start of military operations in Haiti in September of 1994 used a technical channel that ran through the ASCC SJA (who was also the JTF SJA) to the USACOM (now USJTFCOM) SJA to the legal advisor for the CJCS. This channel provided valuable guidance on rules of engagement and other operational matters. The SJA of the 10th Mountain Division also used a technical channel that ran through the

ASCC to FORSCOM and then to Army OTJAG. This channel provided valuable guidance on a wide variety of legal issues relating to administration and logistics.

Of course, legal issues sometimes will not fall neatly into command and control, sustainment, and personnel service support categories. Also, many complex legal issues will require expertise from several legal disciplines. In these situations, SJAs achieve synergy on a legal issue by tapping whichever channel contains the necessary information or expertise. Often, both channels must be consulted on the same issue. This approach is consistent with the JAGC operating as a single large legal organization, whereby its several members are expected to support each other with information and expertise necessary to assist their clients.

4.4 MATERIEL

All legal personnel must be well equipped and highly trained in order to practice and deliver legal support in a theater of operations. The most critical categories of equipment are legal automation, mobility, and communications. Training of legal personnel, meanwhile, must be conducted according to the Army's principles of training.

4.4.1 Legal Automation

The JAGC requires a dedicated system of automation to provide responsive legal services at all echelons of command. That system is the Legal Automation Army-Wide System (LAAWS). LAAWS integrates legal

information and services into a network that projects automated legal services down to battalion level and permits sharing of appropriate legal work product. LAAWS provides for standardized software throughout the JAGC and includes modules and databases for all core legal disciplines. LAAWS programs process, transmit, receive, and display essential information. Legal references compiled by LAAWS are available in compact disk and via databases on the JAGC Information Network (JAGCNet at www.jagcnet.army.mil), a work group consisting of more than seventy computer servers and thousands of clients throughout the world. SJA sections, the military judges, and defense counsel all use LAAWS and the JAGCNet, which are critical to the accuracy and responsiveness of operational legal services. Judge advocates also require access to classified databases and information through Secret Internet Protocol Router Network (SIPRNET).

The standard package of legal automation equipment is the Rucksack Deployable Law Office and Library (RDL).¹⁵¹ The RDL is a set of computer hardware, software, and networking products, which are updated periodically, and currently provide the judge advocate or legal specialist the following capabilities in a man portable bundle:

- word processing, database, spreadsheet, form-filler, and other necessary software that is compatible with command software
- legal document production

- convenience copying
- cellular voice communication
- wire line and non-wire facsimile (with satellite communication capability)
- wire line and non-wire e-mail and digital communication (with satellite capability)
- photography and digital telecommunication of photographs
- legal research with import to document capability

The RDL is, and must remain, completely compatible with standard Army communications equipment, and be fully integrated into appropriate parts of the Army Battle Command System (ABCS), to include the Army Global Command and Control System (AGCCS), the Army Tactical Command and Control System (ATCCS), the Global Combat Support System—Army (GCSS-A), and the Force XXI Battle Command-Brigade and Below System (FBCB2) (*see* FM 24-7, ARMY BATTLE COMMAND SYSTEM: SYSTEMS MANAGEMENT TECHNIQUES).

The RDL consists of commercial-off-the-shelf (COTS) equipment. It is defined by *capabilities*, not particular models or brand names. These capabilities will be upgraded as technology advances, to remain compatible with joint and Army systems. The basic RDL package is described below, less technical specifications. The technical specifications were intentionally omitted from this chapter based on the rapid evolution of technology, rapid development of software applications that require increased processing power,

and the substantial increase of data that is required to be processed, manipulated, and transmitted in an ever decreasing amount of time. Specific details regarding hardware and software technical requirements can be located by contacting CLAMO or the JAGC Proponent, Combat Developments Department, Organization and Materiel Branch, located at TJAGSA, Charlottesville, Virginia. Its current configuration is as follows:

- a laptop computer (with sufficient processor and memory capabilities to interact with ABCS, to conduct efficient research from electronic databases, and to store a large volume of required legal references and products with removable hard drive for secure storage of classified information.
- CD ROM reader (preferably internal)
- scanner-printer (battery backup)
- PCMCIA fax modem (cellular phone and satellite telephone up-linkable)
- digital camera
- digital audio card and microphone
- hard-shell case
- full range of software
- full range of legal references on compact disks and/or hard drive

RDL requirements are based upon staff functions, OPLAW (C2 and Sustainment) responsibilities, operations at key operational nodes, core legal discipline tasks, and mobility requirements.

The SJA, DSJA, Legal Administrator, and CLNCO perform the staff functions of providing advice and organizing, sustaining, controlling,

supervising legal services throughout the area of operations and training legal personnel. They each require an RDL to provide legal advice to the command, to access legal technical support, and to exercise legal technical supervision. OPLAW JAs designated to serve in a BOLT or the TAC CP (or other mobile or fixed command cells or command posts) and in planning and operation cells, each require an RDL. The RDL is required to access ABCS, LAAWS networks, and other secure or controlled communication systems, and to perform core legal discipline tasks in locations away from the main and rear CPs or apart from other legal sections located in the main or rear (based on organizational design and where the legal function is performed). Of utmost importance is the ability to interact with communication and network systems capable of transmitting privileged information or communications (e.g., defense counsel and client; legal assistance attorney and client), classified materials and matters of national security. Each element within the SJA section (as well as the military judge and trial defense elements) requires an RDL to perform tasks relating to its core legal discipline. Additional RDLs are required for judge advocates within divisions of the SJA section who must travel throughout the area of operations to provide services (e.g., claims judge advocates, trial counsel, and legal assistance attorneys).

LSOs and MSOs require RDLs to command the organization and supervise legal services. LSTs require RDLs to perform tasks related to core legal disciplines, and additional RDLs for

each judge advocate who must travel throughout the area of operations.

CONUS based legal organizations which support mobilization operations, or which are part of the Base Engagement Force or Base Generating require RDLs to support operations. These organizations also include the legal training organizations of TJAGSA, legal NCOES, and legal sections of Division Training and Exercise elements, and Training Centers.

Finally, other judge advocates and legal specialists in all legal organizations require components of the RDL to perform their legal duties (one laptop computer per attorney and one computer for 80% of the legal specialists).

The RDL equips judge advocates deploying to theater with the basic load of legal references, country-specific materials, and forms necessary to spot and resolve the most common legal issues that will arise during a contingency operation. Digital databases, such as that maintained by the Joint Electronic Library and CLAMO, contribute to the achievement of this goal by furnishing current legal references and recent lessons learned from exercises, the Combat Training Centers, and deployments around the world. The availability of CD-ROM writing equipment at division and corps staff judge advocate sections makes possible the storage of massive amounts of material on compact disk in the days immediately prior to deployment to or within a theater. Much of this material may be obtained during the predeployment period from the exploding numbers of legal reference

sites on the World Wide Web. When the deployed judge advocate element is incapable of resolving an issue, the RDL also provides the capability to request and receive advice in digital format from technical judge advocate channels.

Because it is a set of capabilities rather than a fixed package of hardware and software, the RDL permits the JAGC to continue to harness the rapid improvements in the marketplace. Because it is a *standard* set of capabilities, the RDL provides a common basis to permit training, organizing, and equipping OPLAW JAs and legal personnel.

Despite advances in information technology, legal personnel must always be prepared to provide operational support. Therefore, legal personnel should deploy with paper copies of required references and forms.

4.4.2 Mobility

Embedded legal personnel depend on the units to which they are assigned or attached for transportation. Separate legal organizations, such as LSOs or MSOs, require organic transportation assets. Sufficient vehicles are required for legal personnel, i.e., the SJA/CJA and his staff, military judges, and defense counsel. The number and type of vehicles will depend on the commander's requirements for legal services. Normally, however, a commander should dedicate four High Mobility Multipurpose Wheeled Vehicles (HMMWV), one 5 ton truck, and four cargo trailers to a division or corps SJA section and one HMMWV and one cargo trailer to each CJA

section. Additionally, the commander should dedicate one HMMWV with trailer to each military judge in theater and one HMMWV with trailer to each trial defense section. Mobility serves three distinct functions:

- **Control of Legal Assets.** The SJA is responsible for the delivery of legal services throughout the area of operations. The SJA supervises and exercises administrative control over SJA section personnel. To administer legal services effectively, the SJA must know what, where, and when legal services are required and direct the appropriate employment of legal personnel. The SJA must be able to provide technical advice and guidance to subordinate judge advocates. Moreover, as the primary legal advisor to the commander, the subordinate commanders, and the staff, the SJA must have the mobility necessary to be when and where required.
- **Effective Delivery of Operational Law and Personnel Service Support.** Judge advocates and legal specialists provide legal services to lower echelons of command. Judge advocates require mobility for several reasons, including: investigating allegations of war crimes and violations of the Uniform Code of Military Justice; receiving, investigating, and paying foreign claims; performing legal liaison throughout the theater; providing legal assistance; and advising commanders on time-sensitive, mission-essential legal problems, particularly those encountered during operations other than war.

- **Service of Geographic Zones.** Military judges provide judicial legal services on a geographic basis. They are assigned to the United States Army Judiciary with duty station at corps and echelons above corps. Courts-martial will be conducted in the accused's unit's area of operations and as far forward in the unit's area of operations as the commander deems appropriate. Trying courts-martial as far forward as possible will minimize disruption of the unit, provide better availability of witnesses, and speed the administration of military justice. Military judges must have the mobility to preside over courts-martial and perform magistrate duties where and when needed. Defense counsel provide defense legal services to the units for which they are assigned responsibility or on a geographic basis. Defense counsel must have the mobility to interview and consult with widely scattered clients and witnesses, and represent their clients before courts-martial and adverse administrative proceedings.

4.4.3 Communications

Modern theater operations will frequently take place in a fluid, chaotic, and lethal environment in which mobility will be constrained. Legal advice will be time-sensitive and often critical. Judge advocates must be assured access to communications that link them with the commander, the subordinate commanders, the staff, and the SJAs at higher echelons. In addition to digital communications across the Army Battle Command System, judge

advocates must use combat net radios (CNR), area common user (ACU) telephones, Army Data Distribution System (ADDS) equipment, and Broadcast System (BDCSTS) equipment, where necessary.

4.5 TRAINING¹⁵²

4.5.1 Principles of Training¹⁵³

Principles of Training

1. Train As A Combined Arms And Services Team
2. Train As You Fight
3. Use Appropriate Doctrine
4. Use Performance-Oriented Training
5. Train To Challenge
6. Train To Sustain Proficiency
7. Train Using Multiechelon Techniques
8. Train To Maintain
9. Make Commanders The Primary Trainers

Staff judge advocates must have a training philosophy. Training affords staff judge advocates as well as commanders the opportunity to explore and surmount the variety of problems and challenges that will always confront them. When a staff judge advocate takes this attitude, most of his or her problems—and those of the section—will be met and solved in the course of regular training, and thus will cease to be problems. The same attitude will prevail again over new problems.

Training must address both the soldier and the lawyer—tactical skills and legal skills. Soldier training should address common soldier skills, such as use and maintenance of weapons, NBC

protection and decontamination, land navigation, first aid, and radio procedures—how to shoot, move, and communicate. Training applies just as crucially to legal research, writing, advocacy, case and project organization, automation, maintenance, and safety. Training is all-encompassing and should be related to everything lawyers and legal personnel do to support the commander on the battlefield.

The key to all successful training lies in raising the quality of individual skills and the teamwork of small sections or units. Success in everything from a battle or other real world military operation to large scale legal representation is dependent on the coordinated effort of a number of small units of diverse types working together to accomplish a mission. Other things being equal, the military force with the best-trained small units will prevail, and the legal organization with the best-trained small teams will prevail. Even if other things are not equal, superior training at the individual and small section level will often carry the day.

Staff judge advocates prepare for operations in a theater by adhering to the Army's principles of training. There are nine.

1. ***Train As A Combined Arms And Services Team.*** "Combined arms and services" is a technical term referring to military actions that integrate combat functions (infantry, armor, and aviation), combat support functions (field artillery, air defense artillery, and engineers), and combat service support functions (logistics, personnel services, and health

services).¹⁵⁴ The example provided in *Field Manual 25-100, Training the Force*, is that of the division commander who trains regularly with his entire "slice" of "basic combat, combat support, and combat service support systems." SJAs recognize that this first principle mandates not only that they support the command's desire to conduct collective training with a full "slice" of judge advocate support, but also that the training of an SJA section itself must integrate claims, legal assistance, military justice, administrative law, civil law, international law, and all other aspects of legal support to operations. It also means that the SJA must coordinate with reserve component legal elements to have them participate in major exercises.

2. ***Train As You Fight.*** This principle demands that training take place under realistic conditions. Operations in Panama, the Persian Gulf, northern Iraq, Haiti, Bosnia, and other places confirmed that legal issues are some of the most challenging the command and staff will face. They must be incorporated into collective training events, just as smoke, noise, chemical attacks, battlefield debris, loss of key leaders, and cold weather must be incorporated.
3. ***Use Appropriate Doctrine.*** Training must conform to Army doctrine. Recall that one of doctrine's roles is to reflect a shared vision that can serve as the basis for planning, organizing, leading, equipping, and training the force. We are a doctrine-based Army. Army

doctrine is contained in *Field Manual 100-5, Operations* and supporting doctrinal manuals, such as this one. Army training doctrine is contained in *Field Manual 25-100* as well as in *Field Manual 25-101, Battle Focused Training*. Judge advocates must be conversant in these references.

4. ***Use Performance-Oriented Training.*** Soldiers and lawyers learn best by doing, by putting their hands and minds on the implements they will be required to use when the real test of combat or deployment comes. The Army stresses use of a full range of training aids, devices, simulators, and simulations (TADSS) to take the individual or unit being trained out of the sterile classroom and into a practical situation that reproduces the conditions under which they must be able to perform. The Army's four Combat Training Centers, with judge advocate observer-controllers or trainers at each, provide the most realistic training. An SJA invokes this principle whenever he and the Chief of the Criminal Law Team organize rehearsals of trial counsel's opening statements, examinations, motions arguments, or closing arguments. SJAs also invoke this principle when they insist that RDLs and other equipment are brought to the field and that every division generates its standard products during exercises.
5. ***Train To Challenge.*** SJAs and other judge advocate leaders never apologize for the challenging training they plan and execute. OPLAW demands tough, realistic

training that challenges legal personnel physically and intellectually. Such training builds competence and confidence by developing and honing skills. It inspires excellence by giving each individual a glimpse of how daily activities fit into the broader mission and by fostering initiative, enthusiasm and eagerness to learn.

6. ***Train To Sustain Proficiency.*** The SJA section must always be ready to deploy; it must be vigilant not to "peak" and then have proficiency drop as time passes, skills decay, and new people replace experienced people.
7. ***Train Using Multi-echelon Techniques.*** Field Manual 25-100 tells us that "[t]o use available time and resources most effectively, commanders must simultaneously train individuals, leaders, and units at each echelon in the organization during training events." This principle not only demands that legal specialists perform individual tasks (e.g., disassemble and assemble M16 rifle, fill in the blocks of a nonjudicial punishment form) but also demands that the claims division and the entire SJA section perform collective tasks (e.g., process, investigate, adjudicate, and pay a foreign claim; administer the military justice system, etc.). Quality training exercises are so rare that leaders must make them count on many different levels.
8. ***Train To Maintain.*** The upkeep of equipment and weapons is as much a part of training as using the equipment expertly. Legal personnel routinely perform virus checks and

other diagnostics, change printer cartridges, and protect our equipment by ensuring that all work areas are kept clean and dry. They frequently draw and maintain all of the tentage, vehicles, weapons, and equipment they will need in real deployments to a theater of operations.

9. ***Make Commanders The Primary Trainers.*** Commanders are responsible for the training and performance of their units. They personally ensure that exercises are based on real world mission requirements, identify the applicable Army standards, assess the current level of proficiency, provide the required training resources, and develop training plans designed to create proficient individuals, leaders, and units. Similarly, SJAs—with command support—must be the primary trainers of their section.

4.5.2 Mission Essential Task Lists (METL)

Mission essential tasks are collective tasks in which an organization must be proficient to accomplish some portion of its mission in a theater. The Mission Essential Task List (METL) for an SJA section consists of the mission essential tasks on which the section focuses its training. The METL concept was conceived in recognition that units and organizations cannot achieve and sustain proficiency on every possible training task. "METL development" is not only applicable to corps and divisions and brigades; it also applies to subordinate elements, such as the staff, and-within

the staff itself—the SJA section, as well as in JAGSOs.

METL are Required. *Field Manual 25-100* states that all active component and reserve component organizations—MTOE as well as TDA organizations—should prepare METLs.¹⁵⁵ Command groups and staff elements at each level develop METLs for their areas of responsibility. The next higher commander in the chain of command approves each organization's METL. Staff METLs are approved by the organization's commander or Chief of Staff. The SJA and the DSJA¹⁵⁶ develop and present a recommended METL in consultation with the separate team chiefs; they are also the staff agency responsible for approval and assistance of development of METLs by LSOs/MSOs war-traced to their command, as well as the SJA sections of other RC units (such as GSUs) assigned to their command.

Collective Tasks. SJAs and LSO/MSO commanders consult the METL of the organization their sections or units support along with "external directives" that relate to the wartime or contingency deployment role they and their sections are expected to serve. These include the Uniform Code of Military Justice and various other provisions of Title 10 of the United States Code, certain articles of the Geneva Conventions,¹⁵⁷ authorities mandating operational law support,¹⁵⁸ *Army Regulation 27-1, Judge Advocate Legal Services*,¹⁵⁹ and other regulatory sources. SJAs and LSO/MSO commanders also consult Army and joint doctrinal references including this field manual.¹⁶⁰ From these diverse

sources, they identify all of the possible collective tasks on which to train.

Choose the METL. SJAs and LSO/MSO commanders then select from this long list of possible tasks a smaller set of tasks on which the SJA section or LSO/MSO would have to be proficient in order to accomplish their wartime or contingency missions. The smaller set of tasks becomes their METLs. By proceeding in this manner, they can be sure that training efforts will be concentrated on the most important collective tasks required to accomplish their mission. Note five important things about METL development.

- First, mission essential tasks must apply to the entire organization—the list does not include tasks assigned solely to subordinate organizations, such as the Claims or Legal Assistance Teams.
- Second, the availability of resources does not affect METL development. The METL is an unconstrained statement of the tasks required to accomplish wartime or contingency missions.
- Third, when units are based in CONUS rather than deployed forward in a theater, deployment itself is often captured on the list.
- Fourth, because the SJA section—unlike an infantry brigade—conducts daily support functions, the METL may address differences between garrison and deployment operating conditions.

- Fifth, the SJA or LSO/MSO commander establishes no prioritization of tasks within the METL. By definition, all tasks are essential to ensure accomplishment of the mission.

Although the missions (and therefore the METLs) of Army divisions vary, a sample SJA section METL for a division based in the CONUS might look as follows:

Mission Essential Task List

- Provide Command Legal Advice and Services (battle task)
- Plan and Provide Legal Services to Soldiers
- Plan and Conduct International Legal Operations (battle task)
- Deploy and Sustain Operational Readiness (battle task)
- Sustain Garrison Legal Services

Establish conditions and standards.

After identifying these mission essential tasks, the division SJA and the DSJA (or LSO/MSO commanders) establish supporting conditions and standards for each task. These conditions and standards that relate to a task are referred to as a training objective. In the course of developing the standards of proficiency to which they need to train the section, they also identify collective sub-tasks as well as individual tasks that supported the section's performance of each mission essential task.

Standards should measure whether the section is responsive, effective, and efficient in meeting the needs of the command. Measures of responsiveness might include command advice processing time, time between a criminal offense and preferral of charges, time required to process a claim, and a time a client must wait for an appointment with an attorney. Measures of effectiveness might include how frequently a legal issue surprises the command, the quality of legal reasoning, opinions, and products, the level of judge advocate integration into the staff, how frequently operational law advice is followed by the command, and the quality of advocacy. Measures of efficiency might include how well personnel use automation technology, and the extent to which procedures are standardized.

Battle Tasks

After they review and approve the METLs, the Division Commander and Chief of Staff select battle tasks. A battle task is a mission essential task that is critical to the next higher organization's performance of a mission essential task of its own. Here, the next higher organizations are the Division Command Group and Staff. Although the SJA and the DSJA (or LSO/MSO commanders) regard all of the tasks on the METL as having equal priority, the Commander and Chief of Staff in this example have made an allocation decision about scarce training resources and have elected to give emphasis during training evaluations to three of the five tasks. These are battle tasks for the Division Staff.

The METL development process then continues as the SJA and the DSJA help guide each of the separate division chiefs (operational law, claims, military justice, administrative law, civil law, legal assistance, international law)—to develop METLs for their elements. In addition, they guide the BOLTs in the development of the BOLT METLs. LSO/MSO commanders do the same for LSTs.

Throughout this process, SJAs/DSJAs and LSO/MSO commanders mentor subordinates to ensure that the METLs and corresponding training objectives developed accurately reflect tasks that will be essential to mission accomplishment in wartime. Through leadership and personal example, they guarantee that METL development is a dynamic process and that all section training is directed toward METL tasks, conditions, and standards.

4.5.3 Planning for Training.

Training Assessment. Once they have developed and received approval of a METL, SJAs/DSJAs and LSO/MSO commanders then conduct training assessments. They compare current proficiency with the standards listed for each mission essential task. They use all available evaluative material to make this comparison, to include consultations with the separate team chiefs. Then they develop a training strategy to achieve a "trained" proficiency level in each supporting collective subtask and individual task.

Throughout this process, they consult the commander's training guidance documents, which identify major training events.¹⁶¹ In this way, they are able to incorporate Combat Training Center rotations and other major exercises into the training plan.

Training Guidance. Soon after taking command, a commander issues *command training guidance* and an up-to-date long-range training calendar for the unit. The SJA and the DSJA present and receive approval of the SJA section METLs during the one of the *quarterly training briefs* or *semi-annual training briefs* early in the commander's tour. This same process applies to the METLs of the LSOs/MSOs, as well as RC units with embedded judge advocate sections; however, the training briefs by which their METLs are reviewed and approved may be presented to their peacetime chains of command in addition to, or in lieu of, presentation to the their wartime gaining commanders.

Training briefs produce a training contract between commanders and SJA or LSO/MSO commanders. The commanders provide resources and protect the SJA sections or LSOs/MSOs from unprogrammed taskings. SJAs and LSO/MSO commanders then lock in and execute approved training plans. This shared responsibility helps maintain priorities, achieve unity of effort, and synchronizes actions to achieve quality training and efficient resourcing.

The training briefing is a highlight of the commander's leader development program. It provides the commander an opportunity to coach and teach subordinates on the fine points of his

philosophy and strategies in all aspects of warfighting, to include doctrine, training, force integration, and leader development. It enables the SJA and assigned LSOs/MSOs to gain a better understanding of how their mission essential training relates to the battle-focused training programs of their commanders and peers.¹⁶²

The SJA or LSO/MSO commander also uses this training management process to mentor and build an effective section, and foster a positive leadership climate. Because many of the sub-tasks require professional as well as military judgment on the part of junior and relatively inexperienced judge advocates, the importance of well-rehearsed, monthly officer Leader Development Program (LDP) sessions and continuing legal education (CLE) courses at TJAGSA cannot be overstated. The SJA should not overlook the importance of orientation programs for newcomers, regular leader development sessions for division chiefs and noncommissioned officers, the development of off-the-shelf programs of instruction on rapidly changing areas of the law, dining-ins, staff rides, no-notice alerts, and regular section meetings.

4.6 LEGAL SUPPORT AND SPECIAL OPERATIONS

Judge advocates in theater operations will serve in or alongside a variety of special operations units. Special operations routinely have legal implications that cannot be discerned without general background information about special operations doctrine, capabilities, and organization. This part

of the chapter provides that information while also describing distinctive tasks that OPLAW JAs and legal personnel in special operations units are called upon to perform.

Special operations are actions conducted by distinctively organized, trained, and equipped military and paramilitary forces to achieve military, diplomatic, economic, or informational objectives by unconventional means. United States special operations forces (SOF) consist of Army, Navy, and Air Force units. Special operations occur frequently in hostile, denied, or politically sensitive areas across the full range of military operations.¹⁶³

The theater CINC will often plan a joint special operations effort. When this occurs, a *Joint Special Operations Task Force (JSOTF)*, created by the CINC, is given responsibility to execute the operations in accordance with the joint plan. It is important to recognize that the JSOTF and the forces comprising it form a separate task force. Nevertheless, the CINC may place the JSOTF under the OPCON of another JTF, or designate elements to serve in direct support of subordinate unit commanders for portions of the theater operations.

The five principal *missions of special forces* are

- Unconventional Warfare
- Direct Actions
- Special Reconnaissance
- Foreign Internal Defense
- Counterterrorism

As "collateral activities," special operations forces may participate in

security assistance, humanitarian assistance, antiterrorism, counterdrug operations, personnel recovery, and other special activities. Most of these terms have technical meanings. Detailed information about special operations is contained in *Field Manual 100-25, Doctrine for Army Special Operations Forces*.

Special operations during war and in other hostile environments usually occur deep in the enemy's rear area or in other areas void of conventional maneuver forces. They may also extend into the territory of hostile states adjacent to the theater. While each special operations action may be tactical in nature, its effects often contribute directly to theater operational or strategic objectives in support of the theater campaign plan. Special operations may seek either immediate or long-range effects on the conflict.

Typical SOF missions include interdicting enemy lines of communication and destroying military and industrial facilities. SOF detachments may also have missions associated with intelligence collection, target acquisition, terminal guidance for strike aircraft and missile systems, personnel recovery, and location of weapons of mass destruction. Some detachments conduct psychological operations (PSYOP) to demoralize the enemy and collect information in the enemy's rear areas. Some SOF organize, train, equip, and advise resistance forces in guerrilla warfare for evasion and escape, subversion, and sabotage. They work with indigenous people in regions of conflict in support of United States national interests. They add *depth* to the

campaign, forcing the enemy to deploy significant combat forces to protect his rear area.¹⁶⁴

Special Operations Forces. There are five types of Army SOF:

- *Special Forces* units are specifically organized, trained, and equipped to conduct special operations. They conduct all of the principal special operations missions and collateral activities.
- *Ranger* units are rapidly deployable, airborne-capable, and trained to conduct joint strike operations with, or in support of, special operations units of all services. They can also conduct strike missions in support of conventional operations and can operate as conventional light infantry units when properly integrated with other combined-arms elements.
- *Special Operations Aviation* units are specialized aviation assets dedicated to conducting special operations missions. They provide a mix of short, medium, and long-range lift and limited light-attack capabilities. They support all principal and collateral mission areas and can conduct autonomous special reconnaissance and direct-action missions.
- *Psychological Operations (PSYOP)* forces are employed to influence favorably the attitudes and behaviors of specific foreign audiences and reduce the will, capacity, or influence of hostile forces to wage war or otherwise

threaten U.S. interests. PSYOP forces are equipped with audiovisual, print, loudspeaker, and radio and TV broadcasting capabilities to support friendly forces. Their activities often are sensitive and have significant political and occasionally legal implications.

- *Civil Affairs* forces are employed to enhance relationships between military forces and civilian authorities and populations in friendly, neutral or hostile areas of operations. Civil affairs forces are used to reduce civilian interference and to gain popular understanding, support, and compliance with measures required to accomplish the mission. They also engage in the type of activities associated with the operation of civil government and its institutions, population, and resources.

4.6.1 Legal Support and Special Operations¹⁶⁵

Special operations missions are legally and politically sensitive, particularly in the absence of international armed conflict. The commander must consider not only traditional law of war issues, but also the requirements of domestic United States law (such as fiscal, security assistance, and intelligence oversight laws or Department of Defense Directives relating to PSYOP) and broader international law requirements (such as those in mutual defense treaties and host nation support agreements).

Army special operations forces (SOF) receive OPLAW support from the SJA, United States Army Special Operations Command (USASOC) and the SJA, United States Army Civil Affairs and Psychological Operations Command (USACAPOC). Additionally, a judge advocate is required by, and assigned to, each special forces group; psychological operations group; special operations aviation regiment; ranger regiment; and civil affairs command, brigade, and battalion. These judge advocates provide responsive legal advice to the commander as required.

An OPLAW JA assigned to a special operations unit has many of the same responsibilities as judge advocates in other units. For example, the judge advocate must provide legal assistance consistent with professional responsibility requirements, assist the commander in administering military justice, and participate in administrative separation proceedings.

A Special Operations OPLAW JA's principal duty is to serve the counselor function for commander and staff. To do so, he must accomplish the predeployment preparation (to include the equipment and training tasks) discussed earlier in this chapter. Judge advocates assigned to special operations forces may deploy with their units deep in enemy territory where access to other legal resources is nonexistent. Accordingly, the legal references and other capabilities of the RDL loom particularly significant, as do communications links with technical legal channels.

In addition to preparing for deployment to a theater, special operations OPLAW JAs must accomplish the tasks similar to those assigned to the OPLAW JA in a Corps or Division SJA section. They must attend planning sessions for all operations, including exercises; review all operations, contingency, and exercise plans and orders for compliance with domestic, foreign, and international law and applicable policy and regulations; and be available to provide legal services during military operations.

All soldiers must receive law of war training commensurate with their duties and responsibilities. Special operations OPLAW JA, with the assistance of legal specialists, provide training that not only addresses conventional law of war issues but also addresses issues unique to special operations.

4.6.2 Legal Support and Civil Affairs¹⁶⁶

Civil affairs operations are politically and legally sensitive because they involve the interrelationship between the United States military forces and civilians in the area of operations. Domestic, international, and foreign laws regulate and influence civil affairs operations. Commanders and civil affairs personnel must have ready access to legal personnel for mission-essential legal services. Violations of the law or local moral standards by United States military personnel risk alienating the local populace and jeopardizing the public support required for United States military and political objectives.

Civil affairs operations address the relationship between military forces, civil authorities, and the population of a friendly or occupied country. Civil affairs operations concern the effect civilians have on military operations and the economic, social, and political effect military operations have on civilians. A major civil affairs mission is to mobilize civilian support for United States military operations and political objectives in war and peace. Civil affairs operations:

- Support the commander in the conduct of military operations.
- Support the commander in meeting legal obligations and moral standards regarding the local populace.
- Further the national and international policies of the United States.

Civil affairs operations are coordinated military activities that influence, develop, or control indigenous infrastructures in operational areas. They involve conventional and special operations missions (e.g., foreign internal defense and unconventional warfare) or may be pursued independently in support of United States country teams. They may include United States, allied, and indigenous security forces; civil authorities; non-government agencies; and the local populace. Civil affairs operations include:

- Mobilizing civilian support for United States military and political objectives.
- Preventing civilian interference with the mission.

- Facilitating host nation support and establishing liaison with civilian authorities.
- Supplementing intelligence efforts at the operational and tactical level.
- Providing civil administration or military government in foreign territory.
- Controlling the local noncombatant population; detaining enemy collaborators; and exercising military control over private, public, and enemy property.

The U-5/J-5/G5/S-5 /Civil-Military Operations (CMO) Officer:

- Is the principal staff assistant to the commander in civil affairs matters, including all matters concerning political, economic, and social aspects of military operations.
- Acts as liaison between the military forces, civil authorities, and people in the area of operations.
- Coordinates actions in which the force employs psychological operations techniques to support civil affairs objectives.

Because civil affairs units supporting the command normally have organic legal advisors, responsibilities for providing legal advice relating to civil affairs must be clear. The civil affairs judge advocate advises the civil affairs unit commander. The SJA (or the Chief of the BOLT in a conventional brigade task force supported by civil affairs elements) of the supported

command is the sole legal advisor to the supported commander. Furthermore, the SJA of the supported command is the technical supervisor for all legal personnel in CA units that are assigned, attached or under the OPCON of the supported command. In all cases, legal advice within the supported command and supporting civil affairs units must be thoroughly coordinated.

Judge advocates assigned to civil affairs units are the primary legal advisors to those organizations. The senior judge advocate of the unit is the unit's command judge advocate (CJA) and, therefore, is a member of that commander's personal and special staff. Civil affairs judge advocates provide mission-essential legal services to the unit, including OPLAW support, as required by the commander. A civil affairs unit's CJA will coordinate with the SJA of the command to which the civil affairs organization is assigned or attached for technical guidance and supervision.

Judge Advocate General Service Organizations (JAGSO) may be detailed to corps, TAACOMs/TSCs, and theater armies to assist with civil affairs legal matters.

The practice and delivery of legal support are critical to properly advising and assisting the commander in fulfilling his legal obligations and complying with moral standards regarding local civilians. Legal obligations derive from domestic, international, and, when applicable, foreign law. During armed conflicts, the Fourth Hague Convention of 1907 and the 1949 Geneva Convention Relative to

the Protection of Civilian Persons in Time of War set forth many of the commanders' legal obligations. In the absence of armed conflict, relevant legal sources frequently include the 1951 Convention Relating to the Status of Refugees, United States statutes and decisions pertaining to immigration, and executive branch materials relating to political asylum and temporary refuge. As a matter of DoD policy, the Armed Forces of the United States will comply with the law of war during all armed conflicts, however such conflicts are characterized, and with the principles and spirit of the law of war during all other operations.¹⁶⁷ In practice, it has been U.S. policy to comply with the law of war in operations other than war, to the extent practicable and feasible.¹⁶⁸ The International Covenant of Civil and Political Rights and other human rights treaties, as well as various host nation laws according individual rights to citizens may also apply in a given situation.

For these missions, it is essential to consider local customs and traditions, cultural and religious considerations appropriate to the area of operations, and established principles of humanity. RDLs must thus not only include CDs containing comparative and foreign legal materials; they must also include country study materials of a more general nature.

The SJA or BOLT of the supported command, the U-5/J-5/G-5/S-5, and the civil affairs CJA will coordinate to provide the following legal services to their commanders during all phases of civil affairs operations:

- ***Planning Phase.***

- Assisting in the preparation of, and reviewing, civil affairs plans for consistency with the law and national command authorities' (NCA's) guidance.
- Preparing the legal section of the civil affairs area study and assessment.
- Providing predeployment CA training as required.
- ***Combat Operational Phase.***
Providing advice on:
 - Population control measures.
 - Targeting to minimize unnecessary collateral damage or injury to the civilian population.
 - Treatment of dislocated civilians, civilian internees, and detainees.
 - Requests for political asylum and refuge.
 - Acquisition of private and public property for military purposes.
 - Psychological operations and their effects on the civilian populace.
- ***Stability and Consolidation Phase.***
 - Providing advice on and disposing of claims submitted by local civilians.
 - Providing advice on the jurisdiction of local courts over United States military personnel and activities.
 - Providing advice on humanitarian and civic assistance issues.
 - Providing advice on disaster relief.

- Assisting in the creation and supervision of military tribunals and other activities for the proper administration of civil law and order.
- Assisting civil administration activities, including:
 - The establishment and operation of local judicial and administrative agencies.
 - The closing and reopening of local courts, boards, agencies, and commissions.
 - Defining the jurisdiction, organization, and procedures of local government institutions.

Chapter 5 Legal Support in War

Whenever Army forces are called upon to fight, they fight to win. Army forces in combat seek to impose their will on the enemy . . . Victory is the objective, no matter the mission. Nothing short of victory is acceptable . . .

Field Manual 100-5, Operations¹⁶⁹

In 1970, with all the [1st Cavalry Division] lawyers located at the division main headquarters, such activities as interviewing witnesses for trial, advising convening authorities located outside of Phuoc Vinh and, in some instances, actively conducting trials at firebases, required traveling by air. Additionally, troops normally did not come into headquarters for personal legal assistance or to file claims; judge advocates brought legal services to them . . . [T]hanks to the division chief of staff, Col. Edward C. Meyer, a helicopter was dedicated one-half day a week for use by the Army lawyers. It was known as the "lawbird" on the days it flew.

*Colonel Frederic L. Borch III
Judge Advocates in
Combat¹⁷⁰*

CONTENTS	PAGE
THE LIMITS OF WAR.....	5-2
PHASED AND NESTED OPERATIONS.....	5-3
CONCEPT OF LEGAL SUPPORT IN WAR.....	5-4
Command and Control, Sustainment, Personnel Service Support.....	5-4
Command and Control.....	5-4
Sustainment.....	5-5
Personnel Service Support.....	5-6
THE CORE LEGAL DISCIPLINES IN WAR.....	5-7
Administrative Law.....	5-8
Claims.....	5-8
Civil Law.....	5-8
Military Justice.....	5-8
International Law.....	5-8
Legal Assistance.....	5-9
ORGANIZATION FOR WAR.....	5-9
Theater Legal Structure.....	5-9
Army Service Component	
Command.....	5-9
Command Posts.....	5-10
Judge Advocate Disposition....	5-11
Brigade Command and Control Facilities.....	5-22
MATERIEL IN WAR.....	5-24
TRAINING FOR WAR.....	5-25

5.1 THE LIMITS OF WAR

In war, military force is the state's primary means to achieve victory. Among the categories of conflict between states, war is the most violent and the most dangerous. A modern nation at war—because of the enormity of the resources engaged and the destructiveness of the means employed—will frequently perceive the war as "total" and "absolute."¹⁷¹ For those fighting it, war will appear to spell victory or defeat, with no middle ground between those stark alternatives.¹⁷²

A commander leads his forces to military victory in war by practicing operational art. He directs attacks against enemy centers of gravity.¹⁷³ He and the enemy commander are both constantly looking for an edge, for the opportunity to gain and maintain the initiative. Often it is the side that can adjust most rapidly that will gain this edge and go on to win. The commander seeks to outthink the enemy commander and thus give United States troops the advantage over their foes. This is often a matter of giving the enemy commander more problems to solve in a given time than he and his organization can possibly handle. It is a matter of exhausting the enemy's options, breaking the coherence of his operation, and forcing him to fight on our terms. Finally, it is a matter of physically defeating or destroying him.¹⁷⁴

Throughout history, a defining feature of wars has been that they include periods of intense, armed combat; soldiers, sailors, airmen and marines physically defeating enemy units by killing enemy soldiers, sailors,

airmen, and marines in battles. For the individuals involved, sometimes reduced to fighting with bayonets or their bare hands, war is totally consuming. It absorbs every ounce of energy, will, and stamina, with nothing left in reserve. In such circumstances, war is absolute. It is life or death.

Yet the popularized notions of "total war," "absolute war," and "unlimited war" are misleading. As Peter Paret, one of Clausewitz' modern interpreters, has written, "If war were one short, uninterrupted blow; preparations for it would tend toward totality, because no omission could ever be rectified." But in reality war is always a longer or shorter succession of violent acts, interrupted by pauses for planning, the concentration of effort, the recovery of energy—all on the part of two or more antagonists, who interact. A variety of elements within the opposing societies, the "free will" of the leadership, which may or may not conform to the objective realities, and the political motives of war, will determine the military objective and the amount of effort to be expended. "War is merely the continuation of policy by other means."¹⁷⁵

Thus, the term "unlimited war" does not accurately describe even prolonged large-scale conflicts in which forces suffer heavy casualties. To be sure, as Clausewitz says, war is "an act of force, and there is no logical limit to the application of that force." But "[i]n the real world, the absolute is always modified"¹⁷⁶

Legal support in war involves the study and application of those limits our

government formally imposes on the waging of war. In conjunction with national policy, law regulates when, where, how, and against what commanders and soldiers we may employ weapons. Law creates the procedures and military courts by which good order and discipline are maintained within the force, within the ranks of captured enemy prisoners of war, and throughout occupied territories. Law ensures that supplies and equipment are procured in a manner that frustrates waste, fraud, and abuse of public moneys. Law governs the mobilization of the reserve component. Lawful regulations articulate formal policies for everything from the taking of war trophies by United States forces to the conduct of official investigations. The law, even in war, continues to treat each soldier as an individual person, capable of drawing a Last Will and Testament, making contracts, incurring debts, getting married, paying child support, or filing an income tax return.

5.2 PHASED AND NESTED OPERATIONS

Military operations during war are not uniformly intense through time. This fact bears heavily upon the intensity of demand for the different functional areas and legal disciplines. The preconflict and postconflict phases of wartime operations will often resemble military operations other than war (MOOTW) in the character of legal issues generated.

Commanders use phasing because operational art requires them to shift emphasis from one operational category to another.¹⁷⁷ For example, elements of

the Third U.S. Army deployed to Saudi Arabia in 1990 primarily as a show of force to deter aggression against that country. The Third Army's operational focus shifted to the defense when enough forces arrived to make that possible. It shifted to the offensive when it launched a ground attack to destroy the Iraqi Army. Following the successful offensive, the Third Army's operational focus shifted to post-conflict operations designed to restore essential infrastructure in Kuwait. Branches and sequels in the plan account for the need to shift emphasis as a mission unfolds.

In addition to conducting different categories of operations over time, units sometimes conduct different categories of operations simultaneously. One headquarters may have subordinate units focused on different categories of operations, all operating in the context of the higher commander's intent. The larger the unit, the more this nesting of unlike operations is likely to occur. For example, a corps conducting offensive operations may have several brigade-sized units engaged in offensive operations while the rest of the corps conducts defensive operations. Some of its other units may be conducting support operations to aid battlefield refugees.

The smaller the unit, the more likely the entire force will focus on the dominant operation. A division conducting a mobile defense, for example, may employ one brigade to conduct delaying actions (defensive operations), and two brigades to strike the decisive blow (offensive operations). On the other hand, a company in the

attack often employs all assets in the offense.

Some units may conduct roughly the same activities regardless of the category of operation they are conducting. This is particularly true for combat service support forces and certain combat support forces such as signal elements. Others may have to perform significantly different tasks. An infantry company conducting a movement to contact executes a different set of tasks than it does when conducting a disaster response.

In this regard, the distinction between war and MOOTW should not be relied upon by SJA sections to create two wholly separate approaches to training and operations. While large scale deployments to prosecute wars will more likely involve classic offensive and defensive operations, they will also frequently include stability and support operations. As the next chapter explains, stability and support operations, whether during war or MOOTW, may present particularly tough and sustained challenges to operational law assets.

5.3 CONCEPT OF LEGAL SUPPORT IN WAR

5.3.1 Command & Control, Sustainment, Personnel Service Support

Legal support in the preparation for and execution of war will cut across all three functional areas and vary in proportion throughout an operation. After the initial surge of personnel support during the mobilization and

deployment of forces, the practice of OPLAW—the C2 and sustainment functions described in Chapter 3—in war will dominate the legal landscape. The issues are fast-paced, require constant situational awareness, and can affect a commander's options by expanding or limiting his courses of action. This is not to say, however, that legal personnel services are any less critical to providing legal support in operations. When delivered properly, legal personnel services may appear transparent to the commander. A loss of discipline, or morale failure where soldiers are overly concerned about problems at home, however, would not.

5.3.2 Command and Control (C2).

The American way of war is to employ overwhelming force at the decisive point, but it is also to respect legal limits. In order to achieve the former, commanders and staffs must know the precise extent of the latter. In the early phases of an operation (mobilization and predeployment), the SJA must deliver operational law advice by introducing information about the legal aspects of command authority and the legal limitations on war into the MDMP. Judge advocates serve as counselor, providing recommendations about how missions can be accomplished within the law and, frequently, dispelling misconceptions that a law or treaty precludes various effective courses of action. OPLAW JAs participate in targeting and information operations cells; implement, draft, and train soldiers on ROE; advise commanders on policies relating to conduct and discipline; ensure war plan compliance with the Law of War and

customary international law; and ensure soldiers have a basic understanding in the treatment of non-combatants, protected markings, and other particulars of the Law of War.

Defining General Courts-Martial Convening Authorities both in the theater of operations and in garrison must be done early and with precision. Transferring pending actions to new or different convening authorities will require extensive technical channel communication. In split-based operations, commanders must decide to either leave their flag at the garrisons, take the flag command with them, or seek out a new rear provisional convening authority. Certainly in war, SJAs must plan on incorporating the reserve component into the convening authority process. In the future, federalized National Guard or United States Army Reserve Commanders may lead active component units into battle. Such an order of battle may necessitate Secretary of the Army action defining and designating new convening authorities such that the commander can ensure good order and discipline for all U.S. forces under his command in theater.

As the Army moves through deployment and into offensive or defensive operations, judge advocates continue to provide critical sustainment and personnel service support. During actual combat operations, however, OPLAW JAs will focus most of their attention on C2 legal support—targeting, ROE, Information Operations (IO), dealing with enemy prisoners of war (EPW), use of mines, the applicability of the Chemical Weapons

Convention, fratricide investigations, and so forth.

At the conclusion of or during extended pauses in combat operations, judge advocates will continue to provide legal support in all three functional areas. The main effort of legal support, however, will turn back to sustainment and personnel service support. After the U.S.'s successful prosecution of armed conflict, commanders and judge advocates may have to deal with the enormous obligations that accompany the law of occupation or implementing international agreements or mandates that will follow conflict. Commanders can also again return their attention to taking care of soldiers and redeployment to home station.

5.3.3 Sustainment

The DoD Dictionary defines sustainment as “[t]he provision of personnel, logistic, and other support required to maintain and prolong operations or combat until successful accomplishment or revision of the mission or of the national objective.”¹⁷⁸ This is the second prong of operational law. For legal support to operations, sustainment includes legal issues that cut across most of the legal disciplines. Like C2, failure to recognize and resolve—proactively if possible—sustainment issues can limit a commander’s options on the battlefield. Complicating virtually every aspect of sustainment is the joint and multinational nature of modern military operations. The very presence of multiple coalition partners spread across several sovereign states, requires commanders and judge advocates to

look at sustainment issues not only from an international law perspective, but also in light of the often restrictive domestic law.

During all phases of an operation, OPLAW JA must know and understand the privileges and immunities that exist or do not exist for U.S. forces and the civilians that accompany the force. War plans may call for Intermediate Staging Bases stretching across several international boundaries, command posts in various countries, or deployment directly into a hostile territory. In all of these cases, judge advocates must seek out and understand applicable Status of Forces Agreements, Stationing Agreements, of other applicable treaties or international agreements. Moving personnel and supplies into the theater of operations may require multiple transiting agreements.

Even though fiscal and contract constraints in war will be less onerous than in Military Operations Other Than War (MOOTW), U.S. domestic law is not waived. Even in war, commanders are still stewards of taxpayers' money and subject to strict scrutiny—sometimes long after the end of hostilities. In virtually any theater of operations, commanders will need immediate contracting capability to hire local nationals and purchase items such as water, food, lumber, fuel, and lubricants. Coalition partners may require extensive support from U.S. forces, thus creating a need for Acquisition and Cross-Servicing Agreements (ACSAs). Every judge advocate, regardless of the type of operation, must have an understanding

of what money is available, when, and for what purpose. With reliance on today's Logistics Civil Augmentation Program (LOGCAP), and contractors on the battlefield, commanders must address everything from their status on the battlefield to handling discipline with a large civilian force. Before deployment, OPLAW JAs must develop a foreign claims process that will protect both the U.S. and the claimant. Judge advocates must help the commander resolve issues concerning federalizing National Guard forces, mobilizing the USAR, and dealing with non-governmental and private organizations in the theater of operations.

5.3.4 Personnel Service Support

There can be little doubt that the main effort of legal support to operations during mobilization and predeployment lies with the routine administration of military justice and the provision of legal assistance through Soldier's Readiness Programs. While the nuts and bolts of the administration of justice or the provision of legal assistance services may remain in abeyance during offensive or defensive operations, the limited character of war implies an important role for deployed lawyers serving as judges in courts-martial or within the context of other proceedings and procedures. It also implies an important role for lawyers serving as advocates for the Army or for individual soldiers charged with crimes or in need of personal legal assistance.

While the operational law support during the early phases of an operation are critical to the success of the mission, proactive work in the administration of

justice will ensure that the foundation of the American Army—good order and discipline—is scrupulously managed allowing commanders to fight and win our nations wars.

While still at home station, whether this is from a CONUS or OCONUS installation, legal assistance services for our soldiers and family members will consume the majority of judge advocate resources. In recognition of the importance of legal assistance to the deploying force, the Army is committed to ensuring that every soldier that needs or desires a Last Will and Testament or Power of Attorney has one. Answering questions about taxes, providing legal help for family members during deployment, participating in the set up and success of the command's family support group network, and helping reserve component soldiers with legal issues arising from mobilization are just a few areas that encompass legal support to operations during mobilization and deployment. The delivery of these key and essential services result in enhanced soldier morale as our soldiers worry less about concerns at home. This immense amount of work will occur only through the extensive legal support provided by the reserve component. While the Legal Support Organization (LSO) has a warfighting mission and will primarily deploy with the Staff Judge Advocate into the theater of operations, the Mobilization Support Organization (MSO) will provide "surge support" legal services to mobilization stations during all phases of the operation (mobilization, predeployment, deployment, combat operations, post-conflict, and redeployment). They provide this support by supplementing

the capabilities of their installation legal offices, as augmented under their MOBTDAs and by the judge advocate sections or assigned GSUs. Furthermore, they will provide supplemental legal services to other installation legal offices in support of their area responsibilities to provide legal services to the dependents of deployed AC and RC soldiers. Finally, they will provide legal services at other locations, such as STARC offices and ARNG installations, RSC offices and installations, and elsewhere.

5.4 THE CORE LEGAL DISCIPLINES IN WAR

Contrary to the popularized notion that legal complications wither away during wartime, unit histories and after-action reports attest that issues will arise in all six core legal disciplines. Perhaps the only generalization that may be stated about legal support in wartime, particularly OPLAW, is that a number of legal provisions in diverse disciplines will become clearly applicable without the need for drawing elaborate analogies that is present during many MOOTW. This is so because these provisions hinge on the existence of "war" or "combat" or "international armed conflict," though the legal definitions of these and related terms vary from document to document. It remains useful for judge advocates to use the legal discipline structure as it enhances professional educational training and reflects the most efficient delivery of legal services in the garrison environment. A unique characteristic of being a judge advocate is that the legal mission continues, both in garrison and the deployed environment.

5.4.1 Administrative Law

Administrative separations, conscientious objector applications, implementation of general orders, the handling of war trophies, official investigations into fratricides and other incidents, and distribution of medical care are among the many issues that will arise.

5.4.2 Claims

While claims arising from damage occurring as a result of combat will not generally be cognizable, claims nevertheless may still be payable in some circumstances under the Foreign Claims Act, the Military Personnel Claims Act, and a variety of other statutes and international agreements. Prompt and correct processing, adjudication, and payment of foreign claims will be necessary to maintain good will toward United States forces by local civilians.

5.4.3 Civil Law

Unless provisions are exempted or relaxed, the Federal Acquisition Regulation (FAR) still applies, including rules concerning full and open competition. Similarly, the basic fiscal controls on appropriated funds—namely those constraining availability of appropriations as to purpose, time, and amount—still apply. Environmental considerations will include documenting environmental conditions and changes thereto in areas of operations, reporting improper modification of environmental conditions as a method or means of warfare, and ensuring environmental

safety and integrity for the well being of soldiers.

5.4.4 Military Justice

The need for an efficient and just disciplinary system will never be more urgent than in war. This core competency of OPLAW JAs will be heavily practiced, as non-judicial punishment, courts-martial of all types, and perhaps even military commissions will be convened. The "time of war" provisions of the Uniform Code of Military Justice will be in effect, increasing the feasibility of courts-martial in forward areas.

5.4.5 International Law

Common Article 2 of the four Geneva Conventions will be triggered by the state of "international armed conflict" that exists during a true war. This will cause a great number of provisions in the law of war to become clearly applicable to the conduct of United States and enemy forces. Commanders and staffs will require interpretations of many nuances of the law of war as they relate to the targeting of objectives and the treatment of the wounded and sick, captured prisoners, and civilians. Soldiers will directly apply the "soldier's rules" which they learn in basic training.¹⁷⁹ Although the law of war, and in some circumstances United States military law, will displace portions of the law of the foreign country where our forces have deployed, most of the default legal rules will be those of the foreign country. If the United States is fighting the war within a coalition, domestic legal issues associated with security assistance will

likely arise. War Powers Resolution reporting may be necessary. Other federal statutes, executive branch materials, and court decisions relating to national security may be applicable.

5.4.6 Legal Assistance

United States soldiers in war will continue to hail from all fifty states and the Territories. They will continue to require wills and to face taxation, divorces, indebtedness, child custody and support disputes, and a wide range of lawsuits, many of these aggravated by long deployment. Some reserve component soldiers will be wrongly fired by employers. Legal assistance attorneys will use a wide variety of tools available under federal and state law on behalf of their soldier-clients.

5.5 ORGANIZATION FOR WAR

5.5.1 Theater Legal Structure

As discussed in detail in Chapter 4, the Theater SJA distributes available legal resources to facilitate delivery of the full spectrum of legal services. The SJA achieves economies of scale and specialization and maintains the flexibility to shift priorities of legal theater support as necessary. JAGC personnel are embedded in the requirements and authorization documents of the Army Service Component Command (ASCC), the theater army area commands (TAACOMs) or theater support commands (TSCs), area support groups (ASGs), Army special operations commands, and other units and functional commands (e.g., personnel

commands, medical commands, engineer commands, etc.) in theater.

Legal support to operations will take place during war within a theater. A unified combatant commander in chief (CINC) will command all United States forces in the theater and may also serve in a separate capacity as the commander of multinational forces. The CINC, through his SJA or legal advisor, will also establish policy for the employment of all operational legal assets in the theater, which are typically assigned, attached, or serving in direct support of several different echelons.

The CINC has this policy-setting authority as a matter of law, but the underlying rationale is rooted in an age-old principle for effective warfighting. This principle is known as unity of command; it holds that forces should be under a single responsible commander with the requisite authority to direct all forces in pursuit of a unified purpose.¹⁸⁰

5.5.2 Army Service Component Command

The CINC's legal advisor will coordinate closely with the TJAGs of the separate services, with the SJA for the ASCC, and with the SJAs for the corps and divisions within the ASCC to devise a concept for employment of operational law resources. With the exception of providing trial judges and trial defense counsel—which are detailed centrally from USALSA—the SJA sections for the divisions within the ASCC are responsible for practicing operational law and providing legal support to operations across all legal disciplines in assigned geographic areas.

5.5.3 Command Posts

The practice and delivery of operational law in a division requires understanding of the *command post (CP)*. The CP of a division is the principal facility employed by the commander to command and control combat operations. A division's command post is frequently spoken of in the singular, but a division commander normally deploys his command post in three echelons or facilities. These are the *tactical command post*, the *main command post*, and the *rear command post*. Note, emerging doctrine in the Force XXI digitized divisions may use only two command posts—a tactical command post (sometimes referred to as the DTAC or TAC1) and a main CP. Both of these CPs are larger than their Army of Excellence Division tactical CP and main CP counterparts. The digitized division, however, may have no rear CP. Judge advocates in command posts provide operational law support and provide or facilitate support in core legal disciplines required to sustain the organization, as described in Chapter 3.

CPs are organized and set up to operate on a 24-hour basis. This includes operating while displacing. Shifts must be established that provide enough personnel to operate the CP and also the required expertise to make decisions. There should not be a "first team" and "second team" approach. Both shifts must be capable of efficient CP operation. Command group personnel are not included in the shifts.

The shift officer-in-charge (OIC)—also referred to as the "battle captain"—is the focal point for information management. He controls all information going in and out of the command post. In addition to managing informational flow, the battle captain is responsible for updating the current operations, maps, and charts. To accomplish his duties, the OIC must have guidance from the commander, XO, and S-3, a thorough knowledge of the TAC SOP, current orders, the synchronized matrix, execution checklist, and other command and control tools, and subordinate unit plans and graphics. The shift OIC is assisted by the shift noncommissioned officer-in-charge (NCOIC). The shift NCOIC supervises all updating of maps and charts to ensure all information is exchanged. He supervises monitoring radios and maintenance. He ensures journals are properly prepared and prepares all reports for the OIC's approval.

The *tactical CP* (sometimes called "TAC CP;" or, in rapidly deployed divisions, the "Assault CP;" or in Airborne and Air Assault Divisions the Joint Airborne and Communications Center Command Post, or JACC/CP; or as TAC1 in the Digitized Division) is the forward echelon of the Division's CP. The concept behind the TAC CP is that it is close to the brigade commanders' CPs so that the division commander can directly influence current operations. The rule of thumb is that the TAC CP should be within FM radio range of the committed brigades. The Assistant Division Commander for Maneuver (ADC-M) normally leads the TAC CP. This is a lean apparatus,

typically consisting of about a dozen officers and a few NCOs operating out of a few vehicles or tents.¹⁸¹ Judge advocates in the TAC CP provide advice regarding ROE, LOW, and other OPLAW matters. They also maintain situational awareness to identify and resolve legal concerns before they become distracters.

The *main CP* is the primary division CP. Whereas the TAC CP focuses on commanding and controlling current operations, the main CP focuses on sustaining current operations and on planning future operations. It should be located out of enemy medium artillery range so that the enemy must take a special effort to knock it out if it is able to find it. The officer in day to day charge of the main CP is the Division Chief of Staff. The Division Commander normally commands from the main CP, though he will frequently travel to the TAC CP, to the rear CP, to subordinate unit CPs, or wherever he can best exercise his will. The main CP is a much bigger operation than the TAC CP, consisting of more than 50 officers, NCOs, and enlisted soldiers. The Division Headquarters Company moves the main CP when it has to move, and it secures the main CP from attack. The Digitized Division's Main CP, while having various cells to include an Information Operations cell, can be an extended distance from the DTAC or TAC1 making appropriate mobility and communication capabilities a must to maintain situational awareness.

The *rear CP* focuses on everything else—essentially the massive job of sustaining current and future operations—and remains prepared to

control current operations if the TAC CP or main CP cannot function. The rear CP's main concerns are synchronization/direction of combat service support; terrain management; security of the rear area; and movement of tactical units, personnel, mail, and logistics. The Assistant Division Commander for Support (ADC-S) normally leads the rear CP, which is collocated with the CP of the Division Support Command (DISCOM), the brigade-sized element dedicated to logistical support of the division. The rear CP is in the division's rear area, though this does not imply it will be spared enemy attack. To the contrary, a division's rear area contains many of the division's most lucrative targets. The rear CP does not exist in the Digitized Division.

5.5.4 Judge Advocate Disposition

Frequently, when direct, immediate legal advice is required, the OPLAW JA will deploy with the TAC CP (or, in rapidly deployable divisions, with the assault CP). Division commanders will elect to use an augmented TAC CP or assault CP when *split-based operations* are necessary. Split-base operations involve a forward and a rearward CP separated by great distances and linked by reliable communications. These communications enable the passing of staff work electronically from a secure area (the location of the rearward CP) to a combat zone (the location of a forward CP) and back again. The forward and rearward CPs are designed based on METT-TC by beginning from the TAC CP/assault CP and rear CP models and then dividing functions from the main CP model. When the TAC CP is thus

augmented, the OPLAW JA frequently deploys with it. In the digitized division, OPLAW JAs are positioned in the DTAC/TAC1 to render immediate OPLAW advice, particularly within the C2 function.

As a general rule, however, Army doctrine for division operations locates the OPLAW JA in the main CP. Because the Division Commander normally commands the division from the main CP, the SJA will locate himself there, with the OPLAW JA. The SJA and the OPLAW JA will normally divide operational law duties in the main CP, which include participation in the *Deep Operations Coordination Cell (DOCC)*. Each of these judge advocates is a member of the DOCC, which identifies and plans attacks on deep, high-payoff targets and whose members include the Division Artillery (DIVARTY) Commander, the Deputy Fire Support Coordinator (DFSCoord), the Deputy G-3 for Plans, and a G-2 representative. Within the main CP, these judge advocates will locate themselves with the G-3 plans element. Note, emerging doctrine may push the DOCC forward to the TAC CP; this would require a judge advocate in the TAC.

OPLAW duties in the main CP (or, when appropriate, in the TAC CP/assault CP) involve the counselor function and the core legal disciplines supporting the command and control, and sustainment of battlefield operations. Judge advocates provide legal support to combat service support and personnel service support operations from the rear CP or other support location. The SJA and CJA introduce relevant operational law considerations

into DOCC planning and the MDMP by interpreting ROE.

The DOCC uses a methodology known as decide-detect-deliver-assess. This methodology is explained in detail in *Field Manual 6-20-10, Tactics, Techniques, and Procedures for The Targeting Process*.¹⁸² This manual is essential reading for the OPLAW JA and SJA.

The bulk of the SJA section deploys with the combat service support cell of the rear CP¹⁸³ The SJA will position himself with this element as necessary to ensure the provision of professional legal services, but the DSJA normally supervises the performance of legal duties in the rear CP (or sustainment cell). These duties comprise both OPLAW functions (C2 and sustainment), personnel service support, and all six legal disciplines. While all legal personnel in the SJA section must be capable of resolving issues across this entire range of duties, the practice and delivery of OPLAW from within the combat service support cell will be marked by significant division of labor. The volume of legal issues arising and the number of judge advocates available will compel and permit particular judge advocates to concentrate on certain functions and disciplines. In this way, the section will take advantage of special expertise of judge advocates.

The remainder of the division SJA section deploys with the command posts of subordinate brigades, brigade-sized commands, or separate battalions. The SJA will determine which subordinate commands are directly supported by judge advocates serving as *Chiefs of*

Brigade Operational Law Teams (BOLTs). In making this determination, the SJA will consider METT-TC and the principles of tailoring in Chapter 2. BOLTs are discussed later in this chapter.

Army Service Component Command. The Army Service Component Command (ASCC) OSJA structure must be tailored to support C2, sustainment, and support operations for the deployed force. Army legal personnel serve at several levels within a theater. The Army Service Component Command (ASCC) includes an SJA section. The corps, divisional, and separate brigade commands subordinate to the ASCC also include SJA or CJA sections, or BOLTs, as do various supporting theater army area commands (TAACOMs) or theater support commands (TSCs), area support groups (ASGs), Army special operations commands, and other units and functional commands (e.g., personnel commands, medical commands, engineer commands, etc.) in theater. The SJA is the senior judge advocate in the ASCC. The SJA is assisted by the DSJA, other judge advocates, a legal administrator (warrant officer), the CLNCO, and legal specialists. Judge advocates are also located in theater command, group, regiment, and brigade headquarters. Legal specialists are also located in theater command, group, regiment, brigade, and battalion or squadron headquarters. Continuous, reliable communication networks, both secure and non-secure, and RDL linkages with the tactical command and control network and the unclassified Internet (including LAAWS) are essential to provide legal support

throughout the theater. Accurate and timely OPLAW advice to the commander depends on tactical communication linkages. For example, in a digitized headquarters, operational attorneys must have immediate access to MCS-Phoenix. Judge advocates must be diligent to comply with information and operational security requirements when using these resources.

The ASCC SJA is a member of the ASCC commander's personal and special staffs. The TAACOM/TSC SJA is the senior JA within that structure and a member of the TAACOM/TSC commander's personal and special staff. In their respective organizations, they provide advice on all aspects of law and military operations. They supervise the delivery of legal services throughout the theater of operations and are a technical channel conduit. The SJA requires dedicated transportation assets/support to perform these functions throughout the area of operations.

Judge advocates in the ASCC's Early Entry and Operations/Intelligence Modules support the commander and staff in the conduct of military operations. On a twenty-four (24)-hour per day basis, they integrate proactive legal support into all aspects of the conduct of operations. They support current operations and plans. Judge advocates in the TAACOM/TSC Early Entry Module (EEM) provide similar support to TAACOM/TSC early entry operations. This includes the critical role of providing legal review and advice for contracting actions.

Judge advocates in the ASCC Main Module provide specialized legal

knowledge, training, and experience in support of theater-wide operations. They provide centralized services, along with any additional support requirements unable to be filled by judge advocates located in subordinate units. Judge advocates of the TAACOM/TSC provide similar support throughout the TAACOM/TSC and its subordinate units. Judge advocates in the ASCC Rear Module support rear operations and assist contracting officers in the theater rear.

Legal specialists in the ASCC and TAACOM/TSC headquarters work in support of the SJA section and OPLAW JAs. They work under the supervision of judge advocates, collect information, conduct research, and prepare documents. They support judge advocates and commanders and assist in the delivery of legal services. Some legal specialists are specially trained court reporters, who compile verbatim records of judicial and other proceedings. The CLNCO supervises and trains legal specialists throughout the theater of operations. Legal specialists in battalion, squadron, group, regiment, and brigade headquarters provide professional and ministerial support of legal actions. Under the supervision of judge advocates, they provide the critical forward assistance for the judge advocates and facilitate the delivery of legal services and the judge advocates' legal advice.

Corps. The SJA is the senior judge advocate in the corps. The SJA is assisted in the corps headquarters by the DSJA, other judge advocates, a legal administrator (warrant officer), the CLNCO, legal specialists, and JAGC

civilian personnel. Judge advocates support the corps support command (COSCOM), and each group, regiment, and separate brigade headquarters. METT-TC dependent, the SJA can task organize legal support below separate brigades. Legal specialists support each group, regiment, separate brigade, and battalion or squadron headquarters. Continuous, reliable communication networks, both secure and non-secure, and RDL linkages with the tactical command and control network and the unclassified Internet (including LAAWS) are essential to provide legal support throughout the theater. Accurate and timely OPLAW advice to the commander depends on tactical communication linkages. For example, in a digitized corps, OPLAW JAs must have immediate access to MCS-Phoenix. Judge advocates must be diligent to comply with information and operational security requirements when using these resources.

The SJA is a member of the corps commander's personal and special staffs. The SJA provides legal advice to the commander on all aspects of law and military operations. The SJA supervises the delivery of legal services throughout the corps and exercises operational control over all JAGC personnel assigned to the corps. The SJA provides technical supervision and provides support as necessary to division, separate brigade, and armored cavalry regiment judge advocates within the corps. The SJA exercises operational control over additional legal assets, legal organizations, or legal teams that are assigned to the corps area, except military judges who perform independently under the U.S. Army Trial

Judiciary, and Defense Counsel who perform independently under the U.S. Army Trial Defense Service. The SJA task organizes legal assets to provide responsive legal support throughout the corps areas of operation, and as far forward on the battlefield as necessary. The SJA requires dedicated transportation assets/support to perform these functions throughout the area of operations.

The DSJA acts for the SJA, administers the full range of legal services throughout the area of operations, mentors legal personnel, supervises legal operations in the Army of Excellence Corps Rear Command Post, or at other separate locations, and plans collective training.

Judge advocates in the corps tactical command post advise the corps commander and the battle staff on legal issues associated with the conduct of military operations. On a twenty-four hour per day basis, they integrate proactive legal support into all aspects of the conduct of operations.

Judge advocates located at the corps main command post provide specialized knowledge, training, and experience in support of corps-wide operations. They provide operational law and core legal discipline support at the main CP. They support group, regimental, command, and brigade judge advocates.

Judge advocates in the corps G3 plans and operations sections, information operations, or other operational cells provide legal advice and assistance in support of plans, targeting operations, and current

operations in the corps main command post.

Judge advocates at the Army of Excellence corps rear command post, or other support location, provide specialized knowledge, training, and experience in support of corps rear operations. They are prepared to assume the mission of the corps main legal section. They provide centralized legal services relating primarily to personnel support operations, but they also assist the SJA with C2 and sustainment legal support as required.

Legal specialists in the corps headquarters work in support of the OSJA and OPLAW JAs. They work under the supervision of judge advocates, collect information, conduct research, and prepare documents. They support judge advocates and commanders and assist in the delivery of legal services. Some legal specialists are specially trained court reporters who compile verbatim records of judicial and other proceedings. The CLNCO supervises and trains legal specialists throughout the corps.

Judge advocates in the COSCOM, group, regiment, and separate brigade headquarters provide legal support to the commanders in all functional areas (to include subordinate commanders at all levels), staffs, leaders, and soldiers of the unit. In addition to OPLAW duties, the COSCOM judge advocate may be tasked to provide or coordinate for contract law advice in support of the COSCOM.

Legal specialists in the COSCOM, group, regiment, brigade, battalion, and squadron headquarters support the

processing of legal actions. Under the supervision of judge advocates, they provide the critical forward assistance for the judge advocates and facilitate the delivery of legal services and the judge advocates' legal advice.

***Division/Separate
Brigade/Armored Cavalry Regiment.***

The division SJA section is the lowest-echelon, organic, full-service element of legal support to operations. It is modular—capable of being tailored to provide legal support for specific missions that may be undertaken during a war. It also features significant synergy—a product of bringing together diverse, technically skilled legal professionals and providing them the informational and legal research infrastructure necessary for tackling complex legal issues.

Each division receives the organic full-service operational legal support of a complete SJA section because divisions are depended upon to fight battles and engagements (the tactical level) in such a way as to achieve success at the operational level. An Army corps is two or more divisions. An Army division is a unit that combines in itself the necessary arms and services required for sustained combat.

There are different types of divisions—armored, mechanized, light infantry, airborne, and air assault,—and not all of these types are exclusive. For instance, airborne divisions are capable of all missions assigned to light infantry divisions.

The essence of a combat division is that it trains and fights as a team, and it has the necessary equipment to fight for a significant time. Although Army doctrine designates the corps as the largest tactical organization, the division is the largest organization that regularly trains as a team. A typical light infantry division has three infantry brigades (each comprising three battalions), an aviation brigade, a brigade-sized artillery element, a brigade-sized logistical support element, and a number of separate battalions. In rough terms, it consists of about 18,000 soldiers equipped with rifles, machine guns, mortars, anti-tank missiles, bridging equipment, air defense missiles, artillery tubes, helicopters, and other weapons and equipment.

A typical mechanized infantry division has two mechanized and one armored brigade (sometimes referred to as "maneuver brigades"), an engineer brigade, an aviation brigade, a brigade-sized artillery element, a brigade-sized logistical element, and a number of separate battalions. The maneuver brigades will include, as a whole, five mechanized and five armored battalions, task organized by the division commander according to METT-TC. A typical armored division features the same capabilities as the mechanized infantry division except that it has two armored brigades and one mechanized brigade. These maneuver brigades in the armored division will include, as a whole, six armored and four mechanized battalions task organized into brigades according to METT-TC.

This manual focuses on division SJA section deployment during war or other

prolonged operations because the division is the focus of Army warfighting doctrine. However, the division SJA section model also provides a guide for achieving the proper balance of modularity and synergy in SJA sections that support corps, TAACOMs/TSCs and other large commands. Although military operations other than war (MOOTW) sometimes require the deployment of entire division SJA sections, military operations in war invariably require such deployment. In war, the division SJA is the ultimate practitioner of OPLAW. He positions himself at all times to support the division commander, who must constantly strive to link the employment of soldiers and materiel to strategic aims. The division SJA organizes the section as necessary to provide professional legal services at all subordinate echelons of command.

The SJA is the senior judge advocate in the division. The SJA is assisted in the division headquarters by the DSJA, other judge advocates, a legal administrator (warrant officer), the CLNCO, and legal specialists. Judge advocates support each brigade to include the division artillery (DIVARTY), the Engineer Brigade, and DISCOM headquarters. Legal specialists also support each brigade, battalion, or squadron headquarters. Continuous, reliable communication networks and RDL linkages to C2, sustainment, and support systems and LAAWS are essential to provide legal support throughout the division. Particularly in digitized divisions, where brigades may have extraordinary lines of communication, brigade judge advocates must be prepared to provide

all functional areas of legal support across all six legal disciplines. For this to occur, the OPLAW JA must have access to the commander and continuous secure and non-secure communication and automation capabilities. Judge advocates must be diligent to comply with information and operational security requirements when using these resources.

The SJA is a member of the division commander's personal and special staffs. The SJA provides legal advice to the commander on all aspects of law and military operations. The SJA supervises the delivery of legal services throughout the division and exercises operational control over JAGC personnel assigned to the division and its subordinate units. The SJA requires dedicated transportation assets/support to perform these functions throughout the area of operations.

The DSJA is normally the second most senior judge advocate. The DSJA acts for the SJA, administers the full range of legal services throughout the area of operations, mentors legal personnel, supervises the brigade judge advocates, and plans collective training.

Judge advocates in the OSJA provide specialized legal knowledge, training, and experience in support of division C2, sustainment, and support operations. They provide centralized services and augment brigade judge advocates. The JAGC provides OPLAW support and comprehensive legal services in core legal disciplines throughout all phases of military operations. Mission, enemy, terrain, troops, time available, and civilians

(METT-TC) impact the precise location for delivery of services. OPLAW support is provided as part of an overall plan for delivery of comprehensive legal services. OPLAW support is generally provided at the division tactical operations center, division G-3 plans and operations sections, division information operations cell, targeting cell, and each brigade headquarters. Based on mission requirements, OPLAW support may be provided to battalion and smaller-sized organizations.

Legal specialists in the division headquarters work in support of the SJA and OPLAW JA. They work with, and under the supervision of, judge advocates, collect information, conduct research, and prepare documents. They support judge advocates and commanders and assist in the delivery of legal services. Some legal specialists are specially trained court reporters who compile verbatim records of judicial and other proceedings. The CLNCO supervises and trains legal specialists throughout the division.

Judge advocates in the division's TAC CP advise the division commander, the assistant division commander, and the battle staff on legal issues associated with the conduct of military operations. On a twenty-four (24)-hour per day basis, they integrate proactive legal support into all aspects of the conduct of operations.

Judge advocates in the division G3 plans, operations, or information operations sections provide legal advice and assistance in support of plans, ROE, targeting operations, and current

operations in the division main CP. The commander or SJA may task organize his judge advocate support to optimize situational awareness, such as providing dedicated legal support to the emerging information operations (IO) cell.

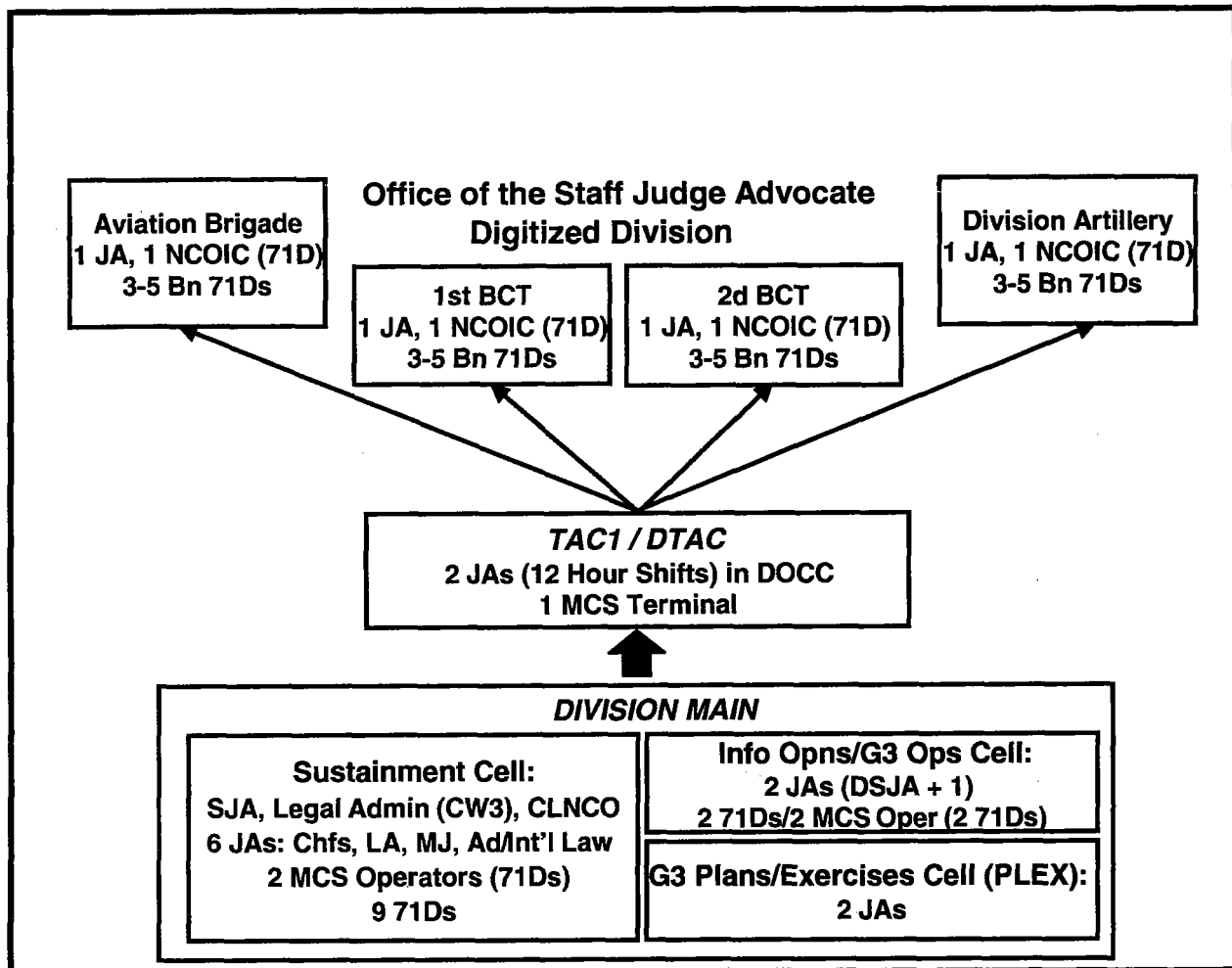


Figure 5-1

The above diagram depicts one model of judge advocate organization to support provide legal support to the emerging digitized division. Judge advocates are task organized to maximize situational awareness given the potentially enormous division battlespace made possible by technological advances. Note that the BOLT may be hundreds of kilometers from the Division Main.

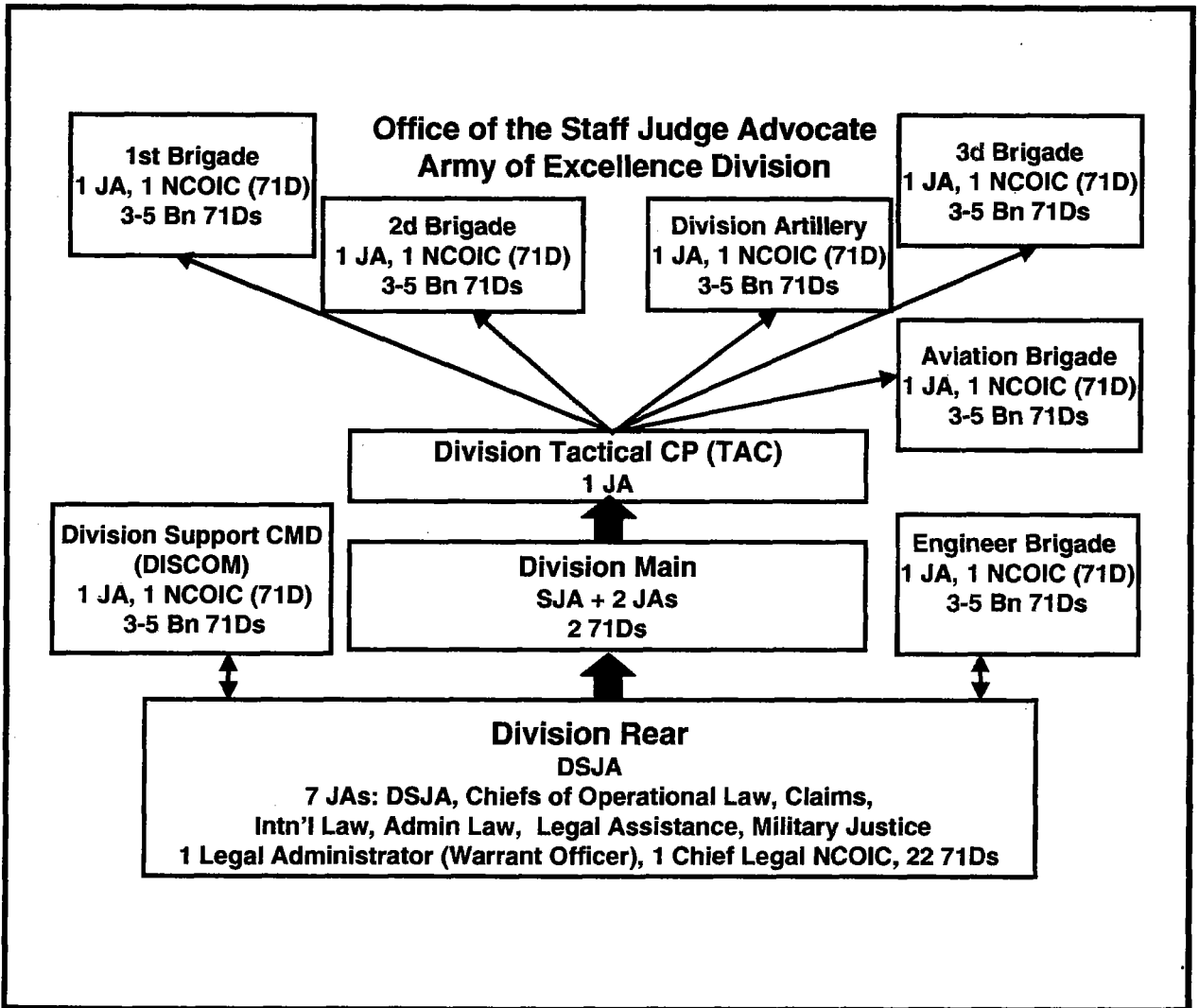


Figure 5-2

Another model of judge advocate organization based on the Army of Excellence.

The Brigade Operational Law Team (BOLT). The SJA task organizes OPLAW support to commanders, staffs, and soldiers of a brigade combat team (BCT) or brigade task force. The SJA identifies early, the *Brigade Judge Advocate*, who serves as Chief of the BOLT. This judge advocate is usually the trial counsel for that brigade while in garrison. The BOLT also includes the legal specialists assigned to the supported BCT. The legal issues facing brigade judge advocates may extend across the full spectrum of OPLAW and the core legal disciplines. Although it is trained and equipped to identify issues across all three functional areas and the six disciplines of legal support to operations, the challenge for the BOLT is always to achieve requisite synergy to resolve complex legal questions within particular disciplines. Often, this synergy can be achieved only by communicating with the division SJA section and other judge advocates in technical channels.

The division SJA, in consultation with the DSJA, determines which subordinate units within the division will be directly supported by BOLTs. The SJA considers METT-TC in making this determination, paying particular attention to the likely complexity and volume of legal issues the subordinate unit will face and to the ability of the unit to receive OPLAW support from assets located with division command posts. The legal specialists that comprise the BOLT are under the supervision of the brigade judge advocate and provide the critical forward assistance for the brigade judge advocate and facilitate the delivery of legal services across the brigade combat

team. The provision of timely and accurate legal support requires the combined team of the legal specialist and the brigade judge advocate. There are instances, however, when a brigade judge advocate is required to support more than one brigade. Further, a judge advocate deploying with the brigade may have requirements to support other organizations within the area of operations. These variables emphasize the brigade judge advocate's need for mobility and communication capability.

The DISCOM BOLT should have training or experience in contract law. In addition to other legal duties, the DISCOM brigade judge advocate may be tasked to provide or coordinate for contract law advice in support of the DISCOM.

Judge advocates and legal specialists serving in BOLTs must understand the capabilities and role of brigade-sized units in the Army. The brigade is the first unit in the infantry or armored soldier's upward chain of command that includes a full range of soldiers who do tasks very much different from his own. A brigade task force includes interrogators, counterintelligence operatives, attack helicopter pilots, howitzer crew chiefs, Marine Corps air and naval gunfire liaisons (ANGLICO), heavy anti-tank weapon gunners, bulldozer operators, air defense gunners, fuel bladder technicians, engine repairmen, water purifiers, ambulance drivers, physicians, and graves registrars. The brigade is the smallest unit in the Army that must integrate all of the seven battlefield operating systems—intelligence, maneuver, fire support, mobility/survivability, air

defense, combat service support, battle command—into a potent whole. Brigade task forces that deploy with BOLTs and brigade surgeons are also the smallest units in the Army that have their own legal and medical professionals in the field. For a more detailed explanation of brigades and how they are organized and fight, *see, e.g.*, DEP'T OF ARMY FIELD MANUAL 71-3, THE ARMORED AND MECHANIZED INFANTRY BRIGADE (8 Jan. 1996); DEP'T OF ARMY FIELD MANUAL 71-123, TACTICS AND TECHNIQUES FOR COMBINED ARMS HEAVY FORCES: ARMORED BRIGADE, BATTALION TASK FORCE, AND COMPANY TEAM (30 Sep. 1992).

The BOLT must be present in the TOC or TAC, have access to the commander, and have the training, mobility, secure communications and equipment to provide the right answers at the right time and place. Legal support to operations contributes to several other battlefield operating systems in addition to combat service support. The most prominent of these is the command and control system, but intelligence, maneuver, fire support, mobility/ countermobility/ survivability, and air defense also require OPLAW support. In serving within these other systems, the BOLT must be prepared both to identify and resolve the full range of legal issues—across the legal functional areas and core legal disciplines—by inserting sound analysis and recommendations into the brigade's MDMP.

Legal support to operations must be managed with careful attention to what can and must be done at each echelon of

command. Accordingly, the BOLT cannot and does not attempt environmental litigation, legal representation in foreign legal systems, review of high dollar-value contracts, convening of general courts-martial, conclusion of international agreements, drafting of inter vivos trusts, review of Foreign Military Sales cases and other highly technical services. The BOLT seeks to practice preventive law and to identify the full range of legal issues that need to be raised to higher echelons.

5.5.5 Brigade Command and Control Facilities

Judge advocates serving as Chiefs of BOLTs must understand the brigade command and control facilities. They are adept at obtaining information from the flow of messages into and out of these facilities, at inserting important information into that flow, at helping the brigade staff determine what ingredient the decision process needs, and in supplying the needed ingredient.

The brigade has four types of command and control facilities: the command group, the tactical CP, the main CP, and the rear CP. Like the command posts discussed at division level in Chapter 5, the brigade CP must be able to ensure that the commander is continually abreast of the developing situation that subordinate commanders are provided with the means to accomplish their assigned missions.

The brigade *command group* is a temporary organization consisting of the brigade commander and other soldiers and equipment required to perform command group functions. The primary

function of the command group is to influence the immediate action through the commander's personal presence. Other functions include observing the battlefield, synchronizing the battle, and providing planning guidance. The command group moves forward from the tactical CP. The command group sometimes operates from a command and control helicopter.

The *tactical command post (TAC CP)* fights current close operations, provides the commander with combat critical information, and disseminates the commander's decisions. It is supervised by the brigade S-3 and is usually as far forward as the battalion main CPs. The TAC CP should strive to have redundant abilities in personnel and equipment at the main command post.

The *main command post* monitors the current battle, executes planned deep attacks, and plans future operations. It coordinates operations throughout the brigade sector and keeps higher headquarters informed. It is supervised by the brigade executive officer (XO) and includes staff personnel representing all facets of brigade operations. The *tactical operations center (TOC)* is the operations cell within the main command post.

The forward support battalion (FSB) commander supervises the *rear command post*, which is collocated with the forward support battalion CP. The rear CP is responsible for administrative/logistic functions. The rear CP or the direct support artillery battalion main CP is usually designated as the brigade alternate CP. The forward

support battalion commander is responsible for fighting rear operations.

An infantry brigade must maintain continuous, synchronized operations. To establish the necessary "battle rhythm" to make this happen, the brigade makes optimal use of scheduled conference calls, shift change briefings, and battle update briefs (BUBs). The brigade commander conducts conference calls with his subordinate commanders at regular intervals shortly after the division conference calls. The shift change brief is supervised by the outgoing TOC shift OIC and is designed to exchange information between the outgoing and incoming shifts. It can also serve as a commander's update, but the primary audience is the incoming shift. Battle Update Briefs are called on an as-needed basis to update the TOC on current and significant events.

Occasionally, when he can be expected to make a direct contribution to current operations, the brigade judge advocate will deploy with the TAC CP or accompany the brigade command group. As a general rule, however, the brigade judge advocate will deploy with the main CP. Because the brigade commander normally commands the brigade from the main CP, this is the optimal position for the brigade judge advocate. The brigade judge advocate, supported by the brigade legal specialist, will provide OPLAW support in the main CP, which will include participation in the brigade's targeting process. When in the TOC at the main CP—as opposed to the TAC or assault CP—the brigade judge advocate or legal specialist should locate themselves

adjacent to the PSYOP and civil affairs elements.

The brigade level legal specialists of the BOLT deploy with the rear CP, at the administrative and logistics operations center (ALOC). They are supervised in their OPLAW duties by the BOLT element in the main CP. The brigade judge advocate and legal specialist communicate regularly with the remainder of the BOLT in the rear CP. They also periodically travel there to provide leadership and guidance, to provide legal assistance and complete other tasks that cannot be attempted in the main CP, and to ensure that legal specialists are utilized in support of the operational law mission.

The present manual identifies the BOLT as the model of modular legal support to an Army unit smaller than division size. Many of the organizational principles defining the BOLT can be applied to good effect in the modular legal support teams that deploy with special operations elements. For example, the SJAs of United States Army Special Operations Command and United States Army Special Forces Command face the same challenges in generating synergy around the legal challenges that confront the Group Judge Advocates and OPLAW teams that deploy with special forces groups. Although the unique mission of special forces groups will inevitably raise distinct legal questions (see the discussion of special operations in Chapter 4), these judge advocates and teams, like BOLTs, must be able to identify a broad range of legal issues, and coordinate those issues with higher technical channels, while focusing on a

band of issues critical to sound decision-making by command and staff.

5.6 MATERIEL IN WAR

The practice and delivery of legal support in war may be marked by heavy and persistent demand for administrative law, contract, or fiscal law opinions, foreign claims adjudication, for advice on United States obligations under treaty or foreign legal provisions, and for interpretations of domestic security assistance statutes. It will likely require the convening of courts-martial. It will require the provision of a high volume of legal assistance services. As discussed earlier, critical legal support within the personnel service support function will surge during predeployment, then remain at a relatively constant volume once in theater. OPLAW—C2 and sustainment—will surge upon entry into the theater with command and control issues dominating legal support during combat operations and sustainment issues just before and after combat operations. As communications improve and weapons lethality continues to increase the battlespace, judge advocates must be linked into the tactical and non-tactical communication systems. To effectively provide OPLAW advice to the commander at the critical time and place on the battlefield, judge advocates must remain aware of the tactical situation and have access to the commander.

The materiel that accompanies the division SJA section must be sufficient in types and quantities to meet these requirements. Chapter 4 described in general terms the automation, mobility,

and communications equipment necessary for OPLAW elements to accomplish their missions.

The materiel requirements of the SJA section in prolonged, large-scale operations are not limited to automation, mobility, and communications equipment. CD ROM and hard copy books and forms are also needed to back up essential references, or for frequent use or consultation.

The need for courts-martial to maintain good order and discipline will require the establishment of a courtroom, judge's chamber, deliberation room, and private locations suitable for interviewing witnesses or the accused by counsel. The frequency of reference to reported case precedents may justify the deployment of hard copy case reporters to augment the cases contained on compact disk. Also, adequate furniture, lighting, court reporter equipment, supplies for the creation of exhibits, and a means for photocopying key documents will be essential to the achievement of justice and due process close to the forward line of troops.

In war, the adequate provision of professional legal services at all echelons of command (to include the companies, battalions, brigades, divisions, and corps making up the tactical level) requires courts-martial to be conducted in theater. Discipline in a combat zone is ill-served by courts-martial conducted far away from the dangers of war.

5.7 TRAINING FOR WAR

The training challenge in today and tomorrow's military is immense. Judge advocates must balance the ever-present mission in garrison with the need to deploy and provide our commanders and soldiers with the full range of legal support in operations. Like their non-legal counterparts, legal personnel must be aware of and train with emerging technologies—global positioning devices (GPS), night vision devices, vehicles, communication means, and automation software and hardware. All legal personnel should be well read on emerging joint and army doctrine and train on individual soldier skills at every opportunity (e.g., SJA section leader development programs, unit exercises, deployment to the Army's Combat Training Centers).

The division SJA, in conjunction with the DSJA, CLNCO, and Legal Administrator, trains the SJA section for wartime deployment using Army training doctrine, the application of which to OPLAW was described in Chapter 4.

The SJA section's METL is the single most important product for conducting battle focused training. The SJA and DSJA must use the process described in Chapter 4 to develop and assess METLs of LSOs/MSOs and/or the judge advocate sections of other RC units within their subordinate wartrace chain of command. This process should be part of the training association relationships between SJA sections and RC units, such as the training relationships created and fostered pursuant to FORSCOM Regulation 27-

1, Judge Advocate Training Association Program (15 Jun 1998).

In planning training to develop proficiency on all mission essential tasks, Battle Command Training Program (BCTP) rotations should be given special emphasis. The BCTP is the only combat training center with the specific mission of providing stressful and realistic training to corps and division staffs on their METLs. SJAs and DSJAs, in conjunction with CLAMO and judge advocate observer-controllers detailed to the BCTP, must ensure that OPLAW issues are fully and realistically integrated into BCTP rotations. Integration of legal issues that have arisen during deployments is essential not only for the effective training of the SJA section; it is essential for the effective training of the command and staff.¹⁸⁴

Chapter 6 Legal Support to Military Operations Other Than War

United States military operations in the Republic of Haiti in 1994 and 1995 represented a comprehensive and stunningly successful application of law to fluid and challenging circumstances. Many Americans will recall the tense beginning, when a large combat force entered Haiti peacefully on terms negotiated in the 11th hour by duly empowered civilian representatives of the United States. Many Americans also will recall how these operations soon achieved the ouster of a dictator, the return to power of an elected Haitian president, and the removal of a threat to regional peace and security. These aspects of the Haiti deployment not only reaffirmed the rule of law, they also held a symbolic and political importance that aroused great popular interest.

Yet other significant applications of law took place day-to-day, at the individual and unit level. Infantry privates balanced initiative with restraint under the rules of engagement while confronting potentially hostile Haitians. Supply clerks distributed food and other items that had been purchased strictly in accordance with acquisition and appropriations laws. Military policemen treated Haitian detainees pursuant both to internal rules and to standards derived from international treaties. Investigating officers performed their duties thoroughly and fairly in gathering evidence about incidents of alleged misconduct. Soldiers, sailors, airmen, and marines remained undistracted by personal concerns, enjoying a sense of security provided by statutory programs of life insurance and legal assistance. With very few exceptions, these men and women in uniform also scrupulously followed orders given by their chain of command, justifying a disciplinary system acknowledged by Congress and the courts to be essential to mission accomplishment.

Center for Law and Military Operations
 Law and Military Operations in Haiti,
 1994-1995 ¹⁸⁵

CONTENTS	PAGE
INTRODUCTION.....	6-2
STRATEGIC CONCEPT.....	6-3
THEATER CONCEPT.....	6-3
Political Objectives.....	6-4
Legal Complexity.....	6-4
Mission Complexity.....	6-4
Command and Control.....	6-4
Interagency Coordination.....	6-5
THE ARMY'S ROLE IN MOOTW....	6-5
Arms Control.....	6-6
Combating Terrorism.....	6-6
Counter-Drug Operations.....	6-6
Enforcement of Sanctions and Exclusion Zones.....	6-6
Humanitarian Assistance.....	6-7
Nation Assistance.....	6-7
Noncombatant Evacuation Operations.....	6-7
Peace Operations.....	6-7
Recovery Operations.....	6-8
Show of Force Operations.....	6-8
Strikes and Raids.....	6-8
Support to Insurgencies.....	6-9
Operations under Armistice Conditions.....	6-9
ORGANIZATION OF LEGAL SUPPORT.....	6-9
LEGAL ASPECTS OF C2, SUSTAINMENT, AND SUPPORT OPERATIONS.....	6-9
Legal Basis for Operation.....	6-10
Status of Forces.....	6-10
International and Interagency Relationships.....	6-11
Use of Force and Rules of Engagement (ROE).....	6-11
Treatment of Civilians.....	6-12
Fiscal Responsibility.....	6-13
Intelligence Oversight.....	6-14
LEGAL TNG REQUIREMENTS	6-14
LEGAL EQUIP REQUIREMENTS....	6-15
SUMMARY.....	6-15

6.1 INTRODUCTION

The last chapter described legal support to operations in war. This chapter describes legal support to military operations other than war (MOOTW) outside the United States. The next chapter describes military operations within the United States.

MOOTW are “[o]perations that encompass the use of military capabilities across the range of military operations short of war. These military actions can be applied to complement any combination of the other instruments of national power and occur before, during, and after war.”¹⁸⁶

Although MOOTW and war may often seem similar in action, MOOTW focus on deterring war and promoting peace while war encompasses large-scale, sustained combat operations to achieve national objectives or to protect national interests. MOOTW are more sensitive to political considerations and often the military may not be the primary player. More restrictive ROE and a hierarchy of national objectives are followed. MOOTW are initiated by the National Command Authorities and are usually, but not always, conducted outside of the United States.¹⁸⁷

There are many types of MOOTW, several having multiple components: arms control, combating terrorism, support to counter-drug operations, enforcement of sanctions and exclusion zones, ensuring freedom of navigation and overflight, humanitarian assistance, nation assistance, noncombatant evacuation operations, peace operations, protection of shipping, recovery

operations, show of force operations, strikes and raids, support to insurgency, and operating under armistice conditions.¹⁸⁸

MOOTW present significant legal challenges to judge advocates. First, they must understand and relate the national and international political and legal frameworks affecting the specific operation. These frameworks affect command authority, ROE, and the success of operations more than they do in war. Second, they must frequently advise commanders concerning the relationships between international forces, joint forces, non-governmental agencies, private voluntary organizations, and U.S. governmental agencies. Third, they must forge consensus among joint, international, government, and private organizations on legal issues, thereby promoting unity of effort and mission legitimacy. Fourth, they must identify and resolve technical legal issues in specialized, fluid, and uncertain operational situations.

To assist judge advocates who support MOOTW, this chapter will describe the strategic and theater concepts common to MOOTW, the Army's role in MOOTW, unique considerations for organizing legal support for MOOTW, prominent legal issues affecting command and control, sustainment, and support operations in MOOTW, and legal training and equipment requirements. Judge advocates should also read current joint and army doctrinal publications on MOOTW.¹⁸⁹

6.2 STRATEGIC CONCEPT

United States security strategy calls for U.S. leadership abroad – “we must lead abroad if we are to be secure at home . . .”¹⁹⁰ As a result, the U.S. “must be prepared and willing to use all appropriate instruments of national power to influence the actions of other states and non-state actors.”¹⁹¹ This leadership requires engagement with U.S. political, economic, and military power to shape the international environment and to promote democracy.¹⁹²

U.S. engagement will be multinational and multidisciplinary. “Durable relationships with allies and friendly nations are vital to our security. A central thrust of our strategy is to strengthen and adapt the security relationships we have with key nations around the world and create new relationships and structures when necessary.”¹⁹³ The United States will use an integrated approach to address threats, including superior military forces, a strong diplomatic corps, and foreign assistance program.¹⁹⁴ Frequently, military operations will be in a supportive role or will support a lead agency.¹⁹⁵

“[O]ur national military objectives are to Promote Peace and Stability and, when necessary, to Defeat Adversaries.”¹⁹⁶ The first of these requires MOOTW.

Components of these objectives include peacetime engagement and deterrence,¹⁹⁷ and may involve any of a variety of military activities. Military activities such as international exercises,

Partnership for Peace, foreign military sales, and military-to-military contacts promote stability, build coalitions, enhance interoperability, and promote democracy.¹⁹⁸ Counterdrug and counterterrorism operations protect Americans and other nationals, and fight drug and terrorist organizations through international cooperation, intelligence and technical support, and nation assistance.¹⁹⁹ Peacekeeping operations support peace agreements and facilitate long term settlements through deployment of military units to monitor and perform other assigned tasks.²⁰⁰ Arms control prevents conflict and reduces threat through treaty verification, weapons security, and weapons seizure, dismantling, or destruction.²⁰¹ Noncombatant evacuation operations protect American citizens abroad and other selected persons by extracting them from a dangerous location to a safe haven.²⁰² Sanctions enforcement of U.S. policy decisions and UN Security Council resolutions includes military operations to interdict movement, prohibit activities in a specific area, or ensure freedom of navigation.²⁰³ Peace Enforcement operations apply military force to maintain or restore international peace and security.²⁰⁴ Military activities also support diplomatic activities such as peacemaking, peace building, and preventive diplomacy.²⁰⁵

6.3 THEATER CONCEPT

There are several unique aspects of the MOOTW theater: the primacy of political objectives, legal complexity, mission complexity, command and control, and interagency coordination.

6.3.1 Political Objectives

“Political objectives drive MOOTW at every level from strategic to tactical.”²⁰⁶ Political directives will authorize and prescribe military operations.²⁰⁷ Political organizations frequently take the lead role.²⁰⁸ Political considerations affect how the military conducts operations.²⁰⁹ Political implications may affect the success of the military operation, or require changes in the operation.²¹⁰ “Having an understanding of the political objective helps avoid actions which may have adverse political effects. It is not uncommon in some MOOTW, for example peacekeeping, for junior leaders to make decisions which have significant political implications.”²¹¹

6.3.2 Legal Complexity

MOOTW theaters are legally complex for three reasons. First, units conducting MOOTW cannot rely solely on traditional law of war rules regarding the use of force, but must develop ROE that accomplish the mission and protect the force consistent with international law and political directives.²¹² Second, MOOTW frequently involve national, multinational, and international legal authority.²¹³ Reconciling the legal concerns of each nation, or concerns between the U.S. and an international organization, is a challenging task.²¹⁴ Third, the legal issues arising during MOOTW may be specialized and widely varied. Commanders will require legal advice in international law, host nation law, fiscal law, security assistance, command authority, and other issues.²¹⁵

6.3.3 Mission Complexity

MOOTW missions occur simultaneously and sequentially, and involve extensive contact with civilians. “Noncombat MOOTW may be conducted simultaneously with combat MOOTW, such as HA [humanitarian assistance] in conjunction with PEO [peace enforcement operations]. It is also possible for part of a theater to be in a wartime state while MOOTW is being conducted elsewhere within the same theater.”²¹⁶ Commanders must plan to transition from war to MOOTW, or from MOOTW to combat.²¹⁷ The mission in Haiti transitioned from sanctions enforcement to peacekeeping, and included plans for simultaneous noncombatant evacuation and either forced or semi-permissive entry into Haiti.²¹⁸

MOOTW missions are complex also because of their impact on civilians. Commanders must be prepared to collect human intelligence concerning political, cultural, and economic factors affecting the operation,²¹⁹ to conduct public affairs, civil affairs, and psychological operations,²²⁰ to provide humanitarian assistance,²²¹ to develop ROE that protect the force without causing civilian casualties,²²² to process civilian detainees,²²³ to process requests for temporary refuge or asylum,²²⁴ and to perform other tasks as the mission requires.

6.3.4 Command and Control

In MOOTW, Theater C2 must account for multinational forces and myriad other organizations. National Command Authorities (NCA) and Joint

Command and Control (C2) over the U.S. military remain generally the same as in war.²²⁵ The President will never “relinquish . . . command authority . . . but . . . may . . . place U.S. forces under the temporary operational control of a competent . . . commander.”²²⁶

Multinational forces may employ several C2 options: the lead nation option, in which one nation provides most of the forces and exercises operational control of the multinational force; the parallel option, in which a mandating organization selects a commander, each nation contributes proportionally to the staff, and each nation provides the commander some degree of operational control; and the regional alliance option, in which an existing multinational headquarters exercises C2.²²⁷ The United Nations Mission in Haiti is an example of the parallel option.²²⁸ Operation Joint Endeavor in Bosnia is an example of the regional alliance option.²²⁹

6.3.5 Interagency Coordination

Coordination with U.S. agencies, nongovernmental organizations, and private voluntary organizations is essential to understand the situation and society involved,²³⁰ and to ensure unity of effort.²³¹ “For MOOTW outside the United States, the lead agency will normally be the Department of State (DOS) and the U.S. Ambassador will coordinate U.S. activities through an established Country Team with representation from all U.S. departments and agencies in that country, including DOD.”²³² A Civil-Military Operations Center (CMOC) can provide effective coordination with nongovernmental and

private voluntary organizations.²³³ Forty nongovernmental and private voluntary organizations were in Haiti;²³⁴ four-hundred were in Bosnia.²³⁵ Because there are so many agencies and organizations, each with its unique authority and capabilities, judge advocates should consult the references in footnote 189 of this chapter for more specific information.

6.4 THE ARMY'S ROLE IN MOOTW

The Army's role in MOOTW outside the United States is to perform specific DoD missions, normally as part of a joint force, normally under the lead of DoS, and in coordination with U.S. government, nongovernmental, and private voluntary organizations.²³⁶ These missions involve myriad legal concerns, the most important of which are addressed later in this chapter.

The doctrine on the types of MOOTW, and the interrelationships between them is developing. This section will describe common Army MOOTW missions outside the United States: arms control, combating terrorism, counter-drug operations, sanctions enforcement, humanitarian assistance, nation assistance, noncombatant evacuation operations, peace operations, recovery operations, show of force, strikes and raids, support to insurgencies, and operations under armistice conditions. Because doctrine is developing, judge advocates should consult the current doctrine when planning or conducting an operation.

6.4.1 Arms Control

Arms control is a plan, based upon international agreement, that governs the numbers, types, or characteristics of weapon systems, or the strength, organization, equipment or employment of armed forces.²³⁷ Potential army missions include verifying treaty provisions, seizing weapons of mass destruction, escorting weapon deliveries, or disposing of weapons.²³⁸ The army may also participate in confidence building measures, including inspections, base visits, and equipment demonstrations.²³⁹

6.4.2 Combating Terrorism

Combating terrorism includes antiterrorism and counterterrorism.²⁴⁰ Antiterrorism involves “defensive measures used to reduce the vulnerability of individual and property to terrorist acts, to include limited response and containment by local military forces.”²⁴¹ Antiterrorism programs are comprehensive; they include threat analysis, vulnerability assessments, information security, operations security, personnel security, physical security, crisis management planning, tactical measures to contain or resolve incidents, training, and public affairs.²⁴² “A well-planned, systematic, all-source intelligence and counterintelligence program is essential.”²⁴³ Counterterrorism is a special operations mission that involves “offensive measures taken to prevent, deter, and respond to terrorism.”²⁴⁴ Response measures “include preemptive, retaliatory, and rescue operations.”²⁴⁵

6.4.3 Counter-Drug Operations

While counter-drug operations primarily support U.S. law enforcement agencies,²⁴⁶ they also support the national drug control strategy goal of breaking foreign sources of supply.²⁴⁷ Counter-drug support to foreign nations is provided through security assistance programs and civil-military operations.²⁴⁸ Security assistance programs provide equipment needed to meet the drug threat, services related to the equipment, and training in drug enforcement when granted exceptions to restrictions on police training.²⁴⁹ Civil-military counter-drug operations in foreign countries include providing information about the host nation drug culture, cooperative programs to reduce drug trafficking, providing collateral intelligence to host nation authorities, and assisting host nation information programs.²⁵⁰

6.4.4 Enforcement of Sanctions and Exclusion Zones

Sanctions and exclusion zone enforcement are coercive measures to enforce decisions of competent national or international authorities.²⁵¹ The military objectives are to establish barriers to the flow of goods, or to prohibit certain activities in specific geographic areas.²⁵² Operations SUPPORT DEMOCRACY off Haiti in 1993, SOUTHERN WATCH in Iraq in 1992, and DENY FLIGHT in Bosnia in 1993 are examples of sanctions and exclusion zone enforcement.²⁵³

6.4.5 Humanitarian Assistance

Humanitarian Assistance operations “relieve or reduce the results of natural or manmade disasters or other endemic conditions such as human pain, disease, hunger, or privation in countries or regions outside the United States.”²⁵⁴ Military support is intended to supplement other agencies, and may include command and control, operational planning, intelligence, logistics, or security.²⁵⁵

6.4.6 Nation Assistance

“Nation assistance is civil or military assistance (other than HA [humanitarian assistance]) rendered to a nation by U.S. forces within that nation’s territory during peacetime, crises or emergencies, or war, based on agreements mutually concluded between the United States and that nation.”²⁵⁶ Nation assistance includes security assistance, foreign internal defense, and humanitarian and civic assistance programs provided under Title 10 U.S. Code Section 401.²⁵⁷ Security assistance provides defense articles, training, and services under the Foreign Military Sales Program, Foreign Military Financing Program, International Military Education and Training Program, Economic Support Fund, and Arms Export Control Act sales.²⁵⁸ Foreign Internal Defense is a Special Operations mission that enables foreign nations to fight subversion and insurgency.²⁵⁹ These missions include support to security assistance, joint and combined exercises, exchange programs, civil-military operations, sharing intelligence and logistical support, and combat operations when approved by National Command Authorities.²⁶⁰

Humanitarian and civic assistance programs are “provided in conjunction with military operations and exercises, and must fulfill unit training requirements that incidentally create humanitarian benefit to the local populace.”²⁶¹ This assistance may take the form of medical, dental, and veterinary care, and rudimentary construction.²⁶²

6.4.7 Noncombatant Evacuation Operations

Noncombatant evacuation operations evacuate U.S. citizens and selected non-U.S. persons from a foreign country.²⁶³ These operations normally include “swift insertions of a force, temporary occupation of an objective, and a planned withdrawal upon completion of the mission.”²⁶⁴ Depending upon the specific mission and situation, these operations may require medical and dental support, combat search and rescue, mortuary affairs, public affairs, psychological operations, and command and control warfare.²⁶⁵ Evacuee processing may occur in country or in a safe haven,²⁶⁶ and may involve searching and segregating personnel, inspecting for restricted items, providing logistical, medical, and chaplain support, and requests for asylum or temporary refuge.²⁶⁷

6.4.8 Peace Operations

Peace operations “support diplomatic efforts to reach a long-term political settlement and [are] categorized as peacekeeping operations . . . and peace enforcement operations.”²⁶⁸ Military operations such as preventive deployment, military-to-military

contacts, or other MOOTW may also support preventive diplomacy, peacemaking, or peace building.²⁶⁹

Peacekeeping Operations (PKO) are “military operations undertaken with the consent of all major parties to a dispute, designed to monitor and facilitate implementation of an agreement . . . and support diplomatic efforts to reach a long-term solution.”²⁷⁰ PKO tasks are specific to the mission and may include observing and monitoring compliance, investigating alleged violations, negotiating and mediating with the parties, supervising cease-fires or other aspects of the agreement, and assisting civil authorities.²⁷¹ PKO planning considerations include, but are not limited to, compliance with the international mandate, terms of reference (TOR), and Status of Forces Agreement (SOFA); coordination with nongovernmental organizations and private voluntary organizations; coordinating the sources and funding responsibilities for logistical support; methods for collecting information; developing rules of engagement restrictive enough to comply with the mandate and robust enough to protect the force; procedures for addressing foreign claims; and procedures for handling dislocated civilians.²⁷²

Peace Enforcement Operations (PEO) “are the application of military force or the threat of its use, normally pursuant to international authorization, to compel compliance with resolutions or sanctions designed to maintain or restore peace and order.”²⁷³ PEO tasks are also mission specific and may include “enforcement of sanctions and exclusion zones, protection of HA,

operations to restore order, and forcible separation of . . . parties” and conducting internment or resettlement operations.²⁷⁴ PEO planning considerations are similar to PKO, but also include more emphasis on intelligence collection, fire support, mobility and survivability; and ROE that enable the use of force to compel compliance while minimizing collateral damage.²⁷⁵

6.4.9 Recovery Operations

“Recovery operations are conducted to search for, locate, identify, rescue, and return personnel or human remains, sensitive equipment, or items critical to national security.”²⁷⁶ They may occur in either friendly or denied areas.²⁷⁷

6.4.10 Show of Force Operations

Show of force operations demonstrate U.S. resolve through increased visibility of military forces to influence respect for U.S. interests or defuse a situation.²⁷⁸ These operations may include formation of a joint task force, repositioning of forces, patrolling, or conducting exercises.²⁷⁹

6.4.11 Strikes and Raids

“Strikes are offensive operations conducted to inflict damage on, seize, or destroy an objective for political purposes. . . . An example of a strike is Operation URGENT FURY, conducted on the island of Grenada in 1983.”²⁸⁰ “A raid is usually a small-scale operation involving swift penetration of hostile territory to secure information, confuse the enemy, or destroy installations. . . . An example of a raid is Operation EL

DORADO CANYON conducted against Libya in 1986, in response to the terrorist bombing of U.S. Service members in Berlin.²⁸¹

6.4.12 Support to Insurgencies

Support to Insurgencies includes U.S. logistic and training support, but normally not combat operations, for an organized movement to overthrow a constituted government.²⁸² An example was U.S. support to the Mujahadin resistance in Afghanistan during the Soviet invasion.²⁸³

6.4.13 Operations Under Armistice Conditions

An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not defined, the belligerent parties may resume operations at any time, provided always that the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.²⁸⁴ For example, the Korean Armistice Agreement signed on 27 July 1953, shapes the conduct of military operations on the Korean peninsula and there are specific Armistice Rules of Engagement for the Korean theater. Consequently, judge advocates stationed in the Republic of Korea must be familiar with the Korean Armistice Agreement and other sources of international law dealing with armistice agreements.

6.5 ORGANIZATION OF LEGAL SUPPORT

The legal support organization for MOOTW is generally as described in

Chapter 2. Nevertheless, because each MOOTW is unique, SJAs must tailor legal support, and must coordinate technical legal supervision, technical support, and augmentation requirements for the specific situation and mission. When tailoring legal support for MOOTW, SJAs should consider mission-specific requirements for legal duties and skills. MOOTW require judge advocates to perform additional mission-specific duties.²⁸⁵ During operations in Haiti, for example, legal personnel supported refugee operations in Panama and Cuba, the Joint Interrogation Facility, the Joint Logistics Support Command, and the United Nations Mission in Haiti headquarters.²⁸⁶ In Bosnia, judge advocates supported each Battalion Task Force, a level of command lower than normal, and served as advisors to Joint Military Commissions.²⁸⁷ During both operations, split-based operations generated requirements for additional legal resources.²⁸⁸

6.6 LEGAL ASPECTS OF C2, SUSTAINMENT, AND SUPPORT OPERATIONS

While SJAs must always provide support in OPLAW and the core legal disciplines described in Chapter 3, SJAs should pay special attention to the following prominent legal concerns arising in MOOTW outside the United States. Although this section outlines only the principal concerns, the potential MOOTW missions, situations, and corresponding legal issues are myriad. Therefore, legal personnel should consult the Operational Law Handbook²⁸⁹ and other legal sources for

detailed information about the legal aspects of various types of MOOTW.

6.6.1 Legal Basis for the Operation

The legal basis for an operation derives from international and domestic law, and the decisions of competent authority.²⁹⁰ It may be expressed in U.N. Security Council Resolutions, regional security organization resolutions, international agreements, U.S. National Command Authorities decisions, orders, mandates, terms of reference, or other forms. While U.S. National Command Authorities consider international and domestic legal authority when ordering military operations, judge advocates advising military commanders must know the legal basis for the operation for two important reasons.

First, a clear understanding of the legal basis promotes the legitimacy of the operation. "A clear, well-conceived, effective, and timely articulation of the legal basis for a particular mission will be essential to sustaining support at home and gaining acceptance abroad."²⁹¹ Therefore, OPLAW JAs must understand the legal basis and brief commanders, enabling them "to better plan their missions, structure public statements, and conform their conduct to national policy."²⁹² Commanders' statements and conduct contribute to legitimacy by demonstrating adherence to law and authority.²⁹³ Commanders and judge advocates must also educate the soldiers about the operation's purpose and legal basis. Informing the soldiers will help their morale and improve their ability to communicate and cooperate with local civilians, other

nations' forces, and nongovernmental organizations.

Second, the legal basis of the operation guides the commander in many ways. It may affect the operation's purpose,²⁹⁴ scope,²⁹⁵ timing,²⁹⁶ and ROE;²⁹⁷ the status of personnel;²⁹⁸ the command's relationships with military and non-military organizations;²⁹⁹ and the applicable funding authorities.³⁰⁰ Therefore, OPLAW JAs must obtain and study all relevant international organization resolutions and international agreements, the mandate, the terms of reference, and higher command orders. Furthermore, OPLAW JAs must be diligent throughout the planning and conduct of the operation to incorporate legal guidance from these documents into the relevant portions of all operations plans and orders.

6.6.2 Status of Forces

The status of forces is of critical concern to commanders during MOOTW overseas.³⁰¹ Because the jurisdictional default to the Law of the Flag does not normally apply in MOOTW, numerous legal issues affecting the success of the operation must be resolved, including host nation criminal and civil jurisdiction, authority to conduct law enforcement activities including trials by courts-martial, claims against the U.S. or U.S. personnel, authority for U.S. forces to carry arms and use force, force protection, entry and exit requirements, customs and tax liability, contracting authority, authority to provide health care without a local medical license, vehicle registration and licensing, communications support,

facilities for U.S. forces, hiring of local personnel, authority to detain or arrest, and provisions for transferring custody.³⁰² These issues can become significant issues for the SJA and the entire command.³⁰³

SJAs and OPLAW JAs must identify and resolve status of forces issues beginning early in the planning process and continuing throughout the operation. There are several strategies available to resolve status concerns. First, look to existing agreements, which should be available at the Unified Command, Component Command, or International and Operational Law Division, OTJAG.³⁰⁴ Second, consider the need for additional agreements and inform the proper authority under Army Regulation 550-51 of any requirements.³⁰⁵ Agreements can be negotiated during or after operations.³⁰⁶ Third, consider whether conventions on the status of United Nations personnel apply and are adequate.³⁰⁷ Fourth, consider whether an agreement is unnecessary because the Law of the Flag applies or there is a jurisdictional vacuum.³⁰⁸ Finally, where compliance with host nation law is required, inform the command of these requirements and consider measures to mitigate the impact on the operation.

6.6.3 International & Interagency Relationships

Information describing the basic relationships existing between military organizations, and with non-military agencies and organizations is provided earlier in this chapter, and in references cited in footnote 5. Commanders will encounter three general concerns

involving international and interagency relationships that require judge advocate support: questions concerning command authority,³⁰⁹ requirements for legal liaison and coordination,³¹⁰ and conflicting legal concerns.³¹¹

SJAs and OPLAW JAs must perform several important tasks relating to these concerns. They must advise commanders about their legal authority in relation to other commands, agencies, and organizations. They must coordinate legal advice and actions with all relevant commands, agencies, and organizations.³¹² They must perform liaison as directed by the commander, which may include liaison with the International Committee of the Red Cross and legal officers in other troop contributing nations, participating in the Civil-Military Operations Center, and giving briefings for the Joint Military Commission.³¹³ Finally, they must take the initiative to find innovative solutions to conflicting legal concerns.³¹⁴

6.6.4 Use of Force & Rules of Engagement (ROE)

The general principles and judge advocate tasks relating to the interpretation, drafting, dissemination, and training of ROE discussed in Chapter 8 and the Operational Law Handbook apply in MOOTW.³¹⁵ The general purposes of ROE—to accomplish the mission and protect the force—also remain valid.³¹⁶ U.S. forces will always retain the inherent right of self-defense.³¹⁷ The Chairman of the Joint Chiefs of Staff (CJCS) Standing ROE (SROE) will generally, but not always, apply in MOOTW.³¹⁸

Nevertheless, there are several unique ROE concerns in MOOTW. "ROE in MOOTW are generally more restrictive, detailed, and sensitive to political concerns than in war . . ." ³¹⁹ Restrained, judicious use of force is necessary; excessive force undermines the legitimacy of the operation and jeopardizes political objectives. ³²⁰ MOOTW ROE considerations may include balancing force protection and harm to innocent civilians or non-military areas, ³²¹ balancing mission accomplishment with political considerations, ³²² protecting evacuees "while not having the authority to preempt hostile actions by proactive military measures," ³²³ enabling soldiers to properly balance initiative and restraint, ³²⁴ determining the extent to which soldiers may protect host nation or third nation civilians, ³²⁵ and the use of riot control agents. ³²⁶ In multinational operations, developing ROE acceptable to all troop contributing nations is important. ³²⁷ Being responsive to changing ROE requirements is also important. ³²⁸

SJAs and OPLAW JAs will be much more involved in ROE interpretation, drafting, dissemination, and training during MOOTW. ³²⁹ Interpretation must consider not only the SROE or other applicable higher headquarters ROE, but also the legal authority for the operation, mandate, and specific political objectives. ³³⁰ Drafting must address considerations such as those discussed in the previous paragraph, and account for the specific concerns of each troop contributing nation. ³³¹ Dissemination must be prompt and responsive throughout all levels of command, from the appropriate political authority to the

individual soldier. ³³² Training should include vignettes, in which soldiers role-play expected situations and train to respond in accordance with the ROE. ³³³

6.6.5 Treatment of Civilians

SJAs and OPLAW JAs face significant challenges regarding the commander's legal obligations toward civilians: determining an individual's status, identifying the specific legal rules that apply, and applying legal rules in a wide variety of operational situations. Generally, while the law of war will not normally govern MOOTW, DoD Dir. 5100.77 and Chairman of the Joint Chiefs of Staff Instruction 5810.01 require U.S. forces always to apply the principles of the law of war in MOOTW as a matter of policy. ³³⁴ Beyond this, however, the issues become complex.

The legal complexity relates to the three challenges identified above. The status of civilians encountered may include U.S. civilians, host nation civilians, third country civilians, diplomats, media, criminals, host nation civilian officials, armed civilian groups, international organization employees, non-governmental and private voluntary organization personnel, refugees, contractors on the battlefield, and other personnel. ³³⁵ The applicable law will always include the principles of the Law of War, and may also include the customary international law of human rights, the Universal Declaration of Human Rights, human rights treaties, provisions of Protocols I & II, or host nation law. ³³⁶ The operational situations may include maintaining public order, ³³⁷ applying military force, ³³⁸ providing humanitarian assistance, ³³⁹ processing

evacuees,³⁴⁰ media relations,³⁴¹ handling refugees or requests for asylum,³⁴² enforcing civilian compliance with mandates,³⁴³ detentions,³⁴⁴ or other situations.

SJAs and OPLAW JAs must perform several important tasks relating to the treatment of civilians. First, they must begin early in the planning process to identify the situations in which civilians will be encountered and the applicable law.³⁴⁵ Second, as noted in the previous section, they must include guidance relating to the treatment of civilians in the ROE. Third, the SJA must coordinate with Civil Affairs personnel regarding the SJA's role as the sole legal advisor to the commander.³⁴⁶ Fourth, they must be immediately accessible for legal advice as situations occur.³⁴⁷ Fifth, they must ensure that detention of civilians is lawful: that detention is based upon proper authority; that the conditions are adequate; and that procedural safeguards are honored.³⁴⁸

6.6.6 Fiscal Responsibility

U.S. fiscal law applies to U.S. forces even when they are part of a multinational force or support U.N., NATO, or other allied or coalition operations. Congressional controls exist to ensure prudent use of public resources, and to promote foreign policy objectives.³⁴⁹ For an overview of fiscal law issues and funding sources, SJAs and OPLAW JAs should consult the Operational Law Handbook.³⁵⁰

Fiscal law issues will pervade the MOOTW theater.³⁵¹ They will arise in all types of MOOTW.³⁵² They will relate to a wide variety of activities, including

training, humanitarian and civic assistance, construction, medical care, transportation, maintenance, LOGCAP, post exchange privileges, morale and welfare programs, and other activities.³⁵³ Requests for support may come from the host nation, U.S. agencies, allies and coalition partners, local civilians, non-government and private voluntary organizations, international military headquarters, the Army itself, and other sources.³⁵⁴ SJAs and OPLAW JAs must be prepared to expend substantial time and effort with fiscal issues.³⁵⁵

SJAs and OPLAW JAs should consider the following procedures and strategies when resolving fiscal issues. First, review all operational plans for compliance with fiscal law.³⁵⁶ Second, as early as possible in the planning process, determine what logistical support agreements exist or are required; many fiscal issues can be resolved through effective use of support agreements.³⁵⁷ Third, analyze fiscal issues using this six-step analysis.³⁵⁸

- Determine the commander's intent.
- Define the mission and specific task to be performed.
- Break down the mission into discrete parts.
- Find the funding authority and appropriation, considering both U.S. funding sources and other funding sources.³⁵⁹
- Articulate the rationale for the specific expenditures.
- Seek approval from higher headquarters when necessary.

Fourth, recommend that the commander establish multidisciplinary logistics and acquisition boards; provide legal advice to these boards.³⁶⁰ Fifth, consider innovative solutions learned from recent experiences.³⁶¹

6.6.7 Intelligence Oversight

MOOTW require “multi-disciplined, all-source, fused intelligence;” human intelligence may be the most useful component.³⁶² Intelligence support is critical to all types of MOOTW.³⁶³ Intelligence collection in MOOTW focuses on “political, cultural, and economic factors that affect the situation” rather than on an enemy’s military capability.³⁶⁴ As a result, intelligence collection and counterintelligence operations involve substantial contact with non-government organizations, private voluntary organizations, the local populace, and allied or coalition partners.³⁶⁵ Because of sensitivities that exist when working with non-military organizations or in U.N. operations, it is frequently appropriate to use the term “information gathering” rather than “intelligence collection.”³⁶⁶

Many intelligence organizations have organic legal support; nevertheless, SJAs and OPLAW JAs must provide intelligence law advice to their own organizations in the development and oversight of operations.³⁶⁷ Therefore, SJAs and OPLAW JAs must be familiar with the legal rules relating to intelligence operations,³⁶⁸ have the security clearances required to access relevant information,³⁶⁹ and be prepared to resolve sensitive intelligence law

issues.³⁷⁰ Technical legal support from SJA, U.S. Army Intelligence and Security Command can assist SJAs and OPLAW JAs with these issues.

6.7 LEGAL TRAINING REQUIREMENTS

The general training principles and procedures in Field Manual 25-100, Field Manual 25-101, and chapter 4 of this manual apply to MOOTW training.³⁷¹ In particular, SJAs must always ensure all legal personnel are proficient in individual skills such as land navigation, handling classified material, first aid, weapons qualification, etc.,³⁷² and that legal organizations are proficient in collective tasks relating to OPLAW and the core legal disciplines. Training for MOOTW, like training for war, requires legal personnel to receive and provide individual and collective training, and to train with the units they support.³⁷³

Nevertheless, MOOTW require mission-specific skills. First, judge advocates must have political-military skills.³⁷⁴ In Bosnia, the legal advisor to the Joint Military Commission advised the commander on the application of the Dayton Accords and drafted correspondence to the military and political factions.³⁷⁵ Other judge advocates coordinated multinational ROE, provided advice concerning persons indicted for war crimes, and communicate with government and non-government organizations.³⁷⁶ Second, deployed legal organizations must have host nation expertise - an understanding of the local law, and the ability to communicate in the local language.³⁷⁷ Third, deployed legal personnel may

require specialized expertise. Special Operations units, which conduct many MOOTW missions, require legal advisors who know special operations missions, structure, doctrine, and tactics.³⁷⁸ In Haiti, experts in civilian legal and judicial functions were required to assist the newly restored Aristide government.³⁷⁹

SJAs should emphasize the following aspects of MOOTW individual training: situational training exercises involving ROE, individual readiness training for the specific operation, and interagency and international cooperation.³⁸⁰ Training in interagency and international cooperation should improve cultural awareness, understanding of the roles of various organizations, and consensus-building skills.³⁸¹

SJAs should become heavily involved in MOOTW mission rehearsal exercises (MRE). First, SJAs must become involved early in MRE planning to ensure the legal aspects of the specific mission are integrated into the mission rehearsal exercise scenario. Second, SJAs should ensure the scenario addresses training needs of two audiences: the command and staff at all echelons, and their legal personnel. Third, SJAs should ensure that deploying legal personnel participate in the exercise with their supported units.³⁸² Fourth, SJAs should ensure that experienced and well-trained legal personnel act as observer-controllers. SJAs of superior commands must provide or coordinate the technical support required to ensure the success of the MRE.

6.8 LEGAL EQUIPMENT REQUIREMENTS

The facilities and equipment generally required to provide legal support described in Chapter 2 are sufficient for legal support to MOOTW. Recent experience in MOOTW confirms the requirements for the RDL, Internet access, electronic legal research capabilities, connectivity with tactical command, control, and communication systems, secure communication and storage capabilities, and dedicated vehicles.³⁸³ SJAs and OPLAW JAs must ensure that RDLs are pre-loaded with the software packages and research materials required for the operation, that battle boxes are adequately supplied, and that other military equipment and office supplies are on hand, and ready for use.³⁸⁴

6.9 SUMMARY

MOOTW present significant challenges to judge advocates. They must master the complex political and legal frameworks common to MOOTW, provide competent advice concerning the roles of various organizations involved in an operation, forge consensus among numerous military and non-military organizations, and resolve technical legal issues. Thorough understanding of the strategic and theater concepts, diligent participation in the planning and conduct of MOOTW, and mastery of the prominent legal issues are essential to accomplishment of the military mission and political objectives.

Chapter 7 The United States as a Theater

7.1 INTRODUCTION

Although a theater of operations, as discussed in Chapter 4, is technically defined as an area "outside the continental United States," emergencies or other circumstances may arise in which a senior commander must provide support within the United States. That is, he must determine when, where, and for what purpose tactical forces, equipment, or other support will be committed in support of strategic aims. Judge advocates supporting operations taking place in the U.S. practice OPLAW and provide legal support to these operations much the same as judge advocates deployed overseas do for foreign operations. Statutes, numerous Department of Defense Directives, and other materials define the parameters of military support to domestic operations. Judge advocates that provide legal support to these operations must have a detailed understanding of the various programs, and their underlying legal authorities, that make up the domestic support arena. This chapter applies to operations in the U.S., including Alaska, Hawaii, Puerto Rico and other U.S. territories and possessions.

Generally, domestic operations fall into three categories: military support to civil authorities (e.g., disaster relief); military support to law enforcement (e.g., civil disturbances, counterdrug operations); and military support to terrorism response (to include those involving weapons of mass destruction) (described later in this chapter as Emerging Threats in the Continental U.S.). This chapter will address each of these categories with a view toward the

specialized nature of training and preparation legal personnel require for these operations.

Commanders and their judge advocates must understand that the DoD plays a support role in domestic operations. DoD acts in *support of* another federal, state, or local government or agency, known as the lead agency. Judge advocates must prepare to work closely with all appropriate organizations and agencies to help the commander stay within the restrictive boundaries of law and policy characteristic of military support in the United States.

CONTENTS	PAGE
INTRODUCTION.....	7-1
ORGANIZING AND EQUIPPING	
JUDGE ADVOCATES.....	7-2
TRAINING JUDGE ADVOCATES....	7-2
MILITARY SUPPORT TO CIVIL	
AUTHORITIES.....	7-3
General.....	7-3
Authorization for Military	7-3
Support.....	
Lead Agency and Military Role	7-4
Rules on the Use of Force.....	7-5
MILITARY SUPPORT TO LAW	
ENFORCEMENT.....	7-6
CIVIL DISTURBANCE OPS.....	7-6
General.....	7-6
Authorization for Military	
Support.....	7-7
Lead Agency and the Role of	
the Military.....	7-7
Rules on the Use of Force.....	7-8
COUNTER-DRUG OPS.....	7-9
General.....	7-9
Authorization for Military	
Support.....	7-10
Lead Agency and the Role of	
the Military.....	7-11
Rules on the Use of Force.....	7-11
TERRORISM.....	7-12

7.2 ORGANIZING AND EQUIPPING JUDGE ADVOCATES

For an SJA, organizing and equipping judge advocates to deliver legal support to domestic operations is no different than it is for war or operations other than war. Based on the METT-TC model (the variance being that the enemy could be an actual disaster, potential threats to force protection in a civil disturbance, or terrorists), the SJA will task organize his legal support to support the command and troops in the operation. The SJA should develop formal or informal training associations with Legal Support Organizations, Reserve Support Commands, or the Army National Guard to obtain the benefit of the experienced reserve component support embedded therein. The National Guard (non-federalized in a Title 32 status) will likely play a significant role in all domestic operations; therefore, SJAs involved in domestic support operations should develop such training associations with National Guard judge advocates. SJAs can expect small task force-sized units that are logistically heavy in terms of troops and mission. Despite the potentially small size of

units that may be called upon to provide assistance, any domestic operation will be legally intensive. While operations covered in other chapters in the publication focus mostly on judge advocate support to brigades and larger organizations, judge advocates should expect to support battalion-sized and smaller units in domestic operations.

7.3 TRAINING JUDGE ADVOCATES

Most judge advocates have little experience or training in domestic operations. This, coupled with the legally intensive nature of military support to domestic operations, is the reason that this chapter focuses on training. TJAGSA's *Operational Law Handbook* and CLAMO are two training resources for domestic operations. The general training principles described previously in chapters 4 and 5 remain the same. Lessons learned from past operations indicate a need for judge advocates to plan, develop legal expertise, and train for the use of the military to respond to domestic events—disasters, civil disturbances, and terrorist threats. That added need is the focus of this chapter.

7.4 MILITARY SUPPORT TO CIVIL AUTHORITIES.

- 18 U.S.C. 1385, *Posse Comitatus Act*.
- 42 U.S.C. 5121, et seq., as amended (*the Stafford Act*).
- 44 CFR Part 206, Federal Emergency Management Agency.
- DoD Dir. 3025.1, Military Support to Civil Authorities, 15 Jan 1993.
- DoD Dir. 3025.15, Military Assistance to Civil Authorities, 18 Feb 1997.
- DoD Manual 3025.1M, Manual for Civil Emergencies, Jun 1994.
- AR 500-51, Support to Civilian Law Enforcement, 1 Aug 1983.
- FM 100-19, Domestic Support Operations, Jul 1993.
- NGB 500-1/ANGI 10-8101, 1 Feb 1996.

This is merely a snapshot of the law on military support to civilian authorities. As is true across all legal disciplines, judge advocates must have access to and stay current in all law relevant to operations. Normally, specific legal references are not included in doctrinal publications. The special nature of domestic operations, however, makes their inclusion prudent.

7.4.1 General

The Department of Defense (DoD) will cooperate with and provide military assistance to civil authorities as directed by and consistent with applicable law and policy. DoD has specified that the Secretary of the Army is the approval authority for emergency military support in response to natural or man-made disasters. Any military support that requires Combatant Command-assigned personnel or equipment will be approved by the Secretary of Defense, after review by the Chairman, Joint Chiefs of Staff (CJCS). The rules concerning military support to civilian authorities do *not* address non-federalized National Guard assets as approved by the state's Governor in support of State and local civilian agencies.

7.4.2 Authorization for Military Support

While state governments have primary responsibility for responding to disasters, federal law provides several means by which federal resources can *assist* State governments in responding. The President can authorize DoD support by:

- Using the Presidential 10-day emergency authority under the *Stafford Act* to perform work for the preservation of life and property (e.g., removing debris/wreckage, restoring essential public facilities/services)
- By declaring a "major disaster" at the request of a State Governor
- By declaring an "emergency" at the request of a State Governor

- Be declaring an “emergency” where the federal government has exclusive or preeminent responsibility and authority (e.g., bombing of a federal building)

Further, civil authorities—defined as nonmilitary Federal, State, or Local government agencies—may ask commanders to take immediate steps to save lives, prevent human suffering, or mitigate great property damage when imminent serious conditions exist from a civil emergency or attack. When such a condition exists and time does not permit prior approval through command channels, commanders are authorized (subject to existing supplemental direction—subsequent notification procedures) to take the necessary action to respond—this is called *Immediate Response Authority*. Conditions that may require such a response include the rescue, evacuation, and emergency treatment of casualties; emergency restoration of power; or food distribution.

7.4.3 Lead Agency Concept and Role of Military

Once the National Command Authorities determine the need to provide federal support, the Federal Emergency Management Agency (FEMA) takes the lead in domestic disaster relief. The Federal Response Plan assigns primary or supporting agency responsibility for each of 12 Emergency Support Functions (ESF)—transportation, communications, firefighting, public works and engineering (ESF 3), information and planning, mass care, resource support, health and medical services, urban

search and rescue, hazardous materials, food, and energy. DoD is the supporting agency in all ESFs except for ESF 3 (DoD is the designated lead agency for ESF 3). FEMA can task organize various agencies—as the lead or supporting agency—across the ESFs. For example, FEMA may task organize for a particular disaster response making the DoD the lead agency for ESF 1 (transportation).

DoD has no authority to provide disaster relief independent from FEMA (except for Commanders’ actions under their Immediate Response Authority, and for military support concerning federal property). Also, FEMA is the reimbursement authority for disaster relief expenditures. Providing military support before FEMA requests the support may make subsequent reimbursement difficult and may result in an unauthorized expenditure of DoD funds. Commanders should consider all relevant fiscal procedures in planning domestic operations.

Commanders and their judge advocates must also consider legal restrictions on the use of military personnel for law enforcement purposes in all domestic operational planning and execution. The Posse Comitatus Act precludes military personnel, in support of disaster relief, from acting in a law enforcement capacity (e.g., security patrols or traffic control in civilian neighborhoods). Active Duty military personnel may not execute civil laws even when requested to do so by stressed local law enforcement officials. These restrictions do NOT apply to non-federalized National Guardsman. Judge advocates must develop a detailed

understanding of the limitations and exceptions to the Posse Comitatus Act.

7.4.4 Rules for Use of Force

The Chairman of the Joints Chief of Staff Standing Rules of Engagement (SROE) do not apply to domestic disaster relief operations. Commanders and their judge advocates must pay particular attention to any guidance on the Rules for Use of Force (the term "ROE" is not used for domestic operations) in the execute order or in any subsequent orders or directives. While most disaster relief operations will occur in a non-hostile environment, soldiers need to know the applicable Rules for Use of Force. DoD Directive 5210.56, Use of Deadly Force and the Carrying of Firearms by DoD Personnel Engaged in Law Enforcement and Security Duties (25 February 1992), provides guidance pertaining to the authorized use of deadly force which may be applicable. A situation where soldiers might be confronted with use of

force situations might include a civil disturbance (e.g., looting) that occurs during disaster relief operations. Other state and local agencies, and perhaps non-federalized National Guardsman, are responsible for law enforcement functions—not federal troops. Again, the Posse Comitatus Act does not apply to the non-federalized National Guard. Commanders must be mindful, however, of force protection and the welfare of their soldiers. Proper training will ensure soldiers understand the rules on the use of force in domestic operations.

Finally, commanders must abide by and consider specified laws and policy on intelligence restrictions, election support restrictions, chaplain activities, payment of claims, debris removal, donated property, environmental compliance, support to relief workers, and the use of volunteers when planning and executing disaster relief and other types of military support operations in the United States.

7.5 MILITARY SUPPORT TO LAW ENFORCEMENT

Military support to law enforcement includes many categories of support. A complex group of laws governs this support. This section will address two of those categories: civil disturbance operations and counter-drug operations.

7.5.1 Civil Disturbance Operations

- 18 USC 1385. (*Posse Comitatus Act*).
- 10 USC 331-334. (Civil Disturbance Statutes).
- DoD Directive 3025.12, Military Assistance for Civil Disturbances (MACDIS), 4 Feb 1994.
- DoD Directive 3025.15, Military Assistance to Civil Authorities, 18 Feb 1997.
- DoD Directive 5525.5, DoD Cooperation with Civilian Law Enforcement Officials, 21 Feb 1986, reissued incorporating Change 1, 20 Dec 1989.
- DoD Civil Disturbance Plan ("Garden Plot"), Feb 1991.
- AR 500-50, Civil Disturbances, 21 Apr 1972
- AR 500-51, Support to Civilian Law Enforcement, 1 Aug 1983.
- NGR 500-1/ANGI 10-8101, Military Support to Civil Authorities, 1 Feb 1996.
- FM 19-15, Civil Disturbances, 25 Nov 1985.
- FM 100-19, Domestic Support Operations, Jul 1993.
- MCO 3000.8B, Employment of Marine Corps Resources in Civil Disturbances, 30 Jul 1979.
- MCO 3440.7. Marine Corps Ass't to Civil Authorities. 1 Jan 92.

This is merely a snapshot of the law on military support to civilian authorities. As is true in all legal disciplines, judge advocates must have access to and stay current in all law relevant to operations.

7.5.1.1 General

The commitment of federal troops to deal with domestic civil disturbances must be viewed as a drastic measure of last resort. Their role, therefore, should never be greater than is absolutely necessary under the circumstances. Commanders should take every measure to avoid the perception of an "invading force." A joint task force designated to respond to a civil disturbance should

project the image of a restrained and well-disciplined force whose sole purpose is to help the area by helping restore law and order with minimal harm to people and property and with due respect for all law abiding citizens.

Just as they are primarily responsible for disaster relief, State and local governments are primarily responsible for protecting life and property and maintaining law and order in the civilian

community. The President has, however, both Constitutional and federal legal authority to use federal armed forces to suppress insurrections and domestic violence.

7.5.1.2 Authorization for Military Support

Civil disturbances are group acts of violence and disorders prejudicial to public law and order (e.g., the 1992 Los Angeles riots) in the 50 states, the District of Columbia, Puerto Rico, and U.S. possessions and territories. The U.S. military can *support* civilian law enforcement agencies but such support shall maintain the “primacy” of civilian authority. While commanders and judge advocates must again understand the *Posse Comitatus Act* and consider its restrictions on military personnel performing law enforcement functions in the U.S., domestic law provides for exceptions to such use in some civil disturbance situations. These exceptions allow the President to federalize the militia of other states and use the military to suppress any insurrection, domestic violence, unlawful combination, or conspiracy under certain circumstances. Other than these specified circumstances, the military may not be used to deal with civil disturbances except in certain emergency situations. Immediate federal response, even under emergency circumstances, is limited to necessity and is not based on any underlying statutory authority. Those emergency circumstances include:

- When necessary to prevent loss of life or wanton destruction of property, or to restore governmental

functioning and public order. These sudden and unexpected civil disturbances (including civil disturbances incident to earthquake, fire, flood, or other such calamity endangering life) occur if the local authorities are unable to control the situation and circumstances preclude obtaining prior authorization by the President.

- When State or local authorities are unable or decline to provide adequate protection for Federal property or Federal governmental functions.

With today’s communication capabilities, commanders should make every effort to obtain prior approval through the chain of command before responding to either of these emergency situations. If prior communication is impossible, commanders should seek Presidential authorizations through the chain of command even while applying emergency support.

7.5.1.3 Lead Agency Concept and Role of Military

The Department of Justice (DoJ) is the lead federal agency for civil disturbance operations. The Attorney General’s on-scene representative is known as the SCRAG (Senior Civilian Representative of the Attorney General). The DoD has designated the Department of the Army (DA) the DoD’s executive agent for military assistance for civil disturbances (MACDIS). The Director of Military Support (DOMS) is DA’s action agent for MACDIS. After coordination with the Chairman, Joint Chiefs of Staff (CJCS), DOMS issues

guidance to the three combatant commanders (USJFCOM, USPACOM, and USSOCOM) responsible for planning and executing MACDIS (recall that this is a *support* role). USJFCOM has delegated authority to FORSCOM to conduct MACDIS in the USJFCOM area of operations. This gives the FORSCOM Commander operational control over joint forces assigned to a MACDIS mission. As is the case for all domestic operations, military forces remain under military control at all times.

Army and Air National Guard forces have primary responsibility for providing military assistance to state and local governments. They will normally serve in a state active duty status (Title 32 status) under state command. In extreme circumstances, the President may federalize National Guard forces (Title 10 status). During the 1992 Los Angeles civil disturbance, the President nationalized the California National Guard.

7.5.1.4 Rules for Use of Force

MACDIS operations can involve National Guard, Army, and Marines and will require working with federal, state, and local law enforcement authorities. Like other joint or combined operations, MACDIS operations require consistent rules for use of force that all supporting services understand and to the extent possible, all services should train relevant forces on these rules. Commanders should use situational training exercises to embed the principles of the use of force set forth in the DoD Civil Disturbance Plan—Garden Plot. Subject to CINC or CJCS

modification, the Garden Plot rules for use of force include several basic concepts.

- Use minimum force at all times.
- Warning shots are not permitted
- Deadly force may be used in very limited circumstances
- Use of arming orders (as situation escalates, arming order status affects the posture of soldiers and Marines on the ground)
- Use of Tactic, Techniques, and Procedures for MACDIS (e.g., use of riot control formations, pressurized water, sniper-fire, shotguns, etc.).

In addition to guidance on Rules for the Use of Force, Garden Plot contains many helpful annexes for commanders and judge advocates when planning and executing civil disturbance operations. Again, SJAs must ensure that their judge advocates are trained and ready for these operations. Some of the topics covered in Garden Plot are:

- Loaning military equipment to non-DoD federal agencies
- Leasing military equipment to non-federal agencies
- Authority of military to detain or take civilians into custody
- Authority of military to search people and property

7.5.2 Counter-Drug Operations

- 18 USC 1385, *Posse Comitatus Act*.
- 10 USC 371-382, Chapter 18 - Military Support For Civilian Law Enforcement Agencies.
- DoD Dir. 5525.5, DoD Cooperation With Civilian Law Enforcement Officials (w/change one), 21 Feb. 1986.
- DoD Dir 5525.10, Using Military Working Dog Teams to Support Law Enforcement Agencies in Counter-drug Missions, 17 Nov. 1990.
- CJCS Instruction 3710.01A, DoD Counter Drug Operational Support, 23 Apr. 1997 (Draft) (**Under Revision**).
- CJCS Instruction 3121.01, Standing Rules of Engagement for US Forces, 1 Oct. 1994.
- Joint Pub 3-07.4, Joint Counter-drug Operations, 17 Feb. 1998
- AR 500-51, Support to Civilian Law Enforcement, 1 Aug. 1983.
- AR 700-131, Loan and Lease of Army Materiel, 4 Sep. 1987.
- NGR 500-2/ANGI 10-801, National Guard Counter-drug Support to Law Enforcement Agencies, 30 Sep. 1993.
- FM 100-19, Domestic Support Operations, Jul. 1993.
- NAVMC 2915, Counter-drug Campaign Plan, 23 Nov. 1993.

This is merely a snapshot of the law on military support to civilian authorities. As is true in all legal disciplines, judge advocates must have access to and stay current in all law relevant to operations.

7.5.2.1 General

DoD's primary counter-drug mission—in support of federal, state, local, and foreign civilian law enforcement agencies (CLEAs)—is the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. Detection is defined as determining the presence of aircraft or vessels by visual or electronic means. Monitoring is tracking or maintaining continuous knowledge of the location of a suspected aircraft or vessel. DoD assets do not apprehend, physically interrupt, or force down aircraft or vessels. DoD is the single lead agency

of the federal government for this detection and monitoring mission. Note that this is both a domestic and international mission. Other federal legislation emphasizes the role of DoD in counter-drug operations. In consultation with the Director of National Drug Control Policy, the Secretary of Defense shall integrate an effective communications network of the command, control, communications, and technical intelligence assets of the U.S. that are dedicated to the interdiction of illegal drugs into the U.S. Other legislation requires SECDEF to devote research and development activities to

technologies to improve DoD's detection and monitoring mission.

Joint Task Forces (JTF) or Joint Inter-Agency Task Forces (JIATF) provide unity of command in the accomplishment of the detection and monitoring mission. For example, JTF-6, located at Fort Bliss, TX, is currently responsible for the Southwest Border region and all other continental U.S. support to CLEAs. The combatant commands establishing these JTFs may develop policy guidance on a variety of legal issues such as intelligence oversight, rules for the use of force, etc.

The National Guard is a critical source of military support to CLEAs. The National Guard (non-federalized) is not subject to the restrictions of the *Posse Comitatus Act* (discussed above). Thus, the Guard has more flexibility than federal forces in conducting counter-drug support operations. However, the National Guard Bureau has imposed a number of policy restrictions on counter-drug operations. State law will determine whether the Guard may legally support a particular operation.

Operating under state law and National Guard regulations, these units conduct counter-drug operations in all states and territories. National Guard units provide 16 types of support, which are listed in National Guard Regulations. Federal support to the National Guard counter-drug effort is in providing federal funding (after a Governor submits a counter-drug plan to DoS) to certain counter-drug missions. Importantly, National Guard forces (non-federalized) engaged in counter-drug support operations using federal

funds and under federal guidance remain a state militia force and are not considered a federal force for purposes of the *Posse Comitatus Act* or for any other purpose. However, National Guard members engaged in such operations are covered by the *Federal Tort Claims Act* without losing their non-federal status.

7.5.2.2 Authorization for Military Support

The following is a list of the types of DoD missions undertaken in support of civilian law enforcement agencies (CLEAs).

- DoD Support to CLEAs. DoD has specific statutory authority to support certain activities of CLEAs (e.g., 10 U.S.C. 371-382).
- DoD support for non-CLEAs. In specified circumstances, federal law permits DoD to support other federal, state, and local agencies that have a counter-drug role even though the agencies are not CLEAs.

The Secretary of Defense, through the Joint Chiefs of Staff, gave authority to unified commanders to approve counter-drug-related deployments of DoD personnel in support of CLEAs and non-CLEAs. The key document in understanding these two counter-drug support missions is the Chairman of the Joint Chiefs of Staff Delegation of Authority Instruction (CJCSI 3710.01A, 23 Apr. 1997). This document includes descriptions of permissible DoD support, legal considerations, and guidance on the fiscal aspects of

providing counter-drug support. Although the federal law and policy governing counter-drug operations are extensive and complex, commanders and judge advocates must understand the types of support that DoD can not provide to CLEAs in domestic operations.

- *Posse Comitatus Act.* The prohibition on the use of the military for law enforcement purposes is discussed throughout this chapter.
- DoD personnel may not conduct or fund any activity which includes or permits direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest, or other similar activity unless otherwise authorized by law.
- DoD personnel may not accompany U.S. CLEAs on actual counter-drug field operations, or participate in any counter-drug activities where hostilities are imminent, unless authorized by the National Command Authorities.
- DoD may not provide any support that will adversely affect military preparedness. The Secretary of Defense is the approval authority for the use of personnel and certain equipment (e.g., arms, ammunition, tactical vehicles, etc.).

There is extensive federal law and policy on DoD's domestic and international role in supporting counter-

drug operations. Commanders and SJAs charged with supporting this specialized mission should ensure that judge advocates actually supporting these operations have electronic access to the full spectrum of legal resources, receive (time permitting) all available counter-drug training opportunities, and know and understand the use of technical channels within the JAGC.

7.5.2.3 Lead Agency Concept and Role of the Military

DoD counter-drug missions are strictly in *support* of civilian law enforcement agencies. Even where DoD serves as the single lead agency for the Federal Government (detection and monitoring of aerial and maritime transit of illegal drugs into the U.S.), this role is in *support* of federal, state, local, and foreign CLEAs.

7.5.2.4 Rules for Use of Force

For counter-drug operations taking place outside of the continental U.S., the Chairman of the Joints Chief of Staff SROE apply. The SROE are discussed at length in Chapter 8.

For counter-drug operations taking place within the continental U.S., judge advocates and commanders must turn to Atlantic Command and Joint Task Force-6 for directives, guidelines, and policy on the use of force.

7.6 EMERGING THREATS IN THE CONTINENTAL UNITED STATES (TERRORISM)

Due to our military superiority, potential enemies, whether nations or terrorist groups, may be more likely in the future to resort to terrorist acts or other attacks against vulnerable civilian targets in the United States instead of conventional military operations.

*A National Security Strategy for a New Century
The White House—October 1998*

The federal government, in concert with state and local governments and agencies, will respond to acts of terrorism occurring in the United States. In general, the federal government's response will include the restoration of order and delivery of emergency assistance. Presidential Decision Directive (PDD) 39, signed in June 1995, establishes U.S. policy, and assigns responsibilities, concerning domestic terrorism. PDD 62, signed in May 1998, lays out the Executive Branch's vision and the corresponding assignment of responsibilities for a coordinated U.S. response to acts of terrorism involving weapons of mass destruction (WMD). PDD 62 directs the Department of Justice (DoJ), acting through the Federal Bureau of Investigation (FBI), to take the lead responding to acts of terrorism using WMD. The Federal Emergency Management Agency (FEMA) supports the FBI in preparing for and responding to the consequences of such an incident.

As part of the Domestic Terrorism Program, the Department of Defense (DoD), along with many other agencies, will provide specified capabilities and assets in support of the FBI, FEMA, and other federal, state, and

local governments as part of an integrated consequence management program. As part of this Program, the DoD will maintain units to assist in WMD consequence management and to help train emergency response personnel. This training may include exercises or other forms of training. Further, the DoD will help train the Army National Guard and other reserve assets for their role in assisting local authorities in managing the consequences of a WMD attack.

Again, like other forms of military support to domestic operations, judge advocates must have a detailed understanding of the laws, regulations and policies addressing terrorism and the roles of federal and state agencies. Judge advocates must recognize that a terrorist attack on the United States involving WMD will likely entail a massive, joint, and inter-agency response that will cross federal, state, and local government lines. Time to respond may be of the essence and command and control lines may be unclear or confused. Further, a well-organized, trained, and equipped military may have the tendency to step in and take "charge." Absent direction from the NCA (akin to a declaration of

martial law), federal military commanders must remember that DoD remains in a support role to assist DoJ, the FBI, FEMA or other lead agency with primary responsibility and overall control of the mission.

Chapter 8 Rules of Engagement

War is tough, uncompromising, and unforgiving. For soldiers, the rigors of battle demand mental and physical toughness and close-knit teamwork. Between the anxiety of battle, soldiers spend long hours doing routine but necessary tasks in the cold, wet weather and mud, moving from position to position, often without hot meals, clean clothes, or sleep. In war, the potential for breakdown in discipline is always present. The Army operates with applicable rules of engagement (ROE), conducting warfare in compliance with international laws and within the conditions specified by the higher commander. Army forces apply the combat power necessary to ensure victory through appropriate and disciplined use of force.

Field Manual 100-5, Operations

It is not uncommon in MOOTW, for example peacemaking, for junior leaders to make decisions which have significant political implications.

Joint Publication 3-07, Joint Doctrine for Military Operations Other than War

CONTENTS	PAGE
INTRODUCTION.....	8-2
ROE DEVELOPMENT	
CONSIDERATIONS.....	8-2
Commander's Responsibility..	8-2
Purposes of ROE.....	8-2
Drafting Considerations.....	8-3
Situation Considerations.....	8-4
Definitions & Key Concepts....	8-5
Types of ROE.....	8-6
CJCS STANDING ROE.....	8-7
THE I-D-D-T METHODOLOGY.....	8-9
Interpret.....	8-9
Draft.....	8-10
Disseminate.....	8-13
Train.....	8-13

8.1 INTRODUCTION

OPLAW provides vital links between the strategic and tactical levels of conflict. The strongest of these links are often rules of engagement (ROE). ROE enable mission accomplishment, force protection, and compliance with law and policy. While ROE are always commanders' rules, the interpretation, drafting, dissemination, and training of ROE are also the business of OPLAW JAs.

Every chapter of this manual records the importance of ROE to the practice of OPLAW. ROE integrate many of the six disciplines of legal support to operations and epitomize the counselor function of OPLAW JAs. Development of expertise with ROE is a prominent duty and responsibility of SJAs. Involvement with ROE places judge advocates firmly within the command and control of operations. Theater operations implement the ROE established by Commanders in Chief (CINCs) of combatant commands. Corps and Division Deep Operations Coordination Cells (DOCCs), or Information Operations Cells of the future, rely upon OPLAW JAs to incorporate ROE considerations into the targeting process. Military operations other than war (MOOTW) tend to be characterized by ROE demanding greater restraint in applying combat power, a factor that creates great challenges for judge advocates deployed with forward brigade task forces.

8.2 ROE DEVELOPMENT CONSIDERATIONS

8.2.1 Commander's Responsibility

ROE are commanders' rules for the use of force. Operations personnel are principally responsible to ensure that the ROE further operational requirements. OPLAW JAs assist the commander to interpret, draft, disseminate, and train ROE because all ROE must conform to international law, because a Department of Defense Directive and service regulations give military attorneys a role in ROE compliance, and because the Chairman of the Joint Chiefs of Staff has directed that attorneys will review all operations plans and participate in targeting meetings of military staffs.

Also, the Hague and Geneva Conventions contain dissemination provisions that encourage the involvement of judge advocates in ROE matters. A provision of the 1977 Protocol I to the 1949 Geneva Conventions—which though not ratified by the United States is considered declarative of customary international law on this point—expressly mentions the role of "legal advisors."

8.2.2 Purposes of ROE

ROE are driven by three sets of considerations: policy, legal, and military. An example of a policy-driven rule is *Executive Order 11850*, which prohibits first use of riot control agents and herbicides without Presidential approval. An example of a legal-driven rule is the prohibition, "hospitals, churches, shrines, schools, museums, and any other historical or cultural sites

will not be engaged except in self-defense." An example of a military-driven rule is the commonly encountered requirement for observed indirect fires for the purpose of effective target engagement. ROE are *not* the same as fire control measures. Fire control measures are implemented by commanders based on tactical considerations. An example of a fire control measure serving tactical purposes is the common requirement in ground operations that the artillery tubes organic to a unit will not fire beyond a designated fire support coordination line (FSCCL); this ensures an efficient division of labor between fires controlled at one level and those controlled by higher levels of command. Moreover, it helps prevent fratricide by indirect fire.

The purposes of ROE quite often overlap; rules implementing strategic policy decisions may serve an operational or tactical military goal while simultaneously bringing U.S. forces in compliance with domestic or international law. As a result, troops in the field may not always appreciate the reasons why a leader fashioned a particular rule.

ROE must evolve with mission requirements and be tailored to mission realities. ROE should be a flexible instrument designed to best support the mission through various operational phases and should reflect changes in the threat.

8.2.3 Drafting Considerations

Operational requirements, policy, and law define ROE. ROE always

recognize the soldier's right of self-defense, the commander's right and obligation to self-defense, and America's national right to defend itself and its allies and coalition partners against aggression. In the *Standing Rules of Engagement (SROE)* for U.S. Forces, the Joint Chiefs of Staff provide baseline guidance and procedures for supplementing this guidance for specific operations. Effective ROE are enforceable, understandable, tactically sound, and legally sufficient. Further, effective ROE are responsive to the mission and consistent with unit initiative.

In all operations, ROE may impose political, operational, and legal limitations upon commanders. Withholding employment of particular classes of weapons or exempting the territory of certain nations from attack are examples of such limitations. At the tactical level, ROE may extend to criteria for initiating engagements with certain weapon systems (for example, unobserved fires) or reacting to attack.

Effective ROE comply with domestic and international law, including the body of international law pertaining to armed conflict. Thus, ROE never justify illegal actions. In all situations, soldiers and commanders use force that is necessary and proportional.

Effective ROE do not assign specific tasks or drive specific tactical solutions; they allow a commander to quickly and clearly convey to subordinate units a desired posture regarding the use of force. In passing orders to subordinates, a commander must act within the ROE received. However, ROE never relieve

the commander from his responsibility to formulate the end state, objectives, mission, and other elements of operational design. Commanders at all levels continually review the ROE to ensure their effectiveness in light of current and projected conditions in their area of operations.

**8.2.4 Situation Considerations -
METT-TC**

<p>M—Mission E—Enemy (and threat) T—Terrain (and weather) T—Troops</p> <p>-----</p> <p>T—Time Available C—Civilian Considerations</p>

A given operational setting is described by the factors of mission, enemy and threat, terrain and weather, troops, time available, and civilian considerations (METT- TC). The situation is the context that dominates every aspect of planning, including ROE. Across the range of potential military operations, commanders can encounter situations of bewildering complexity. This complexity is reduced, at the operational and tactical levels of conflict, by applying the conceptual template of METT-TC.

- *Mission* establishes the purpose of the operation.
- Planners must consider the dispositions, equipment, doctrine, capabilities, and probable intentions of an *Enemy*—actual and potential. The current conflict environment

is increasingly characterized by shades of gray in which enemies are less apparent. Commanders also evaluate potential threats to mission success, such as disease, political instability, and misinformation.

- *Terrain and weather* affect mobility, concealment, observation, cover, avenues of approach, and the effectiveness of military operating systems.
- The commander must consider the nature of *Troops*—his military capabilities. Troop characteristics such as numbers, mobility, protection, training, and morale influence plans for their employment.
- *Time* available for preparation and execution of the mission is critical and can dramatically influence the scope and nature of the plan.
- *Civilian considerations* are a key factor of the situation across the entire range of operations. Attitudes and activities of the civilian population in the area of operation influence the outcome of military operations. Refugees and humanitarian assistance requirements are frequent concerns, not only in stability operations or support operations, but also in conventional combat. Interagency operations bring to bear the civilian resources of DoD, non-DoD components of the government, and private voluntary and nongovernmental organizations, thereby

multiplying the effectiveness of our operations.

8.2.5 Definitions and Key Concepts

ROE are defined in *Joint Publication 1-02* as "directives issued by competent military authority which delineate the circumstances and limitations under which United States forces will initiate and/or continue combat engagement with other forces encountered." A few examples illustrate the broad range of rules that fall within this definition: requiring an F-111 crew to confirm that all target acquisition systems are operable to bomb a Libyan barracks abutting a civilian population center; prohibiting entry by U.S. Navy ships into territorial seas or internal waters of a neutral nation; or authorizing an infantryman at a guard post to use deadly force against saboteurs of mission-essential equipment.

Wartime Versus Standing ROE. In general, ROE differ in wartime to reflect the increased justification for using force. Wartime ROE permit U.S. forces to open fire upon all identified enemy targets, regardless of whether those targets represent actual, immediate threats. By contrast, the SROE, which will be discussed later in this chapter, merely permit engagement in individual, unit, or national self-defense. Most legal grounds for international use of force during peacetime are traceable to self-defense. Wartime ROE are familiar to units and soldiers because battle focused training concentrates on wartime tasks. Individual Army privates and officer trainees in all occupational specialties receive instruction and undergo evaluation on basic wartime rules, such as "attack only combat targets" and "do

not destroy property unless required by the necessities of war." In war, national leaders will seek to make the ROE no more restrictive than international law.

Necessity and Proportionality. The principles of necessity and proportionality help define the peacetime justification to use force in self-defense and are thus fundamental to understanding ROE for MOOTW. The necessity principle permits friendly forces to engage only those forces committing hostile acts or clearly demonstrating hostile intent. This formulation—a quite restrictive rule for the use of force—captures the essence of peacetime necessity under international law. In 1840, Secretary of State Daniel Webster articulated the essence of the necessity rule. He wrote that use of force in self-defense is justified only in cases in which "the necessity of that self-defense is instant, overwhelming and leaving no choice of means and no moment for deliberation." The rule of necessity applies to individuals as well as to military units or sovereign states.

Definitions of "hostile act" and "hostile intent" complete the meaning of "necessity." A ***hostile act*** is an attack or other use of force. ***Hostile intent*** "is the threat of imminent use of force." The precise contents of these definitions become sensitive when the ROE describe specific behaviors as hostile acts or equate particular objective characteristics with hostile intent. For instance, the ROE might define a foreign uniformed soldier aiming a machine-gun from behind a prepared firing position as a clear demonstration of hostile intent, regardless of whether

that soldier truly intends to harm U.S. forces.

The principle of proportionality requires that the force used be reasonable in intensity, duration, and magnitude, based on all facts known to the commander at the time, to decisively counter the hostile act or hostile intent and to ensure the continued safety of U.S. forces. As with necessity, the proportionality principle reflects an ancient international legal norm.

8.2.6 Types of ROE

Mere restatement of the core legal principles of proportionality and necessity does not indicate specifically enough the circumstances under which soldiers may fire weapons in national, unit, or individual self-defense. Nor do these principles articulate the myriad restrictions that a commander may impose on a force to serve the non-legal purposes mentioned above. Commands insert numerous types of specific rules into ROE annexes and soldier cards to elaborate further the rules of necessity and proportionality and to dictate precise terms of restrictions that are not derived from law. The following descriptions of types of rules permit OPLAW JAs and others to speak with precision about ROE.

- *Type I - Hostility Criteria.* Provide those making decisions whether to fire with a set of objective factors to assist in determining whether a potential assailant exhibits hostile intent and thus clarify whether shots can be fired before receiving fire.
- *Type II - Scale of Force/Challenging Procedure.* Specify a graduated show of force that ground troops should use in ambiguous situations before resorting to deadly force. Include such measures as giving a verbal warning, using a riot stick, or perhaps firing an aimed warning shot. May place limits on the pursuit of an attacker.
- *Type III - Protection of Property and Foreign Nationals.* Detail what and whom may be defended with force aside from the lives of U.S. soldiers and citizens. Include measures to be taken to prevent crimes in progress or the fleeing of criminals.
- *Type IV - Weapons Control Status/ Alert Conditions.* Announce, for air defense assets, a posture for resolving doubts over whether to engage. Announce for units observing alert conditions a series of measures designed to adjust unit readiness for attack to the level of perceived threat. The measures may include some or all of the other functional types of rules.
- *Type V - Arming Orders.* Dictate which soldiers in the force are armed and with what weapons and ammunition. Specify which precise orders given by whom will permit the loading and charging of firearms.
- *Type VI - Approval to Use Weapons Systems.* Designate what level commander must

approve use of particular weapons systems. Perhaps prohibit use of a weapon entirely.

- *Type VII - Eyes on Target.* Require that the object of fire be observed by one or more human or electronic means.
- *Type VIII - Territorial or Geographic Restraints.* Create geographic zones or areas into which forces may not fire. May designate a territorial—perhaps political—boundary, beyond which forces may neither fire nor enter except perhaps in hot pursuit of an attacking force. Include tactical control measures that coordinate fire and maneuver by means of graphic illustrations on operations map overlays.
- *Type IX - Restrictions on Manpower.* Prescribe numbers and types of soldiers to be committed to a theater or area of operations. Perhaps prohibit use of U.S. manpower in politically or diplomatically sensitive personnel assignments requiring allied manning.
- *Type X - Restrictions on Point Targets and Means of Warfare.* Prohibit targeting of certain individuals or facilities. May restate basic rules of the law of war for situations in which a hostile force is identified and prolonged armed conflict ensues.

8.3 CJCS STANDING ROE

Chairman of the *Joint Chiefs of Staff Instruction 3121.01, Standing Rules of*

Engagement for U.S. Forces (SROE) is the keystone document in the area of ROE. It provides implementation guidance to CINCs on the inherent right of self defense and the application of force for mission accomplishment. It is the result of an all-service review and revision of the former JCS Peacetime Rules of Engagement (PROE). The SROE apply to all U.S. forces—with limited exceptions for Multinational Force (MNF), Civil Disturbance, and disaster relief operations—and is designed to provide a common template for development and implementation of ROE across the range of military operations. The SROE are divided into three principle sections or enclosures:

Enclosure A (Standing Rules of Engagement): This enclosure details the general purpose, intent and scope of the SROE, emphasizing the commander's right—and obligation—to use force in self-defense. Critical principles—such as unit, national, and collective self-defense, hostile acts and intent, and the determination to declare forces hostile—are addressed as foundational elements of all ROE. Appendices provide specific guidance with respect to the scope of authority to use force, delegation of authority to declare forces hostile and exercise the right of national self-defense, and application of the principle of proportionality, and they address special considerations associated with peacekeeping, command, control and information warfare (C2I), counterdrug, and noncombatant evacuation operations. In addition, force-specific (i.e., seaborne, land, and air) appendices detail indicators of hostile intent, geographic limitations of authority, and other concerns that are particular to

operations within the defined force structure.

Enclosure B (Supplemental Measures): Supplemental Measures are menu lists of ROE measures that may be adopted, requested, granted, or not used at all. Supplemental measures found in this enclosure enable the commander to obtain or grant those additional authorities necessary to accomplish an assigned mission. Tables of supplemental measures are divided into those actions requiring NCA approval, those that require either NCA or Combatant Commander approval and those that may be delegated to subordinate commanders. It is important to remember that the SROE are fundamentally permissive in nature, allowing a commander to use any weapon or tactic available and employ reasonable force to accomplish his mission. Supplemental measures provided in Enclosure B are intended to serve as a planning tool. Inclusion in the SROE supplemental list does not suggest that the commander needs to seek authority to use any of the listed items - that only occurs when incorporated into ROE issued for a specific operation. Supplemental ROE relate to mission accomplishment, not to self-defense, and never limit the commander's inherent right and obligation of self-defense.

Enclosure C (Compendium and Combatant Commanders' Special ROE): Enclosure C contains a list of effective CJCS directives providing ROE guidance and Area of Responsibility specific rules of engagement submitted by the Combatant Commanders. Those special ROE address specific strategic and political

sensitivities of the Combatant Commander's AOR and must be approved by CJCS. They are included in the SROE as a means to assist commanders and units participating in operations outside their assigned AORS.

The SROE also contain technical definitions of *self defense*:

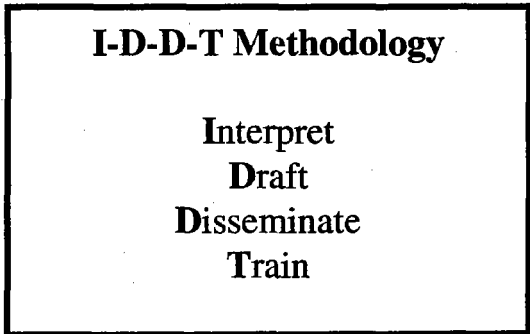
- **Self Defense:** The SROE do not limit a commander's inherent authority and obligation to use all necessary means available and to take all appropriate action in self-defense of the commander's unit and other U.S. forces in the vicinity.
- **Unit Self Defense:** The act of defending elements or personnel of a defined unit—as well as U.S. forces in the vicinity thereof—against a hostile act or intent. As applied to the soldier on the ground, unit self-defense includes the concept of individual self-defense.
- **National Self Defense:** The act of defending the U.S.; U.S. forces; and in certain circumstances, U.S. citizens and their property, U.S. commercial assets, other designated non-U.S. forces, foreign nationals and their property, from a hostile act or hostile intent. As a subset of national self-defense, the act of defending other designated non-U.S. citizens, forces, property, and interests is referred to as collective self-defense. Authority to exercise national self-defense rests with the NCA, but may be delegated under

specified circumstances; however, only the NCA may authorize the exercise of collective self-defense.

The SROE distinguish between the right and obligation of self-defense—which is not limited—and use of force for the accomplishment of an assigned mission. Authority to use force in mission accomplishment may be limited in light of political, military or legal concerns, but such limitations have no impact on the commander's right and obligation of self-defense.

Once a threat has been declared a hostile force, United States units and individual soldiers may engage without observing a hostile act or demonstration of hostile intent. The basis for engagement becomes *status* rather than *conduct*. The authority to declare a force hostile is given only to particular individuals in special circumstances. Appendix A to Enclosure A of the SROE contains guidance on this authority.

8.4 THE I-D-D-T METHODOLOGY



Commanders and staffs at all echelons use the *Interpret-Draft-Disseminate-Train (I-D-D-T)* methodology to incorporate ROE into the conduct of military operations. OPLAW JAs participate in all four facets of this methodology. Each facet is connected with and influences the others, and together the facets describe a process of continuous refinement and revision. The facets in the I-D-D-T methodology are interactive rather than sequential.

In joint task forces and at higher joint echelons, the I-D-D-T methodology is conducted by an ROE Planning Cell. The ROE Cell consists of the J-3, the J-2, the J-5, and the SJA or designated representatives, in addition to other special staff officers as appropriate. The Joint Task Force J-3 is responsible for ROE in crisis action planning, and the ROE Cell provides a formal planning structure through which the J-3 can effectively perform this responsibility.

At corps and divisions, the I-D-D-T methodology is conducted by the members of the Deep Operations Coordination Cell (DOCC) and any Information Operations Cell, in conjunction with their duties in the targeting process. At brigade level, the Brigade Judge Advocate coordinates throughout the military decision-making process with the S-3 and with all staff officers engaged in targeting to ensure that the I-D-D-T methodology is conducted.

8.4.1 Interpret

At the operational and tactical levels of conflict, commanders and staffs must

interpret the ROE issued by higher headquarters. At the theater level, the CINC and his staff must interpret the SROE and any mission-specific ROE that may emanate from CJCS or the National Command Authorities. Interpretation of ROE demands skills that are well-honed in the legal profession and specifically cultivated within the "judge" function of legal support to operations. Thus, while the commander will ultimately determine what a rule issued by higher headquarters demands of his command, OPLAW JAs will provide expert assistance.

The interpretive expertise of the OPLAW JA begins from a thorough familiarity with the SROE. It relies upon aggressive research to find all operations plans, orders, messages, standing operating procedures, treaties and coalition documents, directives, and regulations that purport to establish or change the ROE. It demands careful organization of these documents (chronologically, by issuing headquarters) to determine which is authoritative on which point. It requires skill at reconciling two rules that appear to contradict by considering broader imperatives contained in the text of the rules or other guidance as well as clearheaded reasoning from any available precedents as to how the contradictory rules have been interpreted in the past. It presumes intimate knowledge of the "facts" of the military operation and sufficient knowledge of staff organization and procedures to gather information from those who can provide additional needed facts.

The OPLAW JA's contribution to the interpretation of ROE sometimes requires more than the skills of textual construction and factual analysis, however. In some situations, the OPLAW JA will be the sole member of the ROE Planning Cell, the DOCC, or the staff possessing the necessary training in objectivity and impartiality to state unpleasant interpretations of a higher headquarter's ROE. This requires constant situational awareness made possible through secure and nonsecure communication nodes, mobility, the commander's task organization of placing OPLAW JAs in command posts as discussed in earlier chapters.

8.4.2 Draft

In some operations, ROE will be *top-driven*, meaning that a higher echelon commander—for instance a CINC—establishes ROE that must be disseminated verbatim to all lower echelons. The preference of military doctrine, because it preserves lower echelon initiative, is for ROE to be *top-fed*, meaning that a higher-echelon commander establishes rules for immediate subordinate echelons. These subordinate echelons in turn disseminate ROE that are consistent with those of higher headquarters but tailored to the particular unit's mission. These methods may also coexist within a particular operation, as some rules may be top-driven while others may be subject to discretion on the manner of dissemination and thus top-fed.

When the rules are *not* top-driven, commanders and staffs from theater level down to brigade draft ROE for

their commands. At theater and JTF levels, the drafting of ROE results in Appendix 8 (Rules of Engagement) to Annex C (Operations) of the operations plan (OPLAN) or operations order (OPORD), in accordance with the Joint Operations Planning and Execution System (JOPES), Joint Publication 5-03. At corps, division, and brigade level, the drafting of ROE results in Annex E to the OPLAN or OPORD in accordance with Army doctrine. Army doctrine also calls for the integration of ROE in the coordinating instructions subparagraph of paragraph 3 (Execution) of the body of the OPLAN or OPORD.

JOPES and Army doctrine provide minimal guidance as to the contents and format of these ROE documents. Standing operating procedures (SOPs), which exist in part to enable OPLANs and OPORDs to be brief, frequently provide extensive content and format guidance. This guidance, in turn, typically draws heavily upon the SROE, incorporating both standing rules and supplemental rules according to a command-specific format that is periodically updated and continuously trained. Appendix E to Enclosure B of the SROE contains a message format by which CINCs request and receive supplemental ROE.

The drafting of ROE in the context of *multinational operations* presents additional challenges. The SROE state that United States forces assigned to the operational control (OPCON) of a multinational force will follow the ROE of the multinational force unless otherwise directed by the National Command Authorities (NCA). The SROE further state that United States

forces will be assigned and remain OPCON to a multinational force only if the combatant commander and higher authority determine that the ROE for that multinational force are consistent with the policy guidance on unit self-defense and with the rules for individual self-defense contained in this document. When U.S. forces, under United States OPCON, operate in conjunction with a multinational force, reasonable efforts will be made to effect common ROE. If such ROE cannot be established, U.S. forces will exercise the right and obligation of self-defense contained in the SROE while seeking guidance from the appropriate combatant command.

Participation in multinational operations may be complicated by varying national obligations derived from international agreements; i.e., other members in a coalition may not be signatories to treaties that bind the United States, or they may be bound by treaties to which the United States is not a party. United States forces still remain bound by U.S. treaty obligations even if the other members in a coalition are not signatories to a treaty and need not adhere to its terms.

A multinational partner's domestic law, policy, and social values may also effect multinational planning at the strategic and operational level. Lessons learned from recent multinational exercises and operations reflect significant differences in how various countries understand and view the application of military force through the ROE. These factors can severely limit *or* expand a Multinational Commander's ability to use a national contingent's capabilities. Legal advisors at all levels

of planning can assist in the interpretation and drafting of ROE.

The United States places an importance on the ROE that other nations may not share, attaches meaning to terms with which other nations' forces may not be familiar, and implements ROE within a context of doctrine that may differ markedly from that of other nations. When operating with forces from non-English-speaking countries, these differences will be accentuated. Energetic participation by operational lawyers in the drafting process helps ensure that final ROE products reflect the legitimate interests of all sides. In such circumstances, United States forces benefit by having a completed draft (i.e., the SROE) available as a basis for discussion. When developing ROE in conjunction with the United Nations, diplomatic or policy constraints occasionally dictate language peculiar to United Nations operations. In these cases, the availability of a complete, preferred alternative (again, the SROE) give United States forces a medium with which to communicate their concerns.

The sound *drafting* of ROE will adhere to several *principles*:

- *Consider the METT-TC.* The mission will drive the ROE, and as an operation unfolds in phases, the mission may trigger significant shifts in the ROE. The existence of enemy forces or other threats will change the ROE from conduct-based rules to status-based rules with respect to those threats that have been declared hostile forces. The terrain will limit the feasibility of

certain force options. The capabilities and level of training of friendly troops will determine whether certain ROE need to be spelled out in the order. The amount of time available may dictate both what force options can be used and what preparations can be made to implement a particular rule. The presence or absence of civilians will inevitably raise questions about whom friendly forces can protect under the ROE.

- *Push Upward on the Drafting Process.* The SROE provides the means to request supplementals. Use such requests. If the METT-TC suggests a ROE that is not contained in the higher headquarters annex, push a suggested rule to the higher headquarters for approval. Keep in mind, however, that the SROE are permissive, as discussed above.
- *Avoid Restating Strategy and Doctrine.* ROE should not be used as the means to state strategy or doctrine. A common mistake of the inexperienced is to attempt to use the ROE annex to accomplish something for which an entire system exists in Army doctrine.
- *Avoid Restating the Law of War.* ROE should not restate the law of war. Commanders may desire to emphasize an aspect of the law of war that is particularly relevant to a specific operation (e.g., see Desert Storm ROE regarding cultural property), but

they should not include an extensive discussion of the Hague Regulations and Geneva Conventions.

- *Avoid Restating Tactics.* Because the purposes of ROE (political, legal, military) are sometimes difficult to discern, a boundary line drawn upon an operations overlay may be the result of a commander's concept of operations while simultaneously transmitting a rule of engagement stemming from political considerations. Still, many phase lines, control points, and other fire and tactical control measures have no meaningful connection to political or legal considerations. These measures belong in other portions of the OPLAN or OPORD, not in the ROE.
- *Avoid Safety-Related Restrictions.* ROE should not deal with safety-related restrictions. Certain weapons require specific safety-related, pre-operation steps. These should not be detailed in the ROE, but may appear in the tactical or field SOP.
- *Avoid Excessively Qualified Language.* ROE are useful and effective only when understood, remembered, and readily applied under stress. Well formulated ROE anticipate the circumstances of an operation and provide unambiguous guidance to the soldier, sailor, airman and marine before he confronts a threat.

8.4.3 Disseminate

The OPLAN or OPORD annex is only the minimum means of disseminating the ROE. The annex at each echelon will build upon the command's SOP, which is the primary, continuous means of disseminating those ROE that tend to appear in successive operations. Various methods effectively capture dissemination across a command. The Commander, S3/G3/J3, and SJA must determine its system on quickly and efficiently disseminating changes in the ROE and train its staff and subordinate commanders accordingly.

When particular ROE issued by higher headquarters are not anticipated in the TACSOP, the OPORD annex must state these rules outright, without reference to an ROE menu item. Also, the commander and staff must provide mission-specific ROE training for deploying soldiers. Judge advocates must be prepared to assist in this training. While never a substitute for training, an ROE card is often helpful as a ready reference to soldiers at the lowest level—this is done in virtually every instance.

8.4.4 Train

ROE must be disseminated throughout the force and reinforced by training and rehearsal. Soldiers execute in the manner they train; they will carry out their tasks in compliance with the ROE when trained to do so. In today's operations, where a single soldier's action can change not only the tactical but the strategic and political setting, it is vital that commanders and judge

advocates disseminate and train ROE to all lowest levels. All training opportunities should reinforce ROE and teach soldiers how to apply the basic rules of self-defense. Individual and unit preparation for specific missions must incorporate training that challenges soldiers to apply mission-specific ROE. In crisis response situations, ROE training may consist of leaders and soldiers receiving and training on the mission-specific ROE en route to the departure airfield. In that case, the knowledge gained on the basic rules of self-defense and scenario-specific, situational ROE during past scheduled training enables commanders and soldiers to better understand and adhere to the crisis situation ROE. When preparing for missions such as peacekeeping or disaster relief, commanders should remember that these missions normally require soldiers to use greater restraint and discipline than in offensive or defensive operations.

ROE should always include situational training. This situational training should challenge soldiers in employing weapons, levels of force, and other ROE. *Situational training exercises (STXs)* focus on one or a small group of tasks— within a particular mission scenario—and require that soldiers practice until the tasks can be executed to some pre-established standard. Trainers refer to these scenarios unofficially as "vignettes," and to this type of training as "lane training." To conduct STXs on ROE, a commander, judge advocate, or other trainer places a soldier in a particular simulated operational scenario and then confronts him with an event, such as the crashing of a traffic checkpoint barrier

by a speeding vehicle. The trainer evaluates the soldier's response, and afterward discusses alternative responses available within the ROE. The STX brings to life abstract rules contained in written ROE, giving the soldier concrete terms of reference within which to determine his response. In this way, the soldier achieves the balance between initiative and restraint so important to success, particularly in MOOTW. The SJA must be prepared to assist in providing ROE training, including vignette-driven training, and to ensure that subordinate SJAs are involved in providing similar assistance for ROE training.

The SROE articulate baseline principles that are useful in conducting soldier training within STXs, prior to a deployment. These principles can be restated within an acronym that permits individual common task training (CTT) by establishing a standard against which to evaluate the soldier's response during the STX. One training device that captures the baseline SROE principles is the mnemonic RAMP. The box below outlines the elements of R-A-M-P, which when used within a context of repetitive and varied situational training, inculcates effective responses under conditions of stress. Because R-A-M-P principles incorporate necessity and proportionality, RAMP training provides a solid framework upon which mission-specific ROE training can build. Nevertheless, legal personnel must assist soldiers in understanding that R-A-M-P self-defense principles are not a substitute for mission-specific ROE training.

In all ongoing operations, but particularly in volatile and rapidly changing peace operations, commanders must conduct continuous refresher training. Commanders in Bosnia effectively developed and updated situational ROE training based on actual recorded events that took place in the theater of operations from previous weeks. In the gray zone surrounding ROE in peace enforcement operations, commanders, with their OPLAW JAs, must continually hone their soldiers' ability to balance initiative and restraint.

R-A-M-P

R - Return Fire with Aimed Fire. Return force with force. You always have the right to repel hostile acts with necessary force.

A - Anticipate Attack. Use force if, but only if, you see clear indicators of hostile intent.

M - Measure the amount of Force that you use, if time and circumstances permit. Use only the amount of force necessary to protect lives and accomplish the mission.

P - Protect with deadly force only human life, and property designated by your commander. Stop short of deadly force when protecting other property

Glossary

ABCS	Army Battle Command System
AC-RC	Active Component-Reserve Component
ACCA	Army Court of Criminal Appeals
ACO	Area Claims Office
ACOM	Atlantic Command (ACOM will be redesignated USJFCOM on or about 1 Oct 99)
ACSA	Acquisition and Cross-Servicing Agreement
ACU	Area Common User
ADCON	Administrative Control
ADDS	Army Data Distribution System
AGCCS	Army Global Command and Control System
ADC-M	Assistant Division Commander-Maneuver
ADC-S	Assistant Division Commander-Support
AJAG	Assistant Judge Advocate General
AJAG/CLL	Assistant Judge Advocate General for Civil Law and Litigation
AJAG/MLO	Assistant Judge Advocate General for Military Law and Operations
AJAG/OPNS	Assistant Judge Advocate General for Operations, a United States Army Reserve Individual Mobilization Augmentee
ALCOM	Alaskan Command
ALOC	Administrative/Logistics Operations Center
ALLS	Army Law Library Service
AMOPES	Army Mobilization Planning and Execution System
AMOPS	Army Mobilization and Operations Planning System
ANGLICO	Air and Naval Gunfire Liaison Company
AO	Area of Operations
AOA	Areas of Assistance
AOC	Areas of Conflict
AOE	Army of Excellence
AR	Army Regulation
ARFOR	Army Forces
ARNG	Army National Guard
ARNG Spec Asst	The Army National Guard Special Assistant to The Judge Advocate General
ASCC	Army Service Component Commander
ASG	Area Support Group
ASI	Additional Skill Identifier
Assault CP	Assault Command Post, a TAC CP in a rapidly deployed division
ATCCS	Army Tactical Command and Control System
BCT	Brigade Combat Team
BCTP	Battle Command Training Program
BDCSTS	Broadcast System

BDE	Brigade
BN	Battalion
BOLT	Brigade Operational Law Team
BUB	Battle Update Brief
C2	Command and Control
C2I	Command, Control, and Information
CA	Civil Affairs
CAAF	Court of Appeals for the Armed Forces
CENTCOM	Central Command
CCIR	Commanders' Critical Information Requirements
CD	Compact Disc; Counter Drug
CDD	Combat Developments Division, TJAGSA
CDP	Combat Decision-Making Process
CD-ROM	Compact Disc, Read-Only Memory
CIMIC	Civil-Military Information Center
CINC	Commander in Chief
CJA	Command Judge Advocate
CJCS	Chairman, Joint Chiefs of Staff
CJCSI	Chairman, Joint Chiefs of Staff Instruction
CJCS SROE	Chairman, Joint Chiefs of Staff Standing Rules of Engagement
CLAMO	Center for Law and Military Operations
CLE	Continuing Legal Education
CLEA	Civilian Law Enforcement Agency
CLNCO	Chief Legal Noncommissioned Officer
CMO	Civil-Military Operations
CMOC	Civil-Military Operations Center
CNR	Combat Net Radios
COA	Course of Action
COCOM	Combatant Command
COL	Colonel
COMMZ	Communications Zone
CONUS	Continental United States
CONUSA	Continental United States Army
COSCOM	Corps Support Command
COTS	Commercial-off-the-shelf
CP	Command Post
CPO	Claims Processing Office; Civilian Personnel Office
CPT	Captain
CTC	Combat Training Center
CTT	Common Task Training
CZ	Combat Zone
DAD	Defense Appellate Division
D-D-D-A	Decide-Detect-Deliver-Assess

DEP'T	Department
DFSCORD	Deputy Fire Support Coordinator
DIRLAUTH	Direct Liaison Authorized
DISCOM	Division Support Command
DIVARTY	Division Artillery
DOCC	Deep Operations Coordination Cell
DoD	Department of Defense
DoD Dir.	Department of Defense Directive
DoJ	Department of Justice
DOMS	Director of Military Support
DOS	Department of State
DSJA	Deputy Staff Judge Advocate
DTAC	Division TAC CP
DTLOMS	Doctrine, training, leadership, organization, materiel, and soldiers
EEM	Early Entry Modules
ESF	Emergency Support Functions
EPW	Enemy Prisoner of War
EUCOM	European Command
FAR	Federal Acquisition Regulation
FBCB2	Force XXI Battle Command-Brigade and Below System
FBI	Federal Bureau of Investigations
FCA	Foreign Claims Act
FCC	Foreign Claims Commission
FEMA	Federal Emergency Management Agency
FM	Field Manual
FOIA	Freedom of Information Act
FORSCOM	Forces Command
Force XXI	Force Twenty-One, the digitized Army
FRAGO	Fragmentary Order
FSB	Forward Support Battalion
FSCL	Fire Support Coordination Cell
FSCORD	Fire Support Coordinator
FSOP	Field Standard Operating Procedures
G-1	Corps and Division Assistant Chief of Staff, Personnel
G-2	Corps and Division Assistant Chief of Staff, Intelligence
G-3	Corps and Division Assistant Chief of Staff, Operations and Plans
G-4	Corps and Division Assistant Chief of Staff, Logistics
G-5	Corps and Division Assistant Chief of Staff, Civil Affairs
G-6	Corps and Division Assistant Chief of Staff, Information Management
GAD	Government Appellate Division
GCM	General Court-Martial

GCMCA	General Court-Martial Convening Authority
GCSS-A	Global Combat Support System—Army
GPS	Global Positioning System
HA	Humanitarian Assistance
HCA	Humanitarian and Civil Assistance
HMMWV	High-Mobility Multipurpose Wheeled Vehicle
IAW	In Accordance With
ICRC	International Committee of the Red Cross
IO	International Organization; Information Operations; Investigating Officer
I-D-D-T	Interpret-Draft-Disseminate-Train
IMA	Individual Mobilization Augmentee
IMO	Information Management Officer
IPB	Intelligence Preparation of the Battlefield
J-1	Manpower & Personnel Directorate of a Joint Staff
J-2	Intelligence Directorate of a Joint Staff
J-3	Operations Directorate of a Joint Staff
J-4	Logistics Directorate of a Joint Staff
J-5	Plans Directorate of a Joint Staff
J-6	Command, Control, Communications, Computer Systems Directorate of a Joint Staff
JA	Judge Advocate
JAGC	Judge Advocate General's Corps
JAGCNet	Judge Advocate General's Corps Network (www.jagcnet.army.mil)
JAGSO	Judge Advocate General Service Organization
JAWE	Judge Advocate Warfighting Experiment
JCS	Joint Chiefs of Staff
JFACC	Joint Forces Air Component Command
JFC	Joint Force Commander
JFCOM	Joint Forces Command (the successor organization to ACOM)
JFLCC	Joint Forces Land Component Command
JFMCC	Joint Forces Maritime Component Command
JFSOCC	Joint Forces Special Operations Component Command
JIATF	Joint Inter-Agency Task Force
JMC	Joint Military Commission; Joint Movement Center
JOA	Joint Operations Area
JOPES	Joint Operations Planning and Execution System
JP	Joint Publication
JRA	Joint Rear Areas
JSCP	Joint Strategic Capabilities Plan
JSOTF	Joint Special Operations Task Force
JTCB	Joint Targeting Coordination Board

JTF	Joint Task Force
JTTP	Joint Tactics, Techniques, and Procedures
JZ	Joint Zones
LAAWS	Legal Automated Army-Wide System
LDP	Leadership Development Program
LOGCAP	Logistics Civil Augmentation Program
LOW	Law of War
LSO	Legal Support Organization
LST	Legal Support Team
LTC	Lieutenant Colonel
MACDIS	Military Assistance for Civil Disturbances
Main CP	Main Command Post
MAJ	Major
MCS	Maneuver Control System
MCS-P	Maneuver Control System - Phoenix
MDMP	Military Decision Making Process
METL	Mission Essential Task List
METT-TC	Mission, Enemy, Troops, Terrain, Time Available, and Civilian Considerations
MNF	Multinational Forces
MOB	Mobilization
MOBTDA	Mobilization Table of Distribution and Allowance
MOOTW	Military Operations Other Than War
MOS	Military Occupational Specialty
MPCA	Military Personnel Claims Act
MRE	Mission Rehearsal Exercise; Meals Ready to Eat
MSG	Master Sergeant
MSO	Mobilization Support Organization
NATO	North Atlantic Treaty Organization
NBC	Nuclear, Biological and Chemical
NCA	National Command Authorities
NCO	Noncommissioned Officer
NCOIC	Noncommissioned Officer in Charge
NG	National Guard
NGO	Non-governmental Organization
NGR	National Guard Regulation
NMS	National Military Strategy
NSS	National Security Strategy
OC	Observer-Controller
OCONUS	Outside the Continental United States
OIC	Officer in Charge

OOTW	Operations Other Than War
OPCON	Operational Control
OPLAN	Operations Plan
OPLAW	Operational Law
OPLAW JA	Operational Law Judge Advocate
OPORD	Operations Order
OSJA	Office of the Staff Judge Advocate
OT	Observer-Trainer
OTJAG	Office of the Judge Advocate General
PACOM	Pacific Command
PCMCIA	Personal Computer Memory Card International Association (modem and network cards for notebook computers)
PDD	Presidential Decision Document
PEO	Peace Enforcement Operations
PFC	Private First Class
PKO	Peace Keeping Operations
PLEX	Plans/Exercises Cell
PLP	Premobilization Legal Preparation
PPTO	Personnel, Plans, and Training Office
PROE	Peacetime Rules of Engagement (superseded by the JCS SROE)
PSYOP	Psychological Operations
PVO	Private Voluntary Organization
R-A-M-P	Learning device for ROE training. Return Fire with Aimed Fire- Anticipate Attack-Measure the Amount of Force-Protect with Deadly Force only Human Life and Property Designated by the Commander
RCM	Rules for Courts-Martial
RDC	Regional Defense Counsel
RDL	Rucksack Deployable Law Office and Library
Rear CP	Rear Command Post
ROE	Rules of Engagement
RSC	Regional Support Command
RSG	Regional Support Group
RTDT	Regional Trial Defense Team
S-1	Adjutant
S-2	Intelligence Officer
S-3	Training and Operations Officer
S-4	Supply Officer
S-5	Civil Affairs Officer
SA	Secretary of the Army; Security Assistance
SECDEF	Secretary of Defense
SFC	Sergeant First Class

SGLI	Soldiers' Group Life Insurance
SGT	Sergeant
SIPRNET	Secret Internet Protocol Router Network
SJA	Staff Judge Advocate
SOCO	Standards of Conduct Office
SOCOM	Special Operations Command
SOI	Signal Operation Instructions
SOF	Special Operations Forces
SOFA	Status of Forces Agreement
SOP	Standard Operating Procedures
SOUTHCOM	Southern Command
SPACECOM	Space Command
SPC	Specialist
SROE	Standing Rules of Engagement
SRP	Soldier Readiness Program Processing
SSCR	Single-service Claims Responsibility
SSCRA	Soldiers' and Sailors' Civil Relief Act
SSG	Staff Sergeant
SSORD	Service Support Order
STANAG	Standardization Agreement
STARC	State Area Commands
STRATCOM	Strategic Command
STX	Situational Training Exercises
TAACOM	Theater Army Area Command
TAC CP	Tactical Command Post
TACC1	Tactical Command Post in a Digitized Division
TACON	Tactical Control
TACSOP	Tactical Standard Operating Procedures
TADSS	Training Aids, Devices, Simulators, and Simulations
TAJAG	The Assistant Judge Advocate General
TDA	Trial Defense Service
TDT	Trial Defense Team
TOA	Transfer of Authority
TOC	Tactical Operations Center
TOE	Table of Organization and Equipment
TOR	Terms of Reference
TJAG	The Judge Advocate General
TJAGSA	The Judge Advocate General's School, Army
TRANSCOM	Transportation Command
TSC	Troop Support Command
TTP	Tactics, Techniques, and Procedures
UCMJ	Uniform Code of Military Justice
UCO	Unit Claims Officers

UCP	Unified Command Plan
UN	United Nations
USACAPOC	United States Army Civil Affairs and Psychological Operations Command
USACCA	United States Army Court of Criminal Appeals
USAID	United States Agency for International Development
USALSA	United States Army Legal Services Agency
USAR	United States Army Reserve
USARCS	United States Army Claims Service
USASOC	United States Army Special Operations Command
USATDS	United States Army Trial Defense Service
USC	United States Code
USCA	United States Code, Annotated
USJFCOM	United States Joint Forces Command (the successor organization to ACOM)
USFJ	United States Force, Japan
USFK	United States Forces, Korea
WARNO	Warning Order
WMD	Weapons of Mass Destruction
XO	Executive Officer

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Index

A

ABCS · 2-19, 4-26, 4-27
 Acquisition and Cross-Servicing Agreements · 3-9, 5-6
 Administrative Control · 4-7, 4-8, 4-10
 Administrative Law · v, 2-3, 1, 5-8
 Advocate · i, iii, v, vii, ix, x, 1-1, 1-4, 1-9, 2-1, 2-2, 2-3, 2-5, 2-6, 2-7, 2-10, 2-11, 2-14, 2-15, 3-2, 4-21, 4-33, 4-40, 1, 5-7, 5-11, 5-21, 5-23, 5-25, 8-9, 1-2, 1-3, 1-4, 1
 Agency · iii, vi, 2-1, 2-3, 4-6, 7-1, 7-5, 7-8, 7-12, 7-13
 AJAG · 2-3, 2-4, 2-5
 Alliance · 4-6
 ALLS · 2-5
 AO · 4-3
 Area Support Group · 4-23
 ARFOR · 4-7
 Arms Control · v, 1, 6-7
 Army Battle Command System · 2-19, 4-26, 4-30
 Army Law Library Service · 2-5, 2-12
 Army National Guard · iii, x, 2-1, 2-3, 2-6, 2-7, 7-3, 7-13
 Army of Excellence · 3-6, 3-8, 3-9, 3-10, 3-12, 3-14, 5-10, 5-15
 Army Reserve · iii, x, 2-1, 2-3, 2-7, 2-10, 5-5
 Army Service Component Command · v, 4-23, 4-24, 1, 5-9, 5-13
 ARNG · 2-6, 2-18, 5-7
 ASCC · 4-7, 4-23, 4-25, 5-9, 5-13, 5-14
 Assistant Judge Advocate General · 2-3, 2-4, 2-5
 Automation · iv, 2-19, 1, 4-25, 4-26

B

Battle Command Training Program · 5-26
 BCTP · 5-26
 BOLT · 2-13, 4-27, 4-35, 4-40, 4-41, 5-21, 5-22, 5-24
 Brigade · v, 2-13, 2-16, 3-2, 3-4, 1, 5-12, 5-16, 5-17, 5-21, 5-22, 5-23, 8-9
 Brigade Judge Advocate · 5-21, 5-23, 8-9
 Brigade Operational Law Team · 2-13, 5-12, 5-21

C

C2 · iii, v, vi, 1-2, 1-6, 2-16, 3-1, 4-26, 4-27, 1, 5-4, 5-5, 5-12, 5-13, 5-15, 5-17, 5-22, 5-24, 1, 6-5, 6-6, 6-10
 Center for Law and Military Operations · 2-3, 2-5, 2-16, 2-18, 2-19, 3-3, 4-25, 4-28, 5-26, 1, 7-3
 Chairman of the Joint Chiefs of Staff · 2-15, 4-4, 6-12, 6-13, 7-11, 8-2, 8-7, 1, 1-6, 1-7
 Chemical Weapons Convention · 5-5
 Chief Legal Noncommissioned Officer · 2-10, 2-12

CINC · 4-2, 4-3, 4-4, 4-5, 4-7, 4-8, 4-9, 4-10, 4-21, 4-36, 5-9, 7-9, 8-10
 Civil Affairs · iv, 1, 4-38, 4-39, 6-14
 Civil Disturbance · vi, 7-7, 7-9, 8-7
 Civil Law · v, 2-3, 2-5, 4-21, 1, 5-8
 Civil Military Operations · 3-13
 Civil Military Operations Center · 4-6, 6-6
 Civilian · 2-12, 2-14, 4-41, 7-8, 8-4
 CJA · 2-14, 4-23, 4-28, 4-40, 4-41, 5-12, 5-13
 CJCS · vi, 4-7, 4-25, 6-12, 7-4, 7-8, 7-9, 1, 8-7, 8-8, 8-10
 Claims · v, 1-3, 2-1, 2-2, 2-5, 3-11, 3-12, 3-13, 4-33, 1, 5-8, 7-11
 CLAMO · 2-3, 2-5, 2-16, 2-18, 2-19, 3-3, 4-25, 4-28, 5-26, 1, 7-3
 CLNCO · 2-8, 2-10, 2-12, 3-2, 4-27, 5-13, 5-14, 5-15, 5-17, 5-18, 5-25
 CMOC · 4-6, 6-6
 COCOM · 4-7, 4-8
 Combat Service Support · viii, 1-9
 Combat Service Support Control System · 1-9
 Combat Zone · iv, 1, 4-3
 Command · iii, iv, v, vii, x, 1-1, 3, 1-6, 2-1, 2-8, 2-11, 2-14, 2-15, 2-19, 3-9, 3-10, 3-12, 3-14, 1, 4-2, 4-4, 4-5, 4-6, 4-8, 4-18, 4-23, 4-24, 4-26, 4-30, 4-33, 4-34, 4-38, 1, 5-4, 5-9, 5-10, 5-11, 5-13, 5-15, 5-22, 5-24, 5-26, 1, 6-3, 6-5, 6-8, 6-10, 6-11, 6-12, 6-15, 7-5, 7-12, 8-10, 8-11, 1
 Command and Control · iii, v, vi, 1-2, 1-6, 2-16, 3-1, 4-26, 4-27, 1, 5-4, 5-5, 5-12, 5-13, 5-15, 5-17, 5-22, 5-24, 1, 6-5, 6-6, 6-10
 Command Judge Advocate · iii, 2-1, 2-14
 Command Post · v, 2-11, 2-19, 3-2, 4-27, 1, 5-10, 5-11, 5-12, 5-15, 5-18, 5-22, 5-23, 5-24
 Commander · vi, 2-4, 2-15, 4-5, 4-11, 4-20, 4-23, 4-24, 4-34, 5-10, 5-11, 5-12, 7-9, 1, 8-2, 8-8, 8-11, 8-13
 Communications Zone · iv, 1, 4-3
 Continental United States Army · 2-10, 2-18
 Contract Law · 2-3, 4-21
 CONUS · 2-6, 2-7, 2-10, 2-18, 2-19, 4-21, 4-28, 4-33, 5-7
 CONUSA · 2-10, 2-18
 Core Legal Discipline · i, viii, 1-1
 administrative law · viii, 1-2, 1-4, 2-8, 2-15, 3-1, 3-7, 3-8, 3-9, 4-31, 4-35, 5-24
 civil law · viii, 1-2, 1-4, 2-8, 2-15, 3-1, 3-9, 3-11, 4-31, 4-35, 4-42, 7-5
 claims · vii, viii, 1-2, 4, 1-4, 1-9, 2-2, 2-5, 2-8, 2-11, 2-13, 2-14, 2-15, 2-19, 2-20, 3-1, 3-11, 3-12, 3-13, 4-27, 4-29, 4-31, 4-32, 4-35, 4-41, 1, 5-6, 5-8, 5-24, 6-9, 6-11, 7-6
 international law · vii, viii, 1-2, 1-4, 1-8, 1-10, 2-2, 2-16, 3-1, 3-2, 3-6, 3-7, 3-9, 4-22, 4-31, 4-35, 4-38, 4-39, 5-4, 5-5, 6-5, 6-10, 6-13, 1, 8-2, 8-3, 8-5
 legal assistance · vii, viii, 1-2, 1-4, 2-8, 2-11, 2-12, 2-14, 2-15, 3-1, 3-13, 3-14, 3-15, 4-27, 4-29, 4-31, 4-35, 4-38, 1, 5-6, 5-7, 5-24, 1

military justice · vii, viii, 1-2, 1-4, 2-1, 2-8, 2-11, 2-12, 2-13, 2-14, 2-15, 2-20, 3-1, 3-3, 3-4, 3-5, 4-29, 4-31, 4-32, 4-35, 4-38, 5-6
Corps · i, vii, ix, 1-1, 2-5, 2-11, 4-4, 4-24, 4-39, 5-14, 5-15, 5-21, 7-12, 8-2, 1-2, 1-3, 1-4
Corps Support Command · 4-24
COSCOM · 3-8, 3-9, 3-10, 4-24, 5-14, 5-15
Counsel · iii, 2-1, 2-8, 2-15, 3-4, 3-5, 3-15, 5-14
Counselor · iii, 1-1, 1-5
Counter-Drug · v, vi, 1, 6-7, 7-10
Counterterrorism · 4-36, 6-7
Country Team · 4-6, 6-6
Court-Martial · 5-5
CP · 3-2, 4-27, 5-10, 5-11, 5-12, 5-15, 5-18, 5-22, 5-23, 5-24
CSS · viii, 4-15
CSSCS · 1-9

D

Deep Operations Coordination Cell · 5-12, 8-2, 8-9, 8-10
Department of Defense · 2-2, 2-11, 2-18, 3-6, 3-11, 3-12, 4-38, 4-41, 5-5, 6-6, 6-13, 7-1, 7-4, 7-5, 7-6, 7-8, 7-9, 7-10, 7-11, 7-12, 7-13, 7-14, 8-2, 8-4
Department of Justice · 3-10, 7-8, 7-13, 7-14
Department of State · 6-6
Deputy Staff Judge Advocate · 2-10, 2-11, 2-13, 2-19, 4-20, 4-27, 4-33, 4-34, 4-35, 5-12, 5-13, 5-14, 5-15, 5-17, 5-21, 5-25
Digitized Division · 5-10, 5-11
DOCC · 5-12, 8-9, 8-10
DoD · 2-2, 2-11, 2-18, 3-6, 3-11, 3-12, 4-41, 5-5, 6-6, 6-13, 7-1, 7-4, 7-5, 7-6, 7-8, 7-9, 7-10, 7-11, 7-12, 7-13, 7-14, 8-4
DoD Law of War Program · 2-2, 2-11
DoJ · 3-10, 7-8, 7-13, 7-14
DoS · 6-6, 7-11
DSJA · 2-10, 2-11, 2-13, 2-19, 4-20, 4-27, 4-33, 4-34, 4-35, 5-12, 5-13, 5-14, 5-15, 5-17, 5-21, 5-25
Duties · 7-6

E

Environmental Law · 2-3, 3-10
Exclusion Zones · v, 1, 6-7

F

Federal Emergency Management Agency · 7-5, 7-13
FEMA · 7-5, 7-13, 7-14
Field Operating Agencies · iii, 2-1, 2-3, 2-16
Fiscal Law · 2-5
Force Projection · iv, 1, 4-21
Force XXI · ix, 3-6, 3-8, 3-9, 3-10, 3-12, 3-14, 4-26, 5-10

Foreign Claims · 3-13, 5-8
FORSCOM · 2-6, 2-10, 2-18, 4-25, 5-25, 7-9
FRAGO · 4-15
Functional Areas · vii

G

GCSS-A · 1-9, 2-19
General Order · vii
Geneva Conventions · i, 4-33, 5-8, 8-2, 8-13

H

Humanitarian Assistance · v, 1, 6-7

I

ICRC · 3-7
Information Operations · ix, 2-16, 3-2, 5-5, 5-11, 5-18, 8-2, 8-9
Intelligence · vi, 4-19, 5-13, 1, 6-15
Interagency · iii, v, vi, 1-6, 4-6, 1, 6-6, 6-12, 8-4
International · iii, v, vi, 1-1, 1-7, 2-3, 2-5, 2-19, 3-6, 3-7, 4-6, 4-41, 1, 5-8, 1, 6-8, 6-12
International Committee of the Red Cross · 3-7, 6-12
International law · 3-6
Interpret-Draft-Disseminate-Train · 8-9
IO · 5-5, 5-18

J

JAGC · i, viii, ix, 1-1, 1-9, 2-5, 2-6, 2-7, 2-10, 3-15, 4-21, 4-25, 4-28, 5-9, 5-14, 5-17, 7-12
JAGSO · x, 2-7, 2-8, 2-9, 4-40
JCS · 8-7
Joint Chiefs of Staff · iii, 2-1, 2-14, 2-15, 4-4, 6-12, 6-13, 7-4, 7-8, 7-11, 8-2, 8-3, 8-7, 1, 1-6, 1-7
Joint Command · 6-6
Joint Force · 3-4, 4-2, 4-5, 4-23, 1-7
Joint Force Commander · 3-4, 4-5, 4-23
Joint Military Commission · 2-19, 6-10, 6-12, 6-15
Joint Operations · 4-6, 4-12, 8-11
Joint Strategic Capabilities Plan · 4-7
Joint Task Force · iii, 2-1, 2-15, 4-5, 4-23, 4-25, 4-36, 7-11, 7-12, 8-9, 8-10
JTF · 2-15, 4-5, 4-25, 4-36, 7-11, 8-10
Judge · i, iii, v, vi, vii, ix, x, 1-1, 1-2, 3, 1-3, 1-4, 1-5, 1-6, 1-8, 1-9, 2-1, 2-2, 2-3, 2-4, 2-5, 2-6, 2-7, 2-9, 2-10, 2-11, 2-12, 2-14, 2-15, 2-16, 2-19, 2-20, 3-2, 3-4, 3-5, 3-15, 4-4, 4-5, 4-8, 4-20, 4-21, 4-23, 4-26, 4-29, 4-31, 4-33, 4-36, 4-38, 4-40, 1, 5-4, 5-6, 5-7, 5-10, 5-11, 5-12, 5-13, 5-14, 5-15, 5-17, 5-18, 5-21, 5-22, 5-23, 5-24, 5-25, 6-3, 7-1, 7-3, 7-5, 7-13, 8-9, 8-13, 1-2, 1-3, 1-4, 1

Judge Advocate · i, iii, v, vi, vii, ix, x, 1-1, 1-9, 2-1, 2-2, 2-3, 2-5, 2-6, 2-7, 2-10, 2-11, 2-14, 2-15, 3-2, 3-3, 3-15, 4-5, 4-15, 4-20, 4-21, 4-33, 4-38, 4-39, 4-40, 1, 5-7, 5-11, 5-12, 5-13, 5-17, 5-18, 5-21, 5-23, 5-24, 5-25, 7-3, 8-9, 8-10, 1-2, 1-3, 1-4, 1
Judge Advocate General Service Organization · x, 2-7, 2-8, 2-9, 4-40
Judge Advocate General's Corps · i, viii, ix, 1-1, 1-9, 2-6, 2-7, 2-10, 3-15, 4-21, 4-25, 4-28, 5-9, 5-14, 5-17, 7-12
Judge Advocate General's Corps · 1-1, 2-5

Mission Essential Task List · iv, ix, 1, 4-32, 4-33, 4-34, 4-35, 5-25
Mission Rehearsal Exercise · 6-16
Mobility · iv, 1, 4-28
Mobilization Support Organization · 2-8, 3-14, 3-15, 4-33, 4-34, 4-35, 4-36, 5-7
MOOTW · v, 5-3, 5-4, 5-6, 5-7, 5-17, 1, 6-3, 6-4, 6-5, 6-6, 6-8, 6-10, 6-11, 6-12, 6-13, 6-14, 6-15, 6-16, 1, 8-2, 8-5, 8-14, 1
MRE · 6-16
MSO · 2-8, 3-14, 3-15, 4-33, 4-34, 4-35, 4-36, 5-7

L

LAAWS · 1-9, 2-19, 4-26, 4-27, 5-13, 5-14, 5-17
Law of the Flag · 6-11, 6-12
Law of War · i, vii, 2-2, 2-11, 3-6, 3-7, 2, 4-15, 5-4, 5-11, 8-12
Lead Agency · vi, 7-1, 7-5, 7-8, 7-12
Legal Administrator · 2-10, 2-12, 2-13, 3-2, 4-27, 5-25
Legal Assistance · v, 2-2, 2-3, 3-13, 3-15, 4-33, 1, 5-9
Legal Automated Army-Wide System · 1-9, 2-19, 4-26, 4-27, 5-13, 5-14, 5-17
Legal Organizations · iii, 2-1, 2-6, 2-7
Legal Specialist · 2-8, 2-13
Legal Support Organization · 2-7, 2-10, 2-18, 4-33, 4-34, 4-35, 4-36, 5-7, 7-3
Legal Support Team · 2-7, 2-8, 2-10
Legitimacy · iii, 1-1, 1-2, 1-10
Liaison · 4-8, 4-10
LOGCAP · 3-9, 5-6, 6-14
Logistics Civil Augmentation Program · 3-9, 5-6, 6-14
LOW · vii, 3-6, 3-7, 4-15, 5-11
LSO · 2-7, 2-10, 2-18, 4-33, 4-34, 4-35, 4-36, 5-7, 7-3
LST · 2-7, 2-8, 2-10

M

Main CP · 3-2, 5-11
Maneuver Control System · 1-9, 2-19
Materiel · 4-5
MDMP · iv, 1, 4-12, 4-18, 4-19, 4-20, 5-4, 5-12
METL · iv, ix, 1, 4-32, 4-33, 4-34, 4-35, 5-25
METT-TC · vi, 2-19, 4-4, 4-13, 5-11, 5-12, 5-14, 5-16, 5-17, 5-21, 7-3, 8-4, 8-12
Military Decision Making Process · 4-18, 4-19, 4-20, 5-4, 5-12
Military Decision-Making Process · 4-18
Military Justice · v, 1-4, 2-1, 2-4, 2-11, 3-3, 4-29, 4-33, 1, 5-8
Military Operations Other Than War · v, 5-3, 5-4, 5-6, 5-7, 5-17, 1, 6-3, 6-4, 6-5, 6-6, 6-8, 6-10, 6-11, 6-12, 6-13, 6-14, 6-15, 6-16, 1, 8-2, 8-5, 8-14, 1
Military Support to Civil Authorities · vi, 7-4
Mission · iii, iv, v, vii, ix, 1-1, 1-2, 1-8, 3-5, 1, 4-6, 4-11, 4-13, 4-17, 4-20, 4-32, 5-17, 1, 6-5, 6-6, 6-10, 8-4

N

Nation Assistance · v, 1, 6-8
National Command Authorities · 3, 2-15, 4-4, 4-41, 6-3, 6-5, 6-8, 6-11, 7-5, 7-12, 7-13, 8-8, 8-10, 8-11
National Guard Bureau · x, 2-6, 7-11
National Military Strategy · viii, 4-4, 1-6, 1-7
National Security Strategy · viii, 1-6, 4-3, 4-4, 7-13, 1-6
NCA · 3, 2-15, 4-4, 4-41, 6-3, 6-5, 6-8, 6-11, 7-5, 7-12, 7-13, 8-8, 8-10, 8-11

O

Office of the Judge Advocate General · 2-1, 2-3, 2-16, 2-18, 4-25, 6-12
Office of The Judge Advocate General · iii, 2-1
OPCON · 2-6, 4-8, 4-17, 4-36, 4-40, 8-11
Operation · vi, 2-18, 4-16, 1, 6-6, 6-9, 6-11
Operation Plan · 3-3, 3-8, 4-15, 4-18, 4-19, 8-11, 8-13
Operational Control · 2-6, 4-8, 4-17, 4-36, 4-40, 8-11
Operational Law · i, iii, vii, 1-1, 2-1, 2-3, 2-5, 2-13, 2-16, 2-19, 2, 4-29, 5-12, 5-21, 6-10, 6-12, 6-14, 7-3
Operations Law · iv, 2-16, 2-18, 3-1, 3-2, 3-3, 3-9, 3-15, 4-5, 4-15, 4-20, 4-21, 4-22, 4-23, 4-27, 4-28, 4-32, 4-36, 4-38, 4-39, 4-40, 5-4, 5-6, 5-7, 5-8, 5-11, 5-12, 5-13, 5-14, 5-15, 5-17, 5-18, 5-21, 5-22, 5-24, 5-25, 5-26, 6-10, 6-11, 6-12, 6-13, 6-14, 6-15, 6-16, 7-1, 8-2, 8-9, 8-10, 8-15
Operations Order · 3-3, 4-15, 4-16, 4-17, 4-18, 4-20, 8-11, 8-13
OPLAN · 3-3, 3-8, 4-15, 4-18, 4-19, 8-11, 8-13
OPLAW · i, iii, iv, vii, 1-1, 2-1, 2-3, 2-5, 2-13, 2-16, 2-18, 2-19, 3-1, 3-2, 3-3, 3-9, 3-15, 2, 4-5, 4-15, 4-20, 4-21, 4-22, 4-23, 4-27, 4-28, 4-29, 4-32, 4-36, 4-38, 4-39, 4-40, 5-4, 5-6, 5-7, 5-8, 5-11, 5-12, 5-13, 5-14, 5-15, 5-17, 5-18, 5-21, 5-22, 5-24, 5-25, 5-26, 6-10, 6-11, 6-12, 6-13, 6-14, 6-15, 6-16, 7-1, 7-3, 8-2, 8-9, 8-10, 8-15
OPLAW Judge Advocate · 3-2
OPORD · 3-3, 4-15, 4-16, 4-17, 4-18, 4-20, 8-11, 8-13
Order · 4-16, 8-2
OTJAG · iii, 2-1, 2-3, 2-16, 2-18, 4-25, 6-12
Overseas Presence · iv, 1, 4-21

P

PDD · 7-13
Peace Enforcement · 6-4, 6-9
Peace Operations · v, ix, 1, 6-8
Peacekeeping · 6-4, 6-9
Personnel Claims · 5-8
Personnel Service Support · v, 4-29, 1, 5-4, 5-6
Planning · iv, 2-18, 1, 4-11, 4-12, 4-13, 4-20, 4-22, 4-35, 4-41, 8-9, 8-10, 8-11
Plans · 2-16, 3-2, 4-12, 4-15, 5-12
Presidential Decision Directive · 7-13
Private Voluntary Organizations · 1-7
PSS · v, 4-29, 1, 5-4, 5-6
PVO · 1-7

R

RAMP · 8-14
RC · 4-33, 4-35, 5-7, 5-25
RDL · x, 1-9, 2-13, 2-19, 3-13, 4-26, 4-27, 4-28, 4-38, 5-13, 5-14, 5-17, 6-16
Rear CP · 3-2
Recovery Operations · v, 1, 6-9
Regional Support Commands · 2-10, 2-18, 5-7
Reserve Component · 4-33, 4-35, 5-7, 5-25
ROE · vi, 2-16, 3-2, 3-3, 4-15, 5-5, 5-11, 5-12, 5-18, 1, 6-3, 6-5, 6-9, 6-10, 6-11, 6-12, 6-13, 6-14, 6-15, 6-16, 7-6, 7-12, 1, 8-2, 8-3, 8-4, 8-5, 8-6, 8-7, 8-8, 8-9, 8-10, 8-11, 8-12, 8-13, 8-14, 8-15
RSC · 2-18
Rucksack Deployable Law Office and Library · x, 1-9, 2-13, 2-19, 3-13, 4-26, 4-27, 4-28, 4-38, 5-13, 5-14, 5-17, 6-16
Rules of Engagement · vi, 2-16, 3-2, 3-3, 4-15, 5-5, 5-11, 5-12, 5-18, 1, 6-3, 6-5, 6-9, 6-10, 6-11, 6-12, 6-13, 6-14, 6-15, 6-16, 7-6, 7-12, 1, 8-2, 8-3, 8-4, 8-5, 8-6, 8-7, 8-8, 8-9, 8-10, 8-11, 8-12, 8-13, 8-14, 8-15

S

SECDEF · 4-4, 4-5, 4-7, 7-4, 7-10, 7-11, 7-12
Secretary of Defense · 4-4, 4-5, 4-7, 7-4, 7-10, 7-11, 7-12
Secretary of the Army · 2-1, 2-2, 3-12, 4-7, 5-5, 7-4
Service · iii, v, viii, x, 1-1, 1-2, 3, 1-9, 2-1, 2-2, 2-3, 2-5, 2-7, 2-8, 2-9, 2-12, 3-4, 3-12, 4-18, 4-23, 4-24, 4-29, 4-40, 1, 5-4, 5-6, 5-9, 5-13, 5-15, 6-9
Show of Force · v, 1, 6-9
SJA · i, iii, iv, ix, 1-9, 2-1, 2-3, 2-6, 2-9, 2-10, 2-11, 2-12, 2-13, 2-14, 2-15, 2-16, 2-19, 2-20, 3-3, 3-4, 3-5, 3-6, 3-7, 3-9, 3-10, 3-12, 3-15, 1, 4-20, 4-21, 4-23, 4-25, 4-26, 4-27, 4-28, 4-29, 4-31, 4-32, 4-33, 4-34, 4-35, 4-36, 4-38, 4-39, 4-40, 4-41, 5-4, 5-7, 5-9, 5-12, 5-13, 5-14, 5-15, 5-16, 5-17, 5-18, 5-21,

5-24, 5-25, 5-26, 6-12, 6-14, 6-15, 7-3, 8-9, 8-13, 8-14, 1
SOFA · 5-6, 6-9
Soldier Readiness Processing · 2-10, 2-14, 2-18, 3-14, 3-15
SOP · 4-16, 4-18, 4-20, 5-10, 8-13
Special Operations · iv, ix, 1, 4-2, 4-36, 4-37, 4-38, 5-24, 6-8, 6-15
SROE · 6-12, 6-13, 7-6, 7-12, 8-3, 8-5, 8-7, 8-8, 8-9, 8-10, 8-11, 8-12, 8-14
SRP · 2-10, 2-14, 2-18, 3-14, 3-15
Staff Judge Advocate · i, iii, iv, ix, 1-9, 2-1, 2-3, 2-6, 2-9, 2-10, 2-11, 2-12, 2-13, 2-14, 2-15, 2-16, 2-19, 2-20, 3-3, 3-4, 3-5, 3-6, 3-7, 3-9, 3-10, 3-12, 3-15, 1, 4-20, 4-21, 4-23, 4-25, 4-26, 4-27, 4-28, 4-29, 4-31, 4-32, 4-33, 4-34, 4-35, 4-36, 4-38, 4-39, 4-40, 4-41, 5-4, 5-7, 5-9, 5-12, 5-13, 5-14, 5-15, 5-16, 5-17, 5-18, 5-21, 5-24, 5-25, 5-26, 6-12, 6-14, 6-15, 7-3, 8-9, 8-13, 8-14, 1
Standing Operating Procedure · 4-16, 4-18, 4-20, 5-10, 8-13
STARC · 2-6, 2-18, 5-7
State Area Command · x, 2-6
Status of Forces · vi, 5-6, 1, 6-9, 6-11
Status of Forces Agreement · 6-9
Status of Forces Agreements · 5-6
Strikes · v, 1, 6-9
Sustainment · v, vii, 4-27, 1, 5-4, 5-5

T

TAACOM · 3-6, 3-10, 4-23, 4-24, 5-13, 5-14
TAC CP · 3-2, 4-27, 5-10, 5-11, 5-12, 5-18, 5-23
TACON · 4-8
Tactical Control · 4-8
Tailoring · iii, 2-1, 2-19
TAJAG · 2-3
Targeting · 3-2, 4-5, 4-41, 5-12
TDS · 2-3, 2-5, 2-9, 3-4, 5-15
Technical Channel · iv, 1, 4-24
Terrorism · v, vi, 1, 6-7, 7-13
The Assistant Judge Advocate General · 2-3
The Judge Advocate General's School · 2-1, 2-5, 2-6, 2-16, 2-18, 2-19, 4-25, 4-28, 4-36, 7-3
Theater · iv, v, vi, ix, 3-6, 3-9, 3-10, 3-12, 3-14, 1, 4-5, 4-6, 4-23, 4-24, 1, 5-9, 6-5, 7-1, 8-2
TJAG · i, iii, vii, 2-1, 2-3, 2-5, 2-6, 2-7, 2-10, 2-20, 3-3, 3-12, 4-21
TJAGSA · 2-1, 2-5, 2-6, 2-16, 2-18, 2-19, 4-25, 4-28, 4-36, 7-3
Training · iv, vi, ix, 2-6, 2-7, 3-2, 3-12, 1, 4-25, 4-28, 4-30, 4-31, 4-35, 5-25, 5-26, 6-8, 6-13, 6-15, 6-16, 7-3, 1
Trial Defense Service · 2-3, 2-5, 2-9, 3-4, 5-15
Trial Judiciary · 2-1, 2-4, 2-7, 2-9, 3-4, 5-14
TSC · 3-6, 3-10, 4-23, 4-24, 5-13, 5-14

U

Unified Command Plan · 4-4
Uniform Code of Military Justice · 1-4, 2-1, 2-4, 2-9,
2-11, 3-3, 4-29, 4-33, 5-8
United Nations · 2-15, 6-6, 6-10, 6-12, 8-12
US Army Claims Service · 2-1, 2-5, 2-18, 3-12, 3-13

US Army Legal Services Agency · 2-1, 2-3, 4, 2-4, 2-
9, 2-16, 2-18, 3-10, 5-9
USAR · 2-18, 5-6

W

War Powers Resolution · 5-9
Weapons of Mass Destruction · 7-13

Endnotes

- ¹ In this manual, "operations" include war and MOOTW, but not garrison operations.
- ² See DEP'T OF ARMY, FIELD MANUAL 100-5, OPERATIONS at v (1993).
- ³ See generally MAJOR PAUL H. HERBERT, COMBAT STUDIES INSTITUTE, LEAVENWORTH PAPER NO. 16, DECIDING WHAT HAS TO BE DONE: GENERAL WILLIAM E. DEPUY AND THE 1976 EDITION OF *FM 100-5, OPERATIONS* 3-9 (1988) (describing the function of doctrine in an army and charting the modern practice of publishing doctrine in manuals).
- ⁴ TIMOTHY T. LUPFER, COMBAT STUDIES INSTITUTE, LEAVENWORTH PAPER NO. 4, THE DYNAMICS OF DOCTRINE: THE CHANGES IN GERMAN TACTICAL DOCTRINE DURING THE FIRST WORLD WAR 55 (1981).
- ⁵ KNOWLEDGE AND SPEED: BATTLE FORCE AND THE U.S. ARMY OF 2025, THE 1998 ANNUAL REPORT ON THE ARMY AFTER NEXT PROJECT TO THE CHIEF OF STAFF OF THE ARMY, Headquarters, U.S. Army Training and Doctrine Command, (7 December 1998).
- ⁶ Major General Walter B. Huffman, Address at the Judge Advocate General's Corps World Wide Continuing Legal Education Plenary Session (October 1997).
- ⁷ THE ARMY LAWYER: A HISTORY OF THE JUDGE ADVOCATE GENERAL'S CORPS, 1775-1975, 12-13 (1975).
- ⁸ 417 U.S. 733, 742 (1974) (quoting *United States ex rel. Toth v. Quarles*, 350 U.S. 11, 17 (1955), *Orloff v. Willoughby*, 345 U.S. 83, 93 (1953), and *Burns v. Wilson*, 346 U.S. 137, 140 (1953)).
- ⁹ DEP'T OF ARMY, ARMY VISION 2010, 2. Represented by the acronym LDRSHIP.
- ¹⁰ DEP'T OF ARMY, FIELD MANUAL 100-5, OPERATIONS (June 1993).
- ¹¹ See THE ARMY LAWYER: A HISTORY OF THE JUDGE ADVOCATE GENERAL'S CORPS, 1775-1975, 105 (1975).
- ¹² LTC Michelle M. Miller, Former Task Force Eagle Staff Judge Advocate, 1998-1999.
- ¹³ See, e.g., AMERICAN BAR ASS'N, CODE OF JUDICIAL CONDUCT at Canons 1 to 7 (1972).
- ¹⁴ See DEP'T OF ARMY, REG. 27-26, RULES OF PROFESSIONAL CONDUCT FOR LAWYERS at Rules 3.1 to 4.4 (1 May 1992).
- ¹⁵ CHAIRMAN OF THE JOINT CHIEFS OF STAFF, JOINT VISION 2010, 8.
- ¹⁶ CHAIRMAN OF THE JOINT CHIEFS OF STAFF, NATIONAL MILITARY STRATEGY OF THE USA, Executive Summary, The Strategy, Elements of Strategy, Responding to the Full Spectrum of Crises (1997).
- ¹⁷ DEPARTMENT OF THE ARMY, ARMY VISION 2010, 5.
- ¹⁸ See DEPARTMENT OF THE ARMY, ONE TEAM – ONE FIGHT – ONE FUTURE, 8; Search of Requirements Document System, Department of the Army (21 Sep 1999).
- ¹⁹ THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 7 (October 1998).
- ²⁰ See CHAIRMAN OF THE JOINT CHIEFS OF STAFF, NATIONAL MILITARY STRATEGY OF THE USA, EXECUTIVE SUMMARY, Executive Summary, The Strategy, National Military Objectives (1997).
- ²¹ See DEPARTMENT OF THE ARMY, ARMY VISION 2010, 8,9
- ²² See CHAIRMAN OF THE JOINT CHIEFS OF STAFF, NATIONAL MILITARY STRATEGY OF THE USA, The Joint Force, Characteristics of a Full Spectrum Force (1997); CHAIRMAN OF THE JOINT CHIEFS OF STAFF, JOINT VISION 2010, 9.
- ²³ CHAIRMAN OF THE JOINT CHIEFS OF STAFF, NATIONAL MILITARY STRATEGY OF THE USA, The Joint Force, Characteristics of a Full Spectrum Force, Interoperable (1997).
- ²⁴ CHAIRMAN OF THE JOINT CHIEFS OF STAFF, JOINT VISION 2010, 28-29.

- ²⁵ See CHAIRMAN OF THE JOINT CHIEFS OF STAFF, NATIONAL MILITARY STRATEGY OF THE USA, Executive Summary, The Strategic Environment – Opportunities and Challenges (1997).
- ²⁶ THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 13 (October 1998).
- ²⁷ See THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 14-22 (October 1998).
- ²⁸ THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 22 (October 1998).
- ²⁹ CHAIRMAN OF THE JOINT CHIEFS OF STAFF, JOINT VISION 2010, 31.
- ³⁰ DEPARTMENT OF THE ARMY, ONE TEAM – ONE FIGHT – ONE FUTURE, 13.
- ³¹ CHAIRMAN OF THE JOINT CHIEFS OF STAFF, JOINT VISION 2010, 11.
- ³² See CHAIRMAN OF THE JOINT CHIEFS OF STAFF, JOINT VISION 2010, 13-15.
- ³³ See DEP'T OF ARMY, REGULATION 27-3, LEGAL ASSISTANCE, Paragraph 2-3 – Legal Assistance Offices (10 March 1989).
- ³⁴ See THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 2 (October 1998).
- ³⁵ THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 13 (October 1998).
- ³⁶ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-1 – The Judge Advocate General (3 February 1995).
- ³⁷ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-2 – The Assistant Judge Advocate General (TAJAG) (3 February 1995).
- ³⁸ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-3 – The Assistant Judge Advocate General for Civil Law and Litigation (AJAG/CLL) (3 February 1995).
- ³⁹ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-4 – The Assistant Judge Advocate General for Military Law and Operations (AJAG/MLO) (3 February 1995).
- ⁴⁰ See 10 U.S.C. section 806b; Dep't of Army, Field Manual 101-5, Staff Organization and Operations at 2-3 & 4-32 (31 May 1997).
- ⁴¹ Dep't of Army, Field Manual 101-5, Staff Organization and Operations at 2-3 & 4-32 (31 May 1997).
- ⁴² See 10 U.S.C. section 806b; Dep't of Army, Field Manual 101-5, Staff Organization and Operations at I-3 (31 May 1997).
- ⁴³ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, paragraph 5-2, Responsibilities of supervisory judge advocates (3 February 1995).
- ⁴⁴ See Joint Chiefs of Staff, Joint Publication 0-2, Unified Action Armed Forces (UNAAF) (24 February 1995); Joint Chiefs of Staff, Joint Publication 1-04, Joint Tactics, Techniques, and Procedures for Legal Support of Military Operations (detailing the organization and responsibilities of joint and joint legal organizations) (to be published).
- ⁴⁵ See, e.g., ARMY LAW., August 1995, at 40-41 (describing the multinational headquarters and legal staff of the United Nations Mission in Haiti); and CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1994-1998, at 210-213 (diagramming multinational legal organizations in IFOR and SFOR) (13 November 1998).
- ⁴⁶ See, e.g., U.N. Charter art. 43-53; Army Law., August 1995, at 40-42; Center for Law and Military Operations, Law and Military Operations in Haiti, 1994-1995, at 16, 45, & n.32 (11 December 1995); and Center for Law and Military Operations, Law and Military Operations in the Balkans, 1994-1995, at 43, & 209-213 (13 November 1998).
- ⁴⁷ See DEP'T OF ARMY, REGULATION 500-5, ARMY MOBILIZATION, ANNEX L, LEGAL SERVICES (19 June 1998).

- ⁴⁸ DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-1v – Responsibilities for assignment and direction of members of the Judge Advocate General's Corps, and 3-2b, Use of judge advocate officers (3 February 1995).
- ⁴⁹ MANUAL FOR COURTS-MARTIAL, United States (1995 edition), Part I (Preamble), Paragraph 3.
- ⁵⁰ DEP'T OF ARMY, REGULATION 27-10, MILITARY JUSTICE, Paragraph 1-4 – Responsibilities (24 June 1996).
- ⁵¹ See 10 U.S.C. A. section 806b (West 1998).
- ⁵² See 10 U.S.C. A. section 806, 834, and 860 (West 1998); DEP'T OF ARMY, REGULATION 27-10, MILITARY JUSTICE, Paragraph 3-3 – Action by the superior authority (24 June 1996).
- ⁵³ See DEP'T OF ARMY, REGULATION 27-10, MILITARY JUSTICE, Chapter 5 – Procedures for Courts-Martial; Paragraph 18-6 – General; and Paragraph 19-7 – Course development and instruction (24 June 1996).
- ⁵⁴ DEP'T OF ARMY, REGULATION 27-10, MILITARY JUSTICE, Paragraph 6-3 – Organization (24 June 1996).
- ⁵⁵ See DEP'T OF ARMY, REGULATION 27-10, MILITARY JUSTICE, Paragraph 8-1d – Chief Trial Judge; Paragraph 8-6 – Detailing of military judges; Paragraph 8-8 – Rules of court; Paragraph 9-4 – Supervision of military magistrates (24 June 1996).
- ⁵⁶ See DEP'T OF ARMY, REGULATION 27-10, MILITARY JUSTICE, Paragraph 8-4 – Functions and duties of military judges (24 June 1996).
- ⁵⁷ See DEP'T OF ARMY, REGULATION 27-10, MILITARY JUSTICE, Paragraph 9-3 – Powers of military magistrates (24 June 1996).
- ⁵⁸ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Chapter 20 (1998); CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 170-181 (1998).
- ⁵⁹ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK 20-1 through 20-3 (1998); CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 170-173 (1998).
- ⁶⁰ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK 20-2 (1998); CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 173-174 (1998).
- ⁶¹ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 173-174 (1998).
- ⁶² See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 178 (1998).
- ⁶³ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-1g – International and Operational Law responsibilities (3 February 1995).
- ⁶⁴ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-1g – International and Operational Law responsibilities (describing TJAG's international law responsibilities); Paragraph 5-2a – Responsibilities of supervisory judge advocates (stating in subparagraph a – General, that “the supervisory JA has responsibilities generally corresponding to those discharged by TJAG with relation to HQDA,” and describing in subparagraph a(7) the international law responsibilities of the supervisory JA) (3 February 1995); DEP'T OF ARMY, FIELD MANUAL 27-100, LEGAL OPERATIONS, Paragraph 1-9e – International Law (3 September 1991); INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK 2-1 (1998); CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 76 (1998).

- ⁶⁵ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 79 (1998).
- ⁶⁶ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 121 (1998).
- ⁶⁷ See DEP'T OF ARMY REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-1 – The Judge Advocate General, subparagraph e (3 February 1995).
- ⁶⁸ See DEP'T OF ARMY REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-1 – The Judge Advocate General, Paragraph 2-1z – Ethics responsibilities, and Paragraph 5-2 – Responsibilities of supervisory judge advocates (3 February 1995).
- ⁶⁹ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 184 (13 November 1998).
- ⁷⁰ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 182 (concerning family care plans) (13 November 1998).
- ⁷¹ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 185 (concerning foreign gifts) (13 November 1998).
- ⁷² See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 185-6 (13 November 1998).
- ⁷³ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 186 (13 November 1998).
- ⁷⁴ See DEP'T OF ARMY REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-1 – The Judge Advocate General, subparagraphs h, i, k, m, n, o, and w, (describing patents, copyrights, inventions, trade secrets, procurement fraud, trademarks, and regulatory law, in addition to contract, fiscal, and environmental law) and Paragraph 5-2 – Responsibilities of supervisory judge advocates (3 February 1995).
- ⁷⁵ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 5-2a(3)(a) – Contracts (stating that the supervisory judge advocate's contract law responsibilities include “acquisition planning, contract formation, bid protests, contract performance, contract dispute litigation, fiscal law, procurement fraud and oversight of procurement fraud programs, taxation, government furnished property (GFP), labor standard compliance, real property, non-appropriated funds (NAFs), commercial activities and bankruptcy.”) (3 February 1995); OFFICE OF THE JUDGE ADVOCATE GENERAL, DEP'T OF ARMY, LEGAL SERVICES STUDY REPORT, Volume II – Subcommittee Reports, Section C – Contract and Fiscal Law, Paragraph 6 – Functional Tasks (March 1998).
- ⁷⁶ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 15-4 – Principles of contract law practice (3 February 1995).
- ⁷⁷ See DEP'T OF ARMY, REGULATION 200-1, ENVIRONMENTAL PROTECTION AND ENHANCEMENT, Glossary (citing the elements of the environment) (21 February 1997).
- ⁷⁸ See DEP'T OF ARMY REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-1 – The Judge Advocate General, subparagraph w, and Paragraph 5-2 – Responsibilities of supervisory judge advocates (3 February 1995); DEP'T OF ARMY, REGULATION 200-1, ENVIRONMENTAL PROTECTION AND ENHANCEMENT, Paragraph 1.17 – The Judge Advocate General (21 February 1997).
- ⁷⁹ See, e.g., DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 15-1 – General (stating, “it is important that commanders and their contracting officers receive the best possible legal support in planning, executing, and administering these contracts, from definition of the requirement through contract close-out, including disputes and contract litigation.”) (3 February 1995).

- ⁸⁰ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 14-10 (1998) (citing DEP'T OF DEFENSE, JOINT PUB. 4-04, JOINT DOCTRINE FOR CIVIL ENGINEERING SUPPORT, II-8 (26 September 1995)).
- ⁸¹ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 168 (1998).
- ⁸² See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 53 and 142-154 (1998).
- ⁸³ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS 1995-1998, at 143-144 (1998).
- ⁸⁴ See, e.g., DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 15-5a – Disputes support (3 February 1995).
- ⁸⁵ DEP'T OF ARMY, REGULATION 27-20, CLAIMS, Paragraph 1-1 – Purpose (quoted language relating to the purpose of the Army Claims System) (31 December 1997); see also OFFICE OF THE JUDGE ADVOCATE GENERAL, DEP'T OF ARMY, LEGAL SERVICES STUDY REPORT, Volume II – Subcommittee Reports, Section B – Claims, General Description of Function, subparagraph a (March 1998); DEP'T OF ARMY, FIELD MANUAL 27-100, LEGAL OPERATIONS, Paragraph 1-9b – Claims (3 September 1991).
- ⁸⁶ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 23-1 (1998).
- ⁸⁷ See OFFICE OF THE JUDGE ADVOCATE GENERAL, DEP'T OF ARMY, LEGAL SERVICES STUDY REPORT, Volume II – Subcommittee Reports, Section B – Claims, General Description of Function, subparagraph b (March 1998).
- ⁸⁸ See DEP'T OF ARMY, REGULATION 27-20, CLAIMS, Paragraph 1-5 – Command and organizational relationships (31 December 1997).
- ⁸⁹ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-1j – Claims responsibilities (3 February 1995); DEP'T OF ARMY, REGULATION 27-20, CLAIMS, Paragraph 1-5 – Command and organizational relationships (31 December 1997).
- ⁹⁰ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-1j – Claims responsibilities (3 February 1995); DEP'T OF ARMY, REGULATION 27-20, CLAIMS, Paragraph 1-9 – The Commander, USARCS (31 December 1997).
- ⁹¹ See DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 5-2 – Responsibilities of supervisory judge advocates (3 February 1995); DEP'T OF ARMY, REGULATION 27-20, CLAIMS, Paragraph 1-17 – Operations of claims components (31 December 1997).
- ⁹² See DEP'T OF ARMY, REGULATION 27-20, CLAIMS, Paragraph 1-17 – Operations of claims components (31 December 1997).
- ⁹³ See DEP'T OF ARMY, REGULATION 27-20, CLAIMS, Paragraph 1-17 – Operations of claims components (31 December 1997).
- ⁹⁴ See OFFICE OF THE JUDGE ADVOCATE GENERAL, DEP'T OF ARMY, LEGAL SERVICES STUDY REPORT, Volume II – Subcommittee Reports, Section B – Claims, Environment in Which Services Are Performed, subparagraph a (March 1998).
- ⁹⁵ See DEP'T OF ARMY, REGULATION 27-20, CLAIMS, Paragraph 2-2d(1)(a) (31 December 1997); DEP'T OF ARMY, PAMPHLET 27-162, CLAIMS, Paragraph 2-2c(4) – Unit Claims Officers, and Paragraph 2-34a – Unit Claims Officer (1 April 1998); INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 23-6, 18 (1998).

⁹⁶ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 23-19 (1998).

⁹⁷ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Pages 23-4, 7, & 20 (1998); CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Pages 154-5, 9 (describing the effect of international agreements concerning Bosnia on the investigation, processing, and adjudication of claims during Operation Joint Endeavor), and Page 162 (recommending establishment of policy concerning what property will be deemed reasonable to possess in theater for purposes of the Personnel Claims Act) (13 November 1998).

⁹⁸ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 23-6, 18 (1998).

⁹⁹ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 23-19 (1998).

¹⁰⁰ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 23-19, 20 (1998).

¹⁰¹ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 161 (13 November 1998).

¹⁰² See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 23-18 through 20 (1998); CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 158 (13 November 1998).

¹⁰³ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 23-8 (1998); CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 157-8 (13 November 1998).

¹⁰⁴ CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 181 (quoting CPT Nicole Farmer, Chief of Legal Assistance, 1st Armored Division Fwd) (13 November 1998).

¹⁰⁵ See 10 U.S.C.A. section 1044 (West 1998).

¹⁰⁶ DEP'T OF ARMY, REGULATION 27-1, JUDGE ADVOCATE LEGAL SERVICES, Paragraph 2-11 – Legal assistance responsibilities (3 February 1995); see also DEP'T OF ARMY, REGULATION 27-3, ARMY LEGAL ASSISTANCE PROGRAM, Paragraph 2-1a – General (10 September 1995).

¹⁰⁷ INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 22-1(1998).

¹⁰⁸ See DEP'T OF ARMY, REGULATION 27-3, ARMY LEGAL ASSISTANCE PROGRAM, Paragraph 3-2 – Types of legal assistance services (10 September 1995).

¹⁰⁹ See DEP'T OF ARMY, REGULATION 27-3, ARMY LEGAL ASSISTANCE PROGRAM. Paragraph 3-7 – Types of services (10 September 1995).

¹¹⁰ See DEP'T OF ARMY, REGULATION 27-3, ARMY LEGAL ASSISTANCE PROGRAM, Paragraph 3-6 – Types of cases (10 September 1995).

¹¹¹ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 181 (13 November 1998).

¹¹² See DEP'T OF ARMY, REGULATION 27-3, ARMY LEGAL ASSISTANCE PROGRAM, Paragraph 3-3 – General, and Paragraph 3-4 – Preventive law measures (10 September 1995).

¹¹³ See DEP'T OF ARMY, REGULATION 27-3, ARMY LEGAL ASSISTANCE PROGRAM, Paragraph 2-1b(1) – Readiness (10 September 1995).

¹¹⁴ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Pages 13-3 and 13-10 (1998).

¹¹⁵ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Pages 22-1 through 22-8 (1998).

¹¹⁶ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 183 (13 November 1998).

¹¹⁷ See DEP'T OF ARMY, REGULATION 27-3, ARMY LEGAL ASSISTANCE PROGRAM, Paragraph 1-4c – (10 September 1995); see CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 181 (noting Trial Defense Counsel support for legal assistance) (13 November 1998).

¹¹⁸ See CENTER FOR LAW AND MILITARY OPERATIONS, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, Page 183 (noting an extensive tax program despite the availability of filing extensions) (13 November 1998).

¹¹⁹ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 22-9 (1998).

¹²⁰ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Page 22-9 (1998).

¹²¹ Daniel K. Bolger, *Savage Peace: Americans At War In The 1990s* 92 (1995).

¹²² Lieutenant Colonel David E. Graham, *Operational Law (OPLAW): A Concept Comes of Age*, Army L., Jul. 1987, at 9.

¹²³ Unless otherwise noted, the terms used in this chapter are defined at various places in the following references. DEP'T OF DEFENSE, JOINT PUB. 1-02, DEP'T OF DEFENSE DICTIONARY OF MILITARY AND ASSOCIATED TERMS (1 Dec. 1989) [hereinafter JOINT PUB. 1-02]; DEP'T OF DEFENSE, JOINT PUB. 3-0, DOCTRINE FOR JOINT OPERATIONS (1 Feb. 1995) [hereinafter JOINT PUB. 3-0]; DEP'T OF ARMY, FIELD MANUAL 100-7, DECISIVE FORCE: THE ARMY IN THEATER OPERATIONS (1995). There are frequently minor differences in the definitions cited, and the decision to side with one definition or another has been made based on factors such as specificity of context and currency of the publication or definition.

¹²⁴ See generally FM 100-7, Chapter 1, *supra* note 123.

¹²⁵ The dominant geographic characteristic of a littoral theater is a peninsula or coastline. See FM 100-7, *supra* note 123, at 2-18; JOINT PUB. 3-0, *supra* note 3, at IV-17.

¹²⁶ See FM 100-7, *supra* note 123, at v.

¹²⁷ See generally FM 100-7, Chapter 2, *supra* note 123.

¹²⁸ See JOINT PUB. 1-02, *supra* note 123, at 89. The 1991 version of FM 27-100 discussed the COMMZ and the CZ in Chapter 5. See DEP'T OF ARMY, FIELD MANUAL 27-100, LEGAL OPERATIONS (1991) [hereinafter FM 27-100].

¹²⁹ JOINT PUB 1-02, DEP'T OF DEFENSE DICTIONARY OF MILITARY AND ASSOCIATED TERMS at 117 (23 March 1994, as amended through 6 April 1999).

¹³⁰ See FM 100-7, *supra* note 123, at 2-21.

¹³¹ This essential distinction appears in Chapter 7 of the May 1996 Draft FM 27-100. See THE JUDGE ADVOCATE GENERAL'S SCHOOL, DEVELOPMENTS, DOCTRINE, AND LITERATURE DEPARTMENT, FIELD MANUAL 27-100, LEGAL SUPPORT OPERATIONS 7-2 (May 1996) (Draft) [hereinafter MAY 1996 DRAFT].

¹³² This summary is adapted from FM 100-7, *supra* note 123, at 2-3.

¹³³ See discussion of the METT-TC factors in FM 100-7, Chapter 3 *supra* note 123.

¹³⁴ See generally DEP'T OF DEFENSE, JOINT PUB. 0-2, UNIFIED ACTION ARMED FORCES (24 February 1995).

¹³⁵ JOINT PUB 1-02, DEP'T OF DEFENSE DICTIONARY OF MILITARY AND ASSOCIATED TERMS at 86 (23 March 1994, as amended through 6 April 1999).

¹³⁶ Since the 1950s, Presidents have declared what is now enshrined as law in 22 U.S.C. § 3927, namely that the Ambassador is in charge of all elements in the United States Government in a host country (excluding military forces under command of a United States military commander, such as military units in Korea and Germany). Some Ambassadors invoke this principle more aggressively than others, but almost all utilize the management device of the "country team." The country team, with the Chief of Mission at its head, is the principal means by which a mission bonds itself together as a cooperative, coordinated, well-informed staff: In its broadest sense, the "team" is all the elements-and all the men and women-of the American mission in a foreign country. More narrowly, it is a management tool-a council of senior officers, heads of the various sections of the mission, working together under the Ambassador's direction to pool their skills, resources, and problems in the national interest. United States Foreign Service Institute, *The Team: The Ambassador Sets the Pace 1* (undated 3 page information paper widely distributed to individuals receiving Foreign Service training). No formal directive delineates the composition or functions of the Country Team. The Ambassador determines the type of team that best suits the needs of a particular country. Typical membership at large posts includes the Deputy Chief of the Diplomatic Mission, the chiefs of the political and economic sections of the embassy, the Security Assistance Officer, the Agency for International Development mission, and the United States Information Service (USIS). It also usually includes one or more of the military attaches and the agricultural attaché. See generally DEFENSE INSTITUTE OF SECURITY ASSISTANCE MANAGEMENT, *THE MANAGEMENT OF SECURITY ASSISTANCE 105-06* (18th ed., 1998) [hereinafter *Management Of Security Assistance*]; DEP'T OF ARMY, FIELD MANUAL 100-20, *MILITARY OPERATIONS IN LOW INTENSITY CONFLICT* (5 Dec. 1990).

¹³⁷ A simplistic view of the cycle conceives a circle consisting of four iterative stages: information; planning; decision; and execution. SEE UNITED STATES ARMY COMMAND AND GENERAL STAFF COLLEGE, STUDENT TEXT 100-9, *THE TACTICAL DECISION-MAKING PROCESS* at 1-1 (July 1993) [hereinafter *ST 100-9*].

¹³⁸ A course of action is defined as feasible if it will accomplish the mission, can be supported with available resources, and is consistent with ethical standards of warfare.

¹³⁹ See FM 101-5, DEP'T OF ARMY, FIELD MANUAL 101-5, *STAFF ORGANIZATION AND OPERATIONS*, H-33 and H-34 (1997).

¹⁴⁰ See ST 100-9, *supra* note 137, at 1-3 to 1-5.

¹⁴¹ See FM 101-5, *supra* note 139, at 5-27 to 5-28.

¹⁴² See FM 101-5, *supra* note 139, at 5-5.

¹⁴³ See FM 101-5, *supra* note 139, at 5-7 to 5-8.

¹⁴⁴ See, e.g., OFFICE OF THE STAFF JUDGE ADVOCATE, 82D AIRBORNE DIV., *SOLDIER'S HANDBOOK AND OFFICE METL* (13 June 1997); CHIEF, INTERNATIONAL AND OPERATIONAL LAW, V CORPS, *DEPLOYMENT STANDING OPERATING PROCEDURE* (1989); OFFICE OF THE STAFF JUDGE ADVOCATE, 25TH INFANTRY DIVISION (LIGHT), *DEPLOYMENT STANDING OPERATING PROCEDURE AND OPERATIONAL LAW HANDBOOK* (1987); OFFICE OF THE STAFF JUDGE ADVOCATE, 101ST AIRBORNE DIVISION (AIR ASSAULT), *DEPLOYMENT STANDARDS AND PROCEDURES: A HANDBOOK TO GUIDE THE TRANSITION TO WAR* (17 Sept. 1992); OFFICE OF THE STAFF JUDGE ADVOCATE, 1ST CAVALRY DIVISION, *DEPLOYMENT HANDBOOK* (1993).

¹⁴⁵ 22 10 U.S.C. § 3062.

¹⁴⁶ This summary is adapted from FM 100-7, *supra* note 123, at 6-15, and DEP'T OF ARMY, FIELD MANUAL 100-11, *FORCE INTEGRATION, CHAPTER 2, SECTION IV, Force Projection Operations* (15 Jan. 1995).

¹⁴⁷ See generally DEP'T OF ARMY, REG. 500-5, ARMY MOBILIZATION (7 June 1996). See also DEP'T OF ARMY, FIELD MANUAL 100-17, MOBILIZATION, DEPLOYMENT, REDEPLOYMENT, DEMOBILIZATION (28 Oct. 1992).

¹⁴⁸ Variations of this statement appeared in Chapter 6 of both the 1991 version and the 1996 draft version of FM 27-100.

¹⁴⁹ See DEP'T OF ARMY, FIELD MANUAL 101-5, STAFF ORGANIZATION AND OPERATIONS at I-2 and I-3 (1997).

¹⁵⁰ See *id.*; DEP'T OF ARMY, REG. 600-20, ARMY COMMAND POLICY, para. 2-2 (29 Apr. 1988) [hereinafter AR 600-20].

¹⁵¹ For further information on the material in this section, see generally CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE WARFIGHTING EXPERIMENT (JAWE): FINAL REPORT (1997).

¹⁵² Compare material in this part to DEP'T OF ARMY, FIELD MANUAL 27-100, Training the Force, Chapter 6 (15 Nov. 1988).

¹⁵³ Material in the next three sections has been adapted from the following sources: DEP'T OF ARMY, FIELD MANUAL 25-100, TRAINING THE FORCE (15 Nov. 1988); DEP'T OF ARMY, FIELD MANUAL 25-101, BATTLE FOCUSED TRAINING (30 Sep. 1990); LIEUTENANT GENERAL ARTHUR S. COLLINS, JR., COMMON SENSE TRAINING (19??xx); CENTER FOR LAW AND MILITARY OPERATIONS, IN THE OPERATIONS CENTER: A JUDGE ADVOCATE'S GUIDE TO THE BATTLE COMMAND TRAINING PROGRAM (1996); CENTER FOR LAW AND MILITARY OPERATIONS, TACKLING THE CONTINGENCY DEPLOYMENT: A JUDGE ADVOCATE'S GUIDE TO THE JOINT READINESS TRAINING CENTER (1996).

¹⁵⁴ Do not confuse "combined" in this sense with the term "combined operation," which "involves the military forces of two or more nations acting together in common purpose." See, e.g., DEP'T OF ARMY, FIELD MANUAL 100-5, OPERATIONS 5-1 (1993) [hereinafter FM 100-5]. The lines of command for combined task forces created pursuant to formal, stable alliance relationships between nations will generally follow principles predetermined by the alliance agreement. The lines of command for combined task forces arising from a temporary coalition follow no set principles and are negotiated on an ad hoc basis. See *id.*

¹⁵⁵ See to DEP'T OF ARMY, FIELD MANUAL 27-100, Training the Force, at 2-4 (15 Nov. 1988).

¹⁵⁶ See the discussion of the DSJA in THE JUDGE ADVOCATE GENERAL'S SCHOOL, DEVELOPMENTS, DOCTRINE, AND LITERATURE DEPARTMENT, FIELD MANUAL 27-100, LEGAL SUPPORT OPERATIONS, Chapter 2 (May 1996) (Draft).

¹⁵⁷ See, e.g., Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), opened for signature Dec. 12, 1977, U.N. Doc. A/32/144, art. 82, reprinted in DEP'T OF ARMY, PAMPHLET 27-1-1 [hereinafter DA PAM 27-1-1, PROTOCOL I], also reprinted in 16 I.L.M. 1391 ("The High Contracting Parties at all times, and the Parties to the conflict in time of armed conflict, shall ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this Protocol and on the appropriate instruction to be given to the armed forces in this subject.").

¹⁵⁸ See DEP'T OF DEFENSE, DIR. 5100.77, DOD LAW OF WAR PROGRAM (9 Dec. 1998); THE JOINT CHIEFS OF STAFF, CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION 5810.01, IMPLEMENTATION OF THE DOD LAW OF WAR PROGRAM (12 Aug. 96); Memorandums, Joint Chiefs of Staff, MJCS 59-83 (1 June 1983) and MJCS 0124-88, (4 Aug. 1988); subject: Implementation of DoD Law of War Program; Message, 292030Z OCT84, FORSCOM, subject: Review of Operations Plans.

¹⁵⁹ DEP'T OF ARMY, REG. 27-1, JUDGE ADVOCATE LEGAL SERVICE, paras. 2-1, 3-2, 4-2, 5-2a(7) (1995).

¹⁶⁰ A list of thirteen of these references appears at INT'L AND OPERATIONAL L. DEP'T, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK 1-2 (JA422) (7th ed. 1998) [hereinafter OP. LAW HANDBOOK].

¹⁶¹ These training guidance documents also frequently describe the following: Commander's training philosophy, mission essential task list and associated battle tasks, combined arms training, major training events and exercises, leader training, individual training, mandatory training, standardization, training evaluation and feedback, new equipment training and other force integration considerations, resource allocation, and training management. See FM 25-100, *supra* note 153, at 3-5 to 3-6.

¹⁶² *Id.* at 3-17.

¹⁶³ The material contained in this section is closely adapted from the following sources: FM 100-5, *supra* note 154 at 2-20; JOINT CHIEFS OF STAFF, PUBLICATION 3-05, DOCTRINE FOR JOINT SPECIAL OPERATIONS (Oct. 1992); DEP'T OF ARMY, FIELD MANUAL 33-1, PSYCHOLOGICAL OPERATIONS (Jul. 1987); JOINT CHIEFS OF STAFF, PUBLICATION 3-53, JOINT PSYCHOLOGICAL OPERATIONS DOCTRINE (Feb. 1987); DOCTRINE FOR JOINT SPECIAL OPERATIONS (Oct. 1992); DEP'T OF ARMY, FIELD MANUAL 41-10, CIVIL AFFAIRS OPERATIONS (11 Jan. 1993); DEP'T OF ARMY, FIELD MANUAL 100-25, DOCTRINE FOR ARMY SPECIAL FORCES (12 Dec. 1991).

¹⁶⁴ "Depth" is one of the five tenets of Army operations. It is "the extension of operations in time, space, resources, and purpose.". What is "most important" about depth is "that in any operation the Army must have the ability to gain information and influence operations throughout the depth of the battlefield." See generally FM 100-5, Chapter 3, *supra* note 154.

¹⁶⁵ Compare the material in this section with the 1991 Version of FM 27-100, DEP'T OF ARMY, FIELD MANUAL 27-100, LEGAL OPERATIONS.

¹⁶⁶ Compare the material in this section with the 1991 Version of FM 27-100, DEP'T OF ARMY, FIELD MANUAL 27-100, LEGAL OPERATIONS.

¹⁶⁷ DEP'T OF DEFENSE, DIR. 5100.77, DOD LAW OF WAR PROGRAM, paragraph 5.3.1 (9 Dec 98); CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION, 5810.01, IMPLEMENTATION OF THE DOD LAW OF WAR PROGRAM (12 Aug 96).

¹⁶⁸ Memorandum From Hays Parks to the U.S. Army Judge Advocate General (1 Oct 90).

¹⁶⁹ DEP'T OF ARMY, FIELD MANUAL 100-5, OPERATIONS, 2-6 (June 1993).

¹⁷⁰ Colonel Frederic L. Borch III, Judge Advocates in Combat.

¹⁷¹ PETER PARET, NAPOLEON AND THE REVOLUTION IN WAR, IN MAKERS OF MODERN STRATEGY FROM MACHIAVELLI TO THE NUCLEAR AGE 123, 129, 136 (Peter Paret ed. 1986) [hereinafter *Makers of Modern Strategy*] ("In [Napoleon's] hands all conflicts tended to become unlimited, because openly or by implication they threatened the continued independent existence of his antagonists.").

¹⁷² QUINCY WRIGHT, A STUDY OF WAR 1322 (1942).

¹⁷³ See, e.g., DEP'T OF ARMY, FIELD MANUAL 100-5, OPERATIONS, at 6-7 and 6-8 (June 1993).

¹⁷⁴ This paragraph closely follows the language of General Fred Franks in TOM CLANCY AND GENERAL FRED FRANKS, JR. (RET.), INTO THE STORM: A STUDY IN COMMAND 148 (1997).

¹⁷⁵ PETER PARET, *Clausewitz*, in MAKERS OF MODERN STRATEGY, *supra* note 171, at 186, 200 (quoting Carl von Clausewitz, *On War* bk. I, ch. I, pp. 87 (1818) (Peter Paret and Michael Howard trans. and ed. 1984).

¹⁷⁶ *Id.* at 199. See also RUSSELL F. WEIGLEY, *American Strategy from its Beginnings through the First World War*, in MAKERS OF MODERN STRATEGY, *supra* note 171, at 408, 409-10 ("Just as the limitations of eighteenth-century European war can be exaggerated, however-testimony about the restrained conduct of troops marching through a district does not often come from inarticulate peasants-so conversely, historians may tend to exaggerate the readiness of early Americans to turn toward absolute war. Colonial American sermons and political tracts reflect an awareness and acceptance of the European conception of the just and therefore limited war, which was becoming increasingly codified in such works as EMERICH DE VATTEL'S *DROIT DES GENS* of 1758. On occasion, the standards of *jus ad bellum* and *jus in bello* were applied to even Indian wars, as when the Connecticut government refused to assist Massachusetts in an

Indian conflict that Connecticut judged unjust. If it was much more common to consider the Indian outside the protection of the Christian laws of war, the Americans nevertheless explicitly acknowledged those laws as applicable to their own conflicts with Europeans, even amid the violent emotions of the American Revolution.").

¹⁷⁷ See FM 100-5, DEP'T OF ARMY, FIELD MANUAL 100-5, OPERATIONS, 6-9 (June 1993).

¹⁷⁸ THE JOINT CHIEFS OF STAFF, JOINT PUBLICATION 1-02, DOD DICTIONARY OF MILITARY AND ASSOCIATED TERMS, 452 (As amended through 29 June 1999).

¹⁷⁹ See DEP'T OF ARMY, STP 21-1-SMCT, SOLDIER'S MANUAL OF COMMON TASKS, SKILL LEVEL 1 546 (1 Oct. 1994) (Task No. 181-906-1505) ("Conduct Combat Operations According to the Law of War").

¹⁸⁰ See FM 100-5, DEP'T OF ARMY, FIELD MANUAL 100-5, OPERATIONS, 2-5 (June 1993).

¹⁸¹ See DEP'T OF ARMY, FIELD MANUAL 71-100, DIVISION OPERATIONS, at 3-5 (28 Aug. 1996).

¹⁸² See DEP'T OF ARMY, FIELD MANUAL 6-20-10, TACTICS, TECHNIQUES, AND PROCEDURES FOR THE TARGETING PROCESS at 4-16 (8 May 1996) ("During certain operations, personnel and agencies that will support the targeting process could include the following: staff judge advocate. . .").

¹⁸³ See FM 71-100, DEP'T OF ARMY, FIELD MANUAL 71-100, DIVISION OPERATIONS, at 3-13 and 3-14 (28 Aug. 1996).

¹⁸⁴ The final five paragraphs of this part of the chapter paraphrase observations made by BG John Altenburg, then Assistant Judge Advocate General for Military Law and Operations, "Training, Mentoring, and Teambuilding Within the Office of the Staff Judge Advocate," Presentation to the World-Wide Continuing Legal Education Conference, at The Judge Advocate General's School in Charlottesville, Virginia, in Oct. 1996.

¹⁸⁵ CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 1-2 (11 December 1995) (footnotes omitted).

¹⁸⁶ THE JOINT CHIEFS OF STAFF, JOINT PUB. 1-02, DEPARTMENT OF DEFENSE DICTIONARY OF MILITARY AND ASSOCIATED TERMS, 300, (23 March 1994, as amended through 7 December 1998).

¹⁸⁷ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, vii (16 June 1995).

¹⁸⁸ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, Chapter III (16 June 1995) (describing current joint doctrinal types of MOOTW); Compare with U.S. DEP'T OF ARMY, FIELD MANUAL 100-5, OPERATIONS, 2-32 & 33 (Revised Final Draft of 23 March 1998) (describing emerging, but not approved Army doctrine that titles these operations Stability Operations and Support Operations).

¹⁸⁹ See generally, e.g. THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR (16 June 1995); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID) (26 June 1996); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM (17 March 1998); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS TECHNIQUES AND PROCEDURES FOR PEACE OPERATIONS (12 February 1999); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS (17 February 1998); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS (30 September 1997); U.S. DEP'T OF ARMY, FIELD MANUAL 100-5, OPERATIONS (14 June 1993) (pending revision); U.S. DEP'T OF ARMY, FIELD MANUAL 100-20, MILITARY OPERATIONS IN LOW INTENSITY CONFLICT (5 December 1990) (pending revision); U.S. DEP'T OF ARMY, FIELD MANUAL 100-23, PEACE OPERATIONS (30 December 1994) (pending revision); U.S. DEP'T OF ARMY, FIELD MANUAL 100-23-1, HA MULTISERVICE PROCEDURES FOR HUMANITARIAN ASSISTANCE (31 October 1994).

- ¹⁹⁰ THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 1 (October 1998).
- ¹⁹¹ THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 1 (October 1998).
- ¹⁹² *See generally* THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 1-14 (October 1998).
- ¹⁹³ THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 2 (October 1998).
- ¹⁹⁴ THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 7 (October 1998).
- ¹⁹⁵ *See, e.g.*, THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 8 (October 1998); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), I-4 (26 June 1996); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM, III-2,3 (17 March 1998); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-8 (Figure I-3) & IV-6 (17 February 1998); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, vii (30 September 1997).
- ¹⁹⁶ CHAIRMAN OF THE JOINT CHIEFS OF STAFF, NATIONAL MILITARY STRATEGY OF THE USA, Executive Summary, The Strategy, National Military Objectives (1997).
- ¹⁹⁷ CHAIRMAN OF THE JOINT CHIEFS OF STAFF, NATIONAL MILITARY STRATEGY OF THE USA, Executive Summary, The Strategy, Elements of Strategy (1997).
- ¹⁹⁸ *See* CHAIRMAN OF THE JOINT CHIEFS OF STAFF, NATIONAL MILITARY STRATEGY OF THE USA, The Strategy – Shape, Respond, Prepare Now, Elements of the Strategy: Shape, Respond, Prepare Now, Promoting Stability (1997).
- ¹⁹⁹ *See* THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 15-18 (October 1998); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM, III-1,2 (17 March 1998); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-2,3 (17 February 1998).
- ²⁰⁰ *See* JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-12 (16 June 1995).
- ²⁰¹ *See* CHAIRMAN OF THE JOINT CHIEFS OF STAFF, NATIONAL MILITARY STRATEGY OF THE USA, The Strategy – Shape, Respond, Prepare Now, Elements of the Strategy: Shape, Respond, Prepare Now, Preventing or Reducing Conflicts and Threats (1997); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-1,2 (16 June 1995).
- ²⁰² *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-11 (16 June 1995); *see also* Headquarters, Department of the Army, Joint Plan for DoD Non-combatant Repatriation (11 August 1999).
- ²⁰³ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-4 (16 June 1995).
- ²⁰⁴ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-4 (16 June 1995).
- ²⁰⁵ U.S. DEP'T OF ARMY, FIELD MANUAL 100-23, PEACE OPERATIONS (30 December 1994) (pending revision).

²⁰⁶ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, I-2 (16 June 1995) (emphasis omitted).

²⁰⁷ *See, e.g.*, CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 12 (11 December 1995) (quoting the UN Security Council Resolution 940, authorizing member states "to form a multinational force . . . to use all necessary means to facilitate the departure from Haiti of the military leadership . . . the prompt return of the legitimately elected President . . . and to establish and maintain a secure and stable environment . . . " S.C. Res. 940, U.N. SCOR, 49th Sess., S/RES/940 (1994)); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 39-42 (13 November 1998) (describing the Dayton Peace Accord and UN Security Council Resolution 1031 applicable in the Balkans).

²⁰⁸ *See, e.g.*, THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, I-2 (16 June 1995) (noting DoD's supportive role to DoS in Humanitarian Assistance); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTI-TERRORISM, III-2 (17 March 1998) (stating that DoS is the lead agency for terrorism outside the U.S.); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-8 (Figure I-3) (17 February 1998) (noting DoS as lead agency for coordinating US supply reduction strategies); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, I-2 (30 September 1997) (noting that the Ambassador is the senior U.S. authority responsible for the evacuation).

²⁰⁹ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), III-9,10 (26 June 1996) (noting as military planning considerations host nation sovereignty, the requirement to identify political threats, and the impact of political concerns on rules of engagement).

²¹⁰ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, I-2 (16 June 1995).

²¹¹ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, I-2 (16 June 1995).

²¹² *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, I-2 (16 June 1995) ("A single act could cause significant military and political consequences . . . Restraint requires the careful balancing of the need for security, the conduct of operations, and the political objective.").

²¹³ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-9 (16 June 1995); *see also* CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 12-24 (11 December 1995) (describing the Multinational Force and UN Mission in Haiti); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 41-42 (13 November 1998) (describing the framework and composition of the Implementation Force in Bosnia).

²¹⁴ *See, e.g.*, CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 58-61 (13 November 1998) (describing efforts to reconcile concerns between nations in the rules of engagement for the Implementation Force in Bosnia).

²¹⁵ *See, e.g.*, THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-9 (16 June 1995); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR

FOREIGN INTERNAL DEFENSE (FID), II-8 & App A (26 June 1996); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-8, IV-5, & App B (17 February 1998).

²¹⁶ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, I-6 (16 June 1995) (emphasis omitted); *see also*, THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), I-5 to I-14 (26 June 1996) (describing various types of MOOTW that may support foreign internal defense).

²¹⁷ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, ix, x, I-7, & I-11 (16 June 1995).

²¹⁸ *See* CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 12-24 (11 December 1995).

²¹⁹ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-2 (16 June 1995).

²²⁰ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-6 & 7 (16 June 1995).

²²¹ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-11 (16 June 1995).

²²² *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), III-7 (26 June 1996).

²²³ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM, VI-6 (17 March 1998); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-10 (17 February 1998).

²²⁴ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, VI-9 (30 September 1997).

²²⁵ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, vii & ix (16 June 1995) ("MOOTW are initiated by the National Command Authorities . . ." "Command and control are overseen by the joint force commanders (JFCs) and their subordinates . . ."); *see also* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), viii & ix (26 June 1996); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, II-6 (30 September 1997).

²²⁶ THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY FOR A NEW CENTURY, 21 (October 1998).

²²⁷ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-5 (16 June 1995).

²²⁸ *See* CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 22-23 (11 December 1995).

²²⁹ *See* CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 41 (13 November 1998).

²³⁰ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, ix (16 June 1995).

²³¹ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, II-3 (16 June 1995).

²³² THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-8 (16 June 1995) (emphasis omitted).

²³³ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-7 (16 June 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 93-4 (11 December 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 44 (13 November 1998) (discussing the Civil-Military Cooperation Team, or CIMIC, which performed the CMOC function).

²³⁴ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 297-8 (11 December 1995).

²³⁵ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 43-4 (13 November 1998).

²³⁶ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, ix & IV-8 (16 June 1995).

²³⁷ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-1 (16 June 1995).

²³⁸ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-2 (16 June 1995).

²³⁹ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-2 (16 June 1995).

²⁴⁰ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-2 (16 June 1995); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM, I-1 (17 March 1998).

²⁴¹ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM, I-1 (17 March 1998).

²⁴² See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM, IV-1,2 (17 March 1998).

²⁴³ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM, V-1 (17 March 1998).

²⁴⁴ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM, I-2 (17 March 1998); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-3 (16 June 1995).

²⁴⁵ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-2 (16 June 1995).

²⁴⁶ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-3 (16 June 1995).

²⁴⁷ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-3 (17 February 1998).

²⁴⁸ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-14 (17 February 1998).

²⁴⁹ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-14 (17 February 1998).

²⁵⁰ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, IV-7,8 (17 February 1998).

²⁵¹ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-3,4 (16 June 1995).

²⁵² See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-3,4 (16 June 1995).

²⁵³ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-4 (16 June 1995).

²⁵⁴ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-4 (16 June 1995) (emphasis omitted).

²⁵⁵ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-4 through 8 (16 June 1995); *see also* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.6, FOREIGN HUMANITARIAN ASSISTANCE OPERATIONS, (to be published) (The draft describes the types of missions as relief missions, dislocated civilian support missions, security missions, and technical assistance and support functions.).

²⁵⁶ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-9 (16 June 1995) (emphasis omitted).

²⁵⁷ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-9 (16 June 1995).

²⁵⁸ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-9 (16 June 1995).

²⁵⁹ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-9 (16 June 1995).

²⁶⁰ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), viii (26 June 1996).

²⁶¹ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-10 (16 June 1995) (emphasis omitted).

²⁶² See 10 U.S.C.A. section 401(West 1998); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-10 (16 June 1995).

²⁶³ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-11 (16 June 1995); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, vii (30 September 1997).

²⁶⁴ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, vii (30 September 1997).

²⁶⁵ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, V-12 through 14 (30 September 1997).

²⁶⁶ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, x (30 September 1997).

²⁶⁷ See generally, THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, Chapter VI (30 September 1997).

²⁶⁸ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-12 (16 June 1995) (emphasis omitted); see also THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, I-6,7 (12 February 1999).

²⁶⁹ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-13,14 (16 June 1995); see also THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, vii (12 February 1999).

²⁷⁰ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, I-6 (12 February 1999) (emphasis omitted).

²⁷¹ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, II-11 through 14 (12 February 1999).

²⁷² See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, II-17 through 24 (12 February 1999).

²⁷³ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, I-7 (12 February 1999) (emphasis omitted).

²⁷⁴ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, III-4 (12 February 1999) (emphasis omitted), and III-4 through 6 (describing each task and including internment and resettlement operations).

²⁷⁵ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, III-7 through 13 (12 February 1999).

²⁷⁶ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-14 (16 June 1995) (emphasis omitted).

²⁷⁷ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-14 (16 June 1995).

²⁷⁸ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-14,15 (16 June 1995).

- ²⁷⁹ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-14,15 (16 June 1995).
- ²⁸⁰ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-15 (16 June 1995) (emphasis omitted).
- ²⁸¹ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-15 (16 June 1995) (emphasis omitted).
- ²⁸² See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-15 (16 June 1995).
- ²⁸³ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, III-15 (16 June 1995).
- ²⁸⁴ HAGUE CONVENTION (IV) RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND, ANNEX TO THE CONVENTION, 1 Bevans 631 (signed Oct. 1907 at the Hague).
- ²⁸⁵ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, ix (16 June 1995); See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.6, FOREIGN HUMANITARIAN ASSISTANCE, x (to be published).
- ²⁸⁶ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 25-30 (11 December 1995).
- ²⁸⁷ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 50 & 82-84 (13 November 1998).
- ²⁸⁸ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 25 (11 December 1995) (noting the requirement for reserve component legal personnel to deploy, and describing requirements for home station support to emergency operations centers, predeployment legal assistance, and technical support to deployed legal personnel); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 82 & 187-9 (13 November 1998) (noting the need for full-time legal support to the Joint Military Commission, for a permanent deputy staff judge advocate in Bosnia, and for reserve augmentation to perform the home station mission).
- ²⁸⁹ INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Chapter 14 (1998).
- ²⁹⁰ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Chapter 2 & Page 8-10 (1998).
- ²⁹¹ INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 2-1 (1998).
- ²⁹² INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 2-1 (1998).
- ²⁹³ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, II-5 (16 June 1995).

²⁹⁴ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 48 (11 December 1995) (citing Security Council Resolution 940 as authorizing the multinational force to restore the Aristide government and establish a secure environment).

²⁹⁵ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, I-21 (12 February 1999) ("In PO [peace operations], the force generally conducts operations based on a mandate that describes the scope of operations."); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 76 (13 November 1998) (listing legal authorities and operational documents defining the scope of the Bosnia mission).

²⁹⁶ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 48 (11 December 1995) (regarding the timing of deployment); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 76 (13 November 1998) (regarding timelines for action).

²⁹⁷ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 8-9 (1998); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 76-7 (13 November 1998) (noting that the GFAP provided broad justification for the use of force, and rules for controlling entity armed forces).

²⁹⁸ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 8-9 (1998); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 76-7 (13 November 1998).

²⁹⁹ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, I-22 (12 February 1999) (noting that terms of reference describe command relationships and coordination requirements); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 48-9 (11 December 1995) (describing the Carter-Jonassaint agreement's provision regarding the relationship between U.S. forces in Haiti and the Haitian military and police); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 76-7 (13 November 1998) (stating that the GFAP had provisions regarding the status of police forces, and mandating joint military commissions).

³⁰⁰ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 8-9 (1998).

³⁰¹ See, e.g., THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-9 (16 June 1995) (citing the prominence of logistics elements in MOOTW and their obligation to adhere to applicable status of forces agreements); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), V-3 (26 June 1996) (noting the application of status of forces agreements to foreign internal defense operations); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, I-21 (12 February 1999) (noting the status of forces agreement as a key document in peace operations); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-10 (17 February 1998) (describing the affect of the status of forces agreement on jurisdiction, taxation, and claims arising during counter-drug operations); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, B-1.2 (30 September 1997) (describing the affect of status of

forces agreements on jurisdiction, procurement, and customs issues arising in noncombatant evacuation operations).

³⁰² See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 12-9 to 12-26 (1998).

³⁰³ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 50-51 (11 December 1995) ("As soon as . . . the Aristide government had resumed power, some agreement became necessary to define the legal status of United States troops . . . Otherwise, these troops would be subject to Haitian laws that could impede their activities and frustrate the . . . objectives that impelled their deployment."); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 151 (13 November 1998) ("In Hungary . . . the demand for contractor compliance with host nation law was strong enough to cause the creation of a legal advisor position to the USAREUR liaison team. In response to Hungarian income tax claims, the contractor held five million dollars . . . Ultimately, the Hungarian government refunded the money . . .") (footnotes omitted).

³⁰⁴ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 12-1 (1998).

³⁰⁵ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 12-1 (1998) (citing DEP'T OF ARMY, REGULATION 550-51, FOREIGN COUNTRIES AND NATIONAL: AUTHORITY AND RESPONSIBILITY FOR NEGOTIATING, CONCLUDING, FORWARDING, AND DEPOSITING OF INTERNATIONAL AGREEMENTS (1 May 1985)).

³⁰⁶ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 12-1 (1998) ("SOFAs were concluded with Grenada and Kuwait after combat operations in those countries."); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 52 (11 December 1995) (noting that the SOFA with Haiti was concluded three months after the operation began); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 151 (13 November 1998) (noting the resolution of contractor liability for income taxes through the Omnibus Agreement).

³⁰⁷ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 8-11,12 (1998).

³⁰⁸ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 8-11 & 12-1 (1998).

³⁰⁹ See, e.g., THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM, L-2 (17 March 1998) (containing a table listing the jurisdictional authorities for responding to terrorism at various phases of an incident); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, I-2 (30 September 1997) (describing the relative roles of the Ambassador and JTF Commander in noncombatant evacuation operations); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 76-77 (13 November 1998) (describing the IFOR commander's authority in relation to the Entity Armed Forces).

³¹⁰ See, e.g., THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, x, I-14 & 15, (12 February 1999) (noting coordination and liaison

requirements in peace operations with military organizations, international organizations, non-government organizations, private voluntary organizations, & Department of State agencies); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, V-5, & B-1 (30 September 1997) (describing liaison and coordination requirements with embassy and local officials, higher headquarters, Department of State agencies, non-government organizations, private voluntary organizations, and host nation government agencies).

³¹¹ See, e.g., US ARMY PEACEKEEPING INSTITUTE, LEGAL GUIDE TO PEACE OPERATIONS, 25 (1 May 1998) (describing guidance to U.S. commanders supporting U.N. operations who receive orders that may violate U.S. or international law); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 43, 91, & 96-97 (11 December 1995) (describing concerns about consistency of rules of engagement with each nation's policies, fiscal constraints on logistical support for U.S. government agencies, and guarantees of loyalty from U.S. commanders to the U.N.); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 61 (13 November 1998) (describing concerns participating nations may have about riot control agents and the definition of hostile intent).

³¹² See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 127-128 (13 November 1998) (describing the value of JAGC technical chain coordination, and innovative methods for effecting coordination of legal matters among all troop contributing nations – publishing the Joint Military Commission Handbook, weekly meetings of Judge Advocates, legal specialist work exchanges, and exchange of liaison officers).

³¹³ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 94-95 (11 December 1995) (noting Judge Advocate participation in Civil-Military Operations Centers and the value of Judge Advocate liaison with the ICRC); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 60-61 & 131 (13 November 1998) (recommending Judge Advocate liaison with legal personnel of other troop contributing nations, and describing Judge Advocate participation in Joint Military Commission meetings).

³¹⁴ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 43-44 (11 December 1995) (recommending the Judge Advocates take the initiative in developing acceptable rules of engagement); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 59-62, 112-114, & 153 (13 November 1998) (describing innovative methods for developing workable rules of engagement, procedures used to resolve questions about the legality of local entity checkpoints, and the solution for repairing vehicles used to support NATO).

³¹⁵ INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Chapter 9 (1998).

³¹⁶ See Captain Glenn Bowens, *Legal Issues in Peace Operations*, PARAMETERS, 58 (Winter 1998-1999).

³¹⁷ See THE JOINT CHIEFS OF STAFF, CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION 3121.01, STANDING RULES OF ENGAGEMENT FOR US FORCES, Enclosure A, paragraph 2a (1 October 1994).

³¹⁸ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-10 (17 February 1998) (stating that counter-drug operations are conducted under the Standing ROE); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT

EVACUATION OPERATIONS, A-1 (30 September 1997) (noting the applicability of the Standing ROE in NEO, as well as the existence of a specific section in the ROE on NEO); *but see* CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 58 (13 November 1998) (stating that the Standing ROE were not in effect for U.S. Forces in IFOR in Bosnia).

³¹⁹ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, II-4 (16 June 1995).

³²⁰ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, II-4 (16 June 1995); *see also* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), I-14 (26 June 1996) (stating the requirement for judicious use of force in foreign internal defense missions); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 34-35 (11 December 1995) (noting that either over-tentativeness or over-aggressiveness can hinder the mission); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 57 (13 November 1998) ("The ill-advised use of force could eliminate this perception of impartiality and re-ignite the conflict.").

³²¹ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), IV-24 (26 June 1996); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, I-8 & III-11 (12 February 1999).

³²² *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, I-22 (12 February 1999).

³²³ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, I-2 (30 September 1997).

³²⁴ *See* CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 57 (13 November 1998).

³²⁵ *See* Captain Glenn Bowens, *Legal Issues in Peace Operations*, PARAMETERS, 59 (Winter 1998-1999); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 37-39 (11 December 1995).

³²⁶ *See* THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, V-5 (30 September 1997); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 69-70 (13 November 1998).

³²⁷ *See* Captain Glenn Bowens, *Legal Issues in Peace Operations*, PARAMETERS, 59-60 (Winter 1998-1999); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, I-22,23 (12 February 1999); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 43 (11 December 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 61 (13 November 1998).

³²⁸ *See* Captain Parker, JAG Integration into OOTW TOC Operations (visited Feb. 23, 1999) <<http://call.army.mil/call/nftf/feb94/pt3feb.htm>>; THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, I-22 (12 February 1999); CENTER FOR

LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 36-39 (11 December 1995).

³²⁹ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 35 (11 December 1995) (citing Major Mark S. Martins, *Rules of Engagement for Land Forces: A Matter of Training, Not Lawyering*, 143 MIL. L. REV. 27, 52-54 (1994); Colonel W.H. Parks, USCMR, *No More Vietnams*, UNITED STATES NAVAL INSTITUTE PROCEEDINGS, 27-28 (March 1991)).

³³⁰ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 8-9 (1998); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 76-7 (13 November 1998) (noting that the GFAP provided broad justification for the use of force, and rules for controlling entity armed forces).

³³¹ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 43-45 (11 December 1995) (encouraging Judge Advocates to take the initiative in multinational ROE development); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 59-62 (13 November 1998) (describing concerns about specific issues and definitions, and discussing a strategy of developing agreeable general ROE and allowing contributing nations to apply more restrictive provisions).

³³² See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 36-39 (11 December 1995) (recounting an incident in Haiti in which delay was tragic:

[ROE] [c]ards containing the additional guidance [concerning protection of civilians, approved on 6 September] were not issued until 21 September. In the meantime, ROE had jumped into news headlines around the United States. . . . on 20 September Haitian police and militia brutally beat demonstrating Aristide supporters. Among the persons beaten was a coconut vender, who died after about five minutes of continuous clubbing, in view of United States soldiers, and after some of the fatal attack had been videotaped. Networks and newspapers in the United States widely reported the killing and the decision of the soldiers not to intervene.

footnotes omitted); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 60, 62, 71 (13 November 1998) (recommending use of ROE matrices, ROE cards in each soldiers language, and ROE Battle Books as means to ensure responsiveness).

³³³ See Captain Parker, JAG Integration into OOTW TOC Operations (visited Feb. 23, 1999) <<http://call.army.mil/call/nftf/feb94/pt3feb.htm>>; CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 40-42 (11 December 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 63-64 (13 November 1998).

³³⁴ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 11-2 (1998) (citing THE JOINT CHIEFS OF STAFF, CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION 5810.01, IMPLEMENTATION OF THE DOD LAW OF WAR PROGRAM (12 August 1996); see also DEP'T OF DEFENSE DIRECTIVE 5100.77, DoD Law of War Program, 5.3.1. (9 December 1998).

³³⁵ See, e.g., THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, I-1 (30 September 1997); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 37-39 & 79-84 (11 December 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 102-4, 112-4, 125-6, & 139-41 (13 November 1998).

³³⁶ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 10-7 to 10-10, & 11-3 to 11-14 (1998) (discussing civilian protection law applicable in MOOTW, citing The 1977 Protocol Additional to the Geneva Conventions of 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), *opened for signature* Dec. 12, 1977, 1125 U.N.T.S. 3; and The 1977 Protocol Additional to the Geneva Conventions of 1949, and relating to the Protections of Victims of Non-International Armed Conflicts (Protocol II), *opened for signature* Dec. 12, 1977, 1125 U.N.T.S. 1391; and reprinting the Universal Declaration of Human Rights).

³³⁷ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, II-13 (12 February 1999); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 37-39 (11 December 1995).

³³⁸ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, III-11 (12 February 1999).

³³⁹ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, II-14 (12 February 1999).

³⁴⁰ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, VI-3 to VI-5, & Appendix D (30 September 1997).

³⁴¹ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 79-84 (11 December 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 139-141 (13 November 1998).

³⁴² See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, II-24 (12 February 1999); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, VI-9 (30 September 1997).

³⁴³ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 102-4, 112-4, 125-6, & 137-9 (13 November 1998) (referring to enforcement of weapons policies, monitoring of checkpoints, apprehension of persons indicted for war crimes, and election support).

³⁴⁴ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, B-1 & 2 (30 September 1997); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 63-72 (11 December 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 109-110 (13 November 1998).

³⁴⁵ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 11-5 (1998).

³⁴⁶ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 99-100 (11 December 1995).

³⁴⁷ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, VI-3 to VI-5 (30 September 1997) (discussing evacuation center procedures, many of which require legal advice); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 93-4 (11 December 1995) (recommending Judge Advocate participation in the CMOC); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 113 & 125-7 (13 November 1998) (noting that U.S. forces sought legal advice as they came across checkpoints, and describing the immediate need for Judge Advocates upon apprehension of a person indicted for war crimes).

³⁴⁸ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 63-72 & fn 203 (11 December 1995) (describing the legal authority for detention, the detention facility, and the extensive Judge Advocate role in the release determination process); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 109-110 (13 November 1998) (describing the legal authority and procedural safeguards).

³⁴⁹ See, e.g., THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, I-4 & I-8 (17 February 1998) (citing Foreign Assistance Act provisions prohibiting U.S. personnel from conducting foreign law enforcement, and prohibiting security assistance to governments with records of human rights violations (22 U.S.C. A. sections 2291 & 2304 (West 1998))).

³⁵⁰ INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Chapter 25 (1998).

³⁵¹ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 141 (13 November 1998) (quoting Major Kurt Mieth, "[a]gain and again, especially in operations other than war, everyone wants to drink from the American luxury logistical fountain." Interview with Major Kurt Mieth, SFOR Legal Advisor's Office, at Sarajevo (2-23 Feb. 1998)).

³⁵² See, e.g., THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-9 (16 June 1995) ("Logistics personnel must also be familiar with and adhere to any legal, regulatory, or political restraints governing US involvement in the MOOTW.") (emphasis omitted); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), II-8 (26 June 1996) (noting 'legal restrictions and complex funding sources' involved in foreign internal defense); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, II-19 (12 February 1999) (discussing U.N. reimbursement procedures); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, IV-3 (17 February 1998) ("There are many legal restrictions on the use of CD funds.").

³⁵³ See, e.g., THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), III-7, IV-21, A-1, & G-2 (26 June 1996) (relating to training, humanitarian and civic activities, construction, and medical support); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 129-139 (11 December 1995) (relating to medical care, post exchange privileges, military air requests, LOGCAP, construction, training, and humanitarian and civic assistance); CENTER FOR LAW AND MILITARY

OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 143-153, & 184 (13 November 1998) (relating to morale and welfare, LOGCAP, construction, humanitarian and civic assistance, maintenance, post exchange privileges, and mess hall services).

³⁵⁴ See, e.g., THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), IV-22 (26 June 1996) (relating to the host nation); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 141 (11 December 1995) (relating to U.S. agencies); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 141-154, & 184 (13 November 1998) (relating to allies and coalition forces, local civilians, non-governmental organizations, NATO headquarters, and the Army's R&R program).

³⁵⁵ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 142 (13 November 1998) ("Fiscal and procurement issues were the most pervasive and time consuming of sustainment issues, and perhaps of all three categories of legal support to military operations (command and control, sustainment, and personnel service support).").

³⁵⁶ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), II-8 & III-7 (26 June 1996).

³⁵⁷ See, e.g., Captain Glenn Bowens, *Legal Issues in Peace Operations*, PARAMETERS, 65-66 (Winter 1998-1999) (recommending use of section 607 and acquisition and cross-servicing agreements, 22 U.S.C. section 2357 & 10 U.S.C. section 2342, respectively); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 142 (11 December 1995) (relating to the value of a section 607 agreement); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 142 (13 November 1998) (recommending broader use of NATO Basic Purchase Agreements and Basic Ordering Agreements).

³⁵⁸ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 25-5 (1998) (describing in detail this six-step process).

³⁵⁹ See, e.g., INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 25-5 to 25-20 (1998) (discussing various U.S. funding sources); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, II-19 (12 February 1999) (discussing U.N. reimbursement procedures); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 142 (11 December 1995) (regarding section 607 procedures for U.N. reimbursement); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 142 & 153-4 (13 November 1998) (proposing consideration of other than U.S. funding sources, and citing an example of NATO funding).

³⁶⁰ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 136 (11 December 1995) (noting that reliance on LOGCAP in Haiti was not always the way to meet requirements and recommending that commanders and staffs consider all options); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 143-4 (13 November 1998) (citing the joint acquisition board as "a success story from Bosnia" and describing its functions).

³⁶¹ See, e.g., CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 129-131 & 141 (11 December 1995) (describing how Judge Advocates resolved requests for medical care, post exchange privileges, and military air travel requests, and recommending raising issues to higher headquarters for resolution); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 153-4 & 184 (13 November 1998) (describing how Judge Advocates resolved a NATO request for the U.S. to repair a NATO vehicle, and recommending early resolution of policy concerning access to the post exchange).

³⁶² THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-2 (16 June 1995) (emphasis omitted).

³⁶³ See, e.g., THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.1, JTTP FOR FOREIGN INTERNAL DEFENSE (FID), IV-20 & 21 (26 June 1996) (describing considerations involved in providing intelligence assistance during foreign internal defense operations); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.2, JTTP FOR ANTITERRORISM, V-1 (17 March 1998) ("Intelligence and counterintelligence are the first line of defense in an AT [antiterrorism] program.") (emphasis omitted); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.3, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR PEACE OPERATIONS, x (12 February 1999) ("Intelligence is critically important to a PK [peace-keeping] force, not only for mission success but to protect the force.") (emphasis omitted); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.4, JOINT COUNTERDRUG OPERATIONS, IV-3 (17 February 1998) ("[Intelligence] is the foundation upon which the CD [counter-drug] operational effort is built.") (emphasis omitted); THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.5, JOINT TACTICS, TECHNIQUES, AND PROCEDURES FOR NONCOMBATANT EVACUATION OPERATIONS, IV-1 to 3 (30 September 1997) (describing intelligence products provided for noncombatant evacuation operations planning).

³⁶⁴ THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-2 (16 June 1995) (emphasis omitted).

³⁶⁵ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-3 (16 June 1995).

³⁶⁶ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-3 (16 June 1995).

³⁶⁷ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 15-1 (1998) ("It is imperative that operational lawyers consider them [intelligence law aspects of operations] when planning and reviewing both operations in general and intelligence operations in particular.").

³⁶⁸ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, Chapter 15 (1998) (listing and discussing the principal references on intelligence law).

³⁶⁹ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 170 (13 November 1998).

³⁷⁰ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 58-63 (11 December 1995) (describing issues arising in Haiti concerning interrogation of a U.S. person for force protection reasons, interrogation procedures for personnel in the detention facility, and use of intelligence contingency funds).

³⁷¹ U.S. DEP'T OF ARMY, FIELD MANUAL 25-100, TRAINING THE FORCE (1988); U.S. DEP'T OF ARMY, FIELD MANUAL 25-101, BATTLE FOCUSED TRAINING (1990).

³⁷² See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 159 & 166-7(11 December 1995).

³⁷³ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 197 (13 November 1998) (recommending training with supported units as means to build relationships with supported units and improve the soldier skills of legal personnel).

³⁷⁴ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07.6, FOREIGN HUMANITARIAN ASSISTANCE, IV-4 (describing the need for personnel with political-military skills to coordinate with numerous organizations and to liaison with policy-makers and the diplomatic community) & IV-15 (describing legal coordination required for ROE in multinational operations and legal advice and assistance required for relationships with non-military organizations) (to be published).

³⁷⁵ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 80-82 (13 November 1998).

³⁷⁶ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, (13 November 1998) 59-61 (describing coordination of rules of engagement), 125 (discussing persons indicted for war crimes), & 130-131

Consider one judge advocate major . . . for example. He liaised with the U.N. mission, the U.N. Office of the High Representative, the Organization for Cooperation and Security in Europe (OSCE), the International Police Task Force headquarters, the Pope's staff . . . the President of the Constitutional Court of Bosnia . . . and the Minister of Justice . . . He represented SFOR in two cases before local courts, and drafted memorandums of agreement between SFOR and Bosnian entity-level civil aviation authorities

³⁷⁷ See THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-07, JOINT DOCTRINE FOR MILITARY OPERATIONS OTHER THAN WAR, IV-9 (16 June 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 148-9 & 155-6 (11 December 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 79 (13 November 1998).

³⁷⁸ See INTERNATIONAL AND OPERATIONAL LAW DEPARTMENT, THE JUDGE ADVOCATE GENERAL'S SCHOOL, UNITED STATES ARMY, OPERATIONAL LAW HANDBOOK, 17-2 (1998).

³⁷⁹ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 155-6 (11 December 1995).

³⁸⁰ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 40-42, 89-93 (11 December 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 63-67 & 130-131(13 November 1998).

³⁸¹ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 89-93 (11 December 1995); CENTER FOR

LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 130-131(13 November 1998).

³⁸² See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 63-64(13 November 1998).

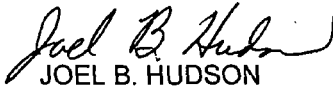
³⁸³ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN HAITI, 1994-1995, 158-159 (11 December 1995); CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 161, 170, 179, & 192-198(13 November 1998).

³⁸⁴ See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, LAW AND MILITARY OPERATIONS IN THE BALKANS, 1995-1998, 193-197(13 November 1998).

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By Order of the Secretary of the Army:

Official:



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*Administrative Assistant to the
Secretary of the Army*

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