

# **LEGAL SUPPORT**



**Air Force Doctrine Document 2-4.5**  
**15 May 2003**

**BY ORDER OF THE  
SECRETARY OF THE AIR FORCE**

**AIR FORCE DOCTRINE DOCUMENT 2-4.5  
15 MAY 2003**

OPR: HQ AFDC/DR (Maj Sherrina McQuain)

Certified by: AFDC/DR (Col Gary Cox)

Pages: 63

Distribution: F

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## FOREWORD

Today's operations take place in an increasingly legalistic environment under close scrutiny of the public and press. This environment mandates proactive attention to challenges and opportunities in every aspect of the legal fields of practice. Commanders have found that judge advocates and paralegals offer far more than merely legal counsel. They combine their knowledge of the law with operational expertise to enhance warfighting capabilities and assist commanders and staffs during the decision making and planning processes. They have also served as effective negotiators, spokespersons, writers, and liaisons to host-nation officials and nongovernmental organizations and agencies.

History demonstrates that Air Force judge advocates and paralegals are essential members of the airman's warfighting team. They provide legal support during all phases of Air Force operations. In 1946, when General Carl "Tooey" Spaatz testified before Congress about the creation of a separate Air Force, he carried a strongly supportive legal opinion signed by the Air Judge Advocate. Judge advocates accompanied units of the newly formed United States Air Force to Korea. Later, many judge advocates and paralegals served in Southeast Asia.

During Operation JUST CAUSE, judge advocates were for the first time at the very heart of theater-level combat planning and execution. Throughout Operations DESERT SHIELD and DESERT STORM, a judge advocate was part of the now-famous "Black Hole" planning cell. Judge advocates and paralegals were assigned to other units throughout the theater. In 1991, Lieutenant General Michael A. Nelson, Deputy Chief of Staff for Plans and Operations, and Major General David C. Morehouse, The Judge Advocate General, jointly signed a letter stating, "We cannot afford to wait for war to bring judge advocates into the operations and planning environment. We need to work together all the time so that we all understand how and why the Law of Armed Conflict (LOAC) must be an essential element of our mission." Over the past decade judge advocates and paralegals have been actively involved in a wide-range of contingency operations and exercises to include Operations NORTHERN WATCH, SOUTHERN WATCH, ENDURING FREEDOM, NOBLE EAGLE (ONE), and IRAQI FREEDOM (OIF).

This publication describes the role of legal support to Air Force operations in the 21st Century. We must constantly debate and refine the lessons of history to ensure Air Force legal support doctrine continues to serve tomorrow's airmen.

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# **INTRODUCTION**

## **PURPOSE**

This Air Force Doctrine Document (AFDD) establishes doctrinal guidance for legal support to air and space forces at the operational level of conflict across the full range of military operations.

## **APPLICATION**

AFDD 2-4.5 applies to all active duty Air Force military and civilian legal support personnel, including Air Force Reserve Command (AFRC), and Air National Guard (ANG) units and members. The doctrine in this document is authoritative but not directive. It provides guidance to effectively utilize legal resources in support of air and space operations in peace and war. Commanders should consider both the circumstances of the particular mission along with the contents of this doctrine document in their decision-making process.

## **SCOPE**

The US Air Force provides air and space forces that are used across the full range of military operations at the strategic, operational, and tactical levels and across the spectrum of operations, from military operations other than war (MOOTW) to war. AFDD 2-4.5 discusses the principles and means of Air Force legal support to air, space, and information operations that are essential to planning and executing missions assigned through the chain of command.



## FOUNDATIONAL DOCTRINE STATEMENTS

Foundational doctrine statements (FDS) are the basic principles and beliefs upon which AFDDs are built. Other information in the AFDDs expands on or supports these statements.

- ★ The role of legal support is to analyze and evaluate circumstances, identify options, assess risks, and then provide timely advice to commanders.
- ★ Commanders rely on legal support to provide a broad perspective based not only on the law, but also on other relevant considerations, to aid in critical decision making.
- ★ Judge advocates determine the existing legal environment and the laws that govern combat operations and seek to ensure all operations are consistent with the law and national policy.
- ★ The role of the supported commander will dictate the issues the legal support staff will be required to address—either operational, administrative, or both.
- ★ The legal support staff does not own or control the ROE process, but serves as the principal advisor to the commander and the commander's staff.
- ★ The legal support staff should be involved early in the planning process to ensure effective ROE are developed.
- ★ Judge advocates advise commanders on the rules for the use of force at times and in areas where ROEs are not applicable.
- ★ The level of command will determine the scope of legal services required to support the mission.
- ★ The primary function and responsibility of a judge advocate within the air and space operations center (AOC) is to recommend legally acceptable courses of action to the operational branch of the chain of command.
- ★ Air Force readiness demands that the legal support staff be organized, trained, and equipped to support air and space operations at all levels and in varied environments.



## CHAPTER ONE

### THE NATURE OF LEGAL SUPPORT

*More than ever before, today's warfighting teams require legal professionals with a warrior spirit...they are with us today. That's good, because tomorrow's vision will place even greater demands on all of us.*

**General Michael E. Ryan**  
**Former Air Force Chief of Staff**

### INTRODUCTION

**Air Force legal support is essential to successful air and space operations.** In the Air Force, legal support consists of judge advocates, paralegals, and civilian employees who provide legal services to commanders on the legal aspects of military operations. Air Force legal personnel support operations through legal activities at home station, at forward operating locations, or through reachback. **The legal support staff helps the commander accomplish the mission in a lawful manner.** The legal support staff advises on issues as diverse as fiscal and contract law, domestic matters, environmental law, and the lawful use of force under international law during the full spectrum of combat operations. In its advisory capacity, the legal support staff considers the full range of information pertinent to the operation and then advises commanders on the best way to lawfully achieve their objectives. Finally, the Uniform Code of Military Justice (UCMJ) provides a disciplinary tool for commanders to use wherever they are.

Commanders rely on legal support to advise them on the lawful options available to accomplish the mission. Commanders seek legal advice and any additional information that will enhance their decision-making role. **The role of legal support is to analyze and evaluate circumstances, identify options, assess risks, and then provide timely advice to commanders.** Armed with this advice, commanders then make better-informed decisions and take actions based on their knowledge, experience, and judgment.

Against this backdrop commanders may consider well-founded principles when making operational decisions. For example, it is well established—in law and policy—that suffering in war is to be limited by rules that protect the victims of war as much as possible. The ultimate objective is to achieve “just war.” The doctrine of just war centers on two distinct schools of thought that have developed over history--these regulate war.

- ✦ Legal Basis for the Use of Force. This concept, known as *jus ad bellum* ("that which is right or just to engage in or resort to war"), addresses the international legal parameters of war concerning when it is appropriate to go to war as a method of conflict resolution and to engage in legitimate war. The core elements of the *jus ad bellum* consist of those principles

that were originally recognized by medieval commentators on just war theory as being most central to the doctrine of just war. In this respect, for the use of force to be just, there must be a just cause and a competent authority with the right intention to authorize the use of force.

- ✪ Regulation of Hostilities. This concept, known as *jus in bello* ("that which is right or just within war"), deals with what methods of warfare are permissible within the context of war that meet the criteria of the *jus ad bellum*. This aspect centers on the regulation of conduct during war and on what methods are permissible, usually focusing on four aspects: military necessity, discrimination between combatants and noncombatants, humanity, and the use of force that is proportional to the desired result.

*Belligerent armies are entitled to try to win their wars, but they are not entitled to do anything that is or seems to them necessary to win.*

**Michael Walzer**

*Just and Unjust Wars – A Moral Argument with Historical Illustrations*

## PRINCIPLES OF LEGAL SUPPORT

Legal support to air and space operations consists of a series of interlinked fields of practice to provide the commander, staff, and airmen in general with the ability to focus on mission accomplishment. The legal support staff relies on five bedrock principles of accuracy, timeliness, moral courage, analogy, and situational awareness.

### Accuracy

Commanders should have complete confidence in the accuracy of the legal analysis that supports mission accomplishment. This confidence is born of an established record of accuracy, both in factual matters and in legal analysis. Legal advice to commanders and airmen should be accurate. The mark of any skilled attorney is to provide relevant and thoroughly researched legal advice to the client. For the legal support staff, the importance of accuracy is magnified both by the pace of events and the lethal nature of military operations.

### Timeliness

The legal support staff is frequently expected to provide an opinion on the lawfulness of a proposed military action. This opinion should be provided in a timely manner that will permit the commander to consider it before making a decision.

### Moral Courage

The legal support staff may be required to advocate a difficult or unpopular course of action after a thorough analysis of alternatives. Commanders expect the legal support staff to prepare and deliver the appropriate legal advice without hesitation.

## **Analogy**

Air and space operations, and combat operations in particular, tend to present commanders with unique and challenging decisions that do not fall squarely within existing law or precedent. The legal support staff, by the nature of its professional art, is well equipped to analyze the situation and recommend a course of action (analogous to a previous situation) that best applies available law and guidance to novel situations.

## **Situational Awareness**

The legal support staff will typically evaluate a pending issue not only in the legal context, but also in the broader context of policy, politics, and other considerations because they analyze information provided by all elements of the staff. **Commanders rely on their legal support to provide a broad perspective based not only on the law, but also on other relevant considerations, to aid in critical decision making.**

## **LEGAL SUPPORT COMPETENCIES**

The Air Force executes its primary mission of air and space power by mastering its functional competencies—operational capabilities built upon the contributions of all Air Force disciplines. The following competencies are the basic areas of expertise that the legal support staff brings to all operations. By mastering legal competencies, the legal support staff enhances the effectiveness of air and space operations. Six legal support functional competencies are as follows:

### **Operational Readiness**

Operational readiness is the ability to provide the warfighter with the complete set of legal capabilities at any place at any time. The legal support staff should maintain the deployment skills necessary to survive and operate wherever the Air Force goes and the expertise to provide necessary legal support in varied environments ranging from fixed facilities to austere deployed locations.

### **Legal Information Mastery**

Legal information mastery is the ability to obtain, analyze, and communicate legal information rapidly. This realm is extensive, including educating and training, researching, managing electronic and other documents, transmitting analyses and advice to decision makers, and processing analytical data. The legal support staff analyzes information and its implications perceptively, uses it creatively, and expresses it definitively.

### **Authoritative Counsel**

Authoritative counsel is the ability to provide decision makers at all levels with the information and analysis they need to best evaluate options, assess risks, and make informed decisions within the bounds of international law and domestic law and policy. Advice and recommendations that are timely, accurate, balanced, ethical, and realistic and that reflect the Air Force mission, doctrine, and culture help leaders to resolve complex issues properly. Decisions

based on authoritative counsel sustain the confidence of American and foreign citizens in the integrity of the United States Air Force.

### **Compelling Advocacy and Litigation**

Compelling advocacy and litigation are the abilities to advocate, negotiate, mediate, and litigate in order to preserve command prerogatives so the Air Force can accomplish its mission. In an increasingly litigious world, legal challenges to global military activities continue to grow. The legal support staff employs, advocates, and negotiates alternative dispute resolutions and litigation measures as aggressively as required to ensure that desired outcomes are attained whenever possible.

### **Fair Military Justice**

Operational success depends on the ability to field a disciplined force, which in turn is dependent on a fair military justice process. The legal staff assists commanders in the administration of military justice as they maintain the morale, good order, and discipline of their forces. The legal support staff ethically and expertly fulfills advisory, judicial, prosecutorial, defense, appellate, and administrative roles in the military justice system. A military justice system that is fair—in fact and perception—bolsters Air Force core values by properly addressing allegations of misconduct, deterring others from wrongdoing, and maintaining the trust of fellow airmen, host nations, and the American people.

### **Robust Legal Programs**

Robust legal programs include the ability to provide valuable and responsive programs such as legal and income tax assistance, defense services, preventive law, claims, and legal training on a variety of subjects. On an individual level, these programs help airmen and their families resolve legal problems so they can focus on their responsibilities and better prepare for deployments. On a broader scale, these programs involve substantial Air Force resources and influence anyone who is affected by Air Force activities.

## **ORGANIZATION OF AIR FORCE LEGAL SUPPORT**

*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 on this subject.*

### **Geneva Additional Protocol I, Article 82**

Although the US is not a party to Protocol I, the US considers many of the Protocol I provisions, including this one, to be either legally binding as customary international law or acceptable practice though not legally binding.

To meet the needs of the Air Force, legal activities are organized to directly support commanders and Air Force forces (AFFOR) throughout the administrative and operational

branches of the chain of command. Air Force legal activities are integrated within the organizational structure at home station and forward-deployed Air Force forces. Legal activities are designed to provide legal services independently, while integrated within a larger military capability, or as a supporting activity through reachback. Legal support functional managers provide configured capabilities depending on the level and mission of the supported command or function (i.e., there are generalists and a variety of specialists in legal support competencies).

### **Expeditionary Legal Support**

Legal activities are configured to provide expeditionary legal services at each level of the expeditionary organizational structure. The legal support staff provides legal services to support missions defined by the supported commander. These forces may deploy as part of an Air and Space Expeditionary Task Force (AETF) commanded by the Commander, Air Force Forces (COMAFFOR), in an air and space operations center (AOC), or in other expeditionary organizations. Expeditionary legal support is organized to support forward-deployed Air Force forces and the command and control structure used to direct air and space operations.

### **Legal Support to Air and Space Expeditionary Task Forces**

Legal services are configured to support two primary command levels: the COMAFFOR and AETF units. **The scope and duration of the operation, the size of the supported population, and the requirements of the supported commander determine the amount and configuration of legal support available for an AETF.**

The legal support staff is organized to provide legal advice to the AETF commander [COMAFFOR]. The staff judge advocate (SJA) to the COMAFFOR is the single point of contact for the overall administration and management of expeditionary legal services provided to the AETF. The SJA is a member of the COMAFFOR's personal staff and focuses on Service authority issues (e.g., discipline, sustainment) that affect the COMAFFOR's ability to provide mission-ready air and space capabilities to the joint force commander (JFC). The size of a COMAFFOR's legal support staff will consist of a roughly equal number of judge advocates and paralegals and will vary based on the scope of the operation and the number of subordinate Air Force activities under the COMAFFOR. A COMAFFOR's legal support staff is configured and performs functions similar to a home station numbered air force (NAF) legal activity.

The COMAFFOR's legal support staff is prepared to support a commander and staff in multiple roles at forward operating locations and at the Air Force component rear. Legal support from the parent major command (MAJCOM) of the engaged NAF, or the NAF rear, may support operations as part of the Air Force component rear. The legal support staff is flexible and supports the operational requirements of any home station or forward deployed organization — independently or concurrently.

The legal support staff is organized to provide legal advice and assistance to Air Force forces within the air and space expeditionary force (AEF) structure. The air and space expeditionary force structure consists of forces deployed within an AETF as air expeditionary

wings (AEW), groups (AEG), or squadrons (AES). (See AFDD-2, *Organization and Employment of Aerospace Forces*.) The legal support staff provides general legal services to commanders and personnel assigned or attached to AEWs, AEGs, AESs. Subject to operational requirements, the legal support staff at this level provides legal services that are similar to those found at home station wing legal activities. The legal support staff coordinates Service authority legal issues (e.g., discipline, force sustainment) through the administrative chain of command beginning with the COMAFFOR's legal support staff. If legal issues involving Reserve component forces arise, the legal support staff should also coordinate these issues through the appropriate Reserve component administrative chain of command. Similarly, operational legal issues (e.g., LOAC violations, requests to modify rules of engagement) are coordinated and reported through the operational chain of command beginning with the joint force air and space component commander's (JFACC) legal support staff. Within an AETF, the majority of the legal support staff is located within the air and space expeditionary force structure (i.e., AEW or AEG) as members of the supported commander's staff.

### Legal Support in Joint Operations

Air Force legal support may be integrated at various levels within joint organizations and may serve on joint legal support staffs dedicated to support a JFC or JFACC, or the joint air and space operations center (JAOC). The size, amount, and configuration of legal support will vary with each operation but a single legal activity may support multiple functions or commanders designated to serve in various roles. In large operations, a separate legal support staff may be dedicated to independently support a JFC, JFACC, and the JAOC. By contrast, in small operations a single joint legal support staff may collectively support all the above functions. In all cases, open communication and close coordination among all legal support staff throughout the joint organization are essential to ensure consistent legal advice is provided to commanders and their staffs.



Judge advocates advise senior commanders, in joint and combined environments, on the legal aspects of planning

## CHAPTER TWO

### LEGAL SUPPORT FOR AIR FORCE OPERATIONS

#### INTRODUCTION

This chapter examines the contributions of legal support to Air Force operations and how the legal support staff is integrated into and supports operations across the spectrum of conflict. In addition, it highlights some of the legal issues that may arise during various operations and the capabilities legal support employs to mitigate their adverse effects. The legal support staff, as a pivotal contributor to the success of air and space operations, should have access to the information and processes used to direct, prepare, employ, sustain, and redeploy forces.

#### ARMED CONFLICT

The legal support staff enhances operational effectiveness during periods of armed conflict—whether or not war has been declared—and advises commanders on the application of international law and domestic law and policy on military operations. **Judge advocates determine the existing legal environment and the laws that govern combat operations and seek to ensure all operations are consistent with the law and national policy.** Legal advice is tailored to the requirements of each mission and is crafted to support a commander's course of action, if possible, or will provide recommendations on lawful alternative courses of action. Judge advocates understand and advise commanders on the limitations and exigencies imposed by international and domestic law and national policy and how both the law and policy affect operations at their level.



The legal support staff provides legal advice to lawfully engage targets during armed conflict.

Air and space operations are not uniformly intense during all phases of armed conflict and thus require flexible legal support to ensure operations are conducted within the limits of the law and national policy governing each phase. Commanders should ensure the legal support staff is actively involved during all phases of the operation addressing the full range of legal issues associated with mobilization, deployment, offensive operations, defensive operations, and postconflict actions. The nature and scope of legal support will evolve as the operation evolves to adapt to the changing operational environment. The legal support staff remains vigilant to anticipate, identify, and react to legal issues that may affect the operation or forces supporting the operation. They are familiar with international agreements that affect the US and allied or coalition partners during armed conflict and identify the impact such obligations have on the objectives of the overall mission. While legal issues will vary during combat operations, the legal support staff will typically deal with many, if not all, of the following legal issues:

- ✦ Application of international law during armed conflict, especially the Law of Armed Conflict and its impact on operations.

- ✧ Interpretations of the authority and the rules governing the use of force.
- ✧ Impact of international agreements on the actions and planning of US and friendly forces (e.g., overflight issues, beddown, host-nation support).
- ✧ Status of US, multinational, and enemy forces during operations.
- ✧ Fiscal authority to support operations, allies, coalition partners, and foreign nations.
- ✧ Application of the UCMJ and other disciplinary options.
- ✧ Impact of war and emergency legislation on air and space operations.
- ✧ Law and policy governing the Reserve components.
- ✧ Continuity of operations, command succession, and command relationships.
- ✧ Laws and policy governing domestic use of force and homeland security.

### **Information Operations**

The legal support staff advises a commander on the lawful means of conducting information operations and helps the Air Force to achieve information superiority. They advise during planning and execution of information operations to make certain legal issues and constraints that govern such activities are taken into account. This is especially important while courses of action are being developed and before they are executed. Early identification of legal issues will maximize planning efforts by developing lawful courses of action early in the planning process. The legal support staff should have access (billets and clearances) to the information, processes, and programs used within information operations.

### **MILITARY OPERATIONS OTHER THAN WAR**

Military operations other than war (MOOTW) are legally intensive operations that require legal support to address many complex issues. These operations encompass the use of military capabilities across the range of military operations short of war and focus on deterring war, resolving conflict, promoting peace, and supporting civil authorities in response to domestic crises. Air and space operations in MOOTW require early involvement of the legal support staff in order to help ensure the legality of the operation. These operations may include (but are not limited) to the following: (See AFDD 2-3, *Military Operations Other Than War*; Joint Pub 3-07, *Joint Doctrine for Military Operations Other Than War*.)

- ✧ Enforcement of sanctions.
- ✧ Enforcement of exclusion zones.
- ✧ Strikes and raids.

- ★ Combating terrorism.
- ★ Peace operations.
- ★ Domestic support operations.
- ★ Foreign humanitarian assistance.
- ★ Noncombatant evacuation operations.
- ★ Freedom of navigation operations.
- ★ Counterdrug operations.
- ★ Nation assistance.

**Military operations other than war are generally politically sensitive operations with legal issues embedded throughout.** For example, more restrictive rules of engagement and fiscal restrictions may apply because of political limitations imposed to control activities during the operation. **MOOTW may not trigger traditional applications of international law—especially the law of armed conflict—and may require the legal support staff to apply other sources of law to resolve a particular legal issue.** The lack of traditional legal authority covering MOOTW increases the complexity of the legal environment and may require the legal support staff to apply law by analogy. During MOOTW, as time permits, the legal support staff uses reachback (via the operational chain of command) to assist in addressing complex legal questions.

The legal support staff should be involved during all phases of MOOTW because of the sensitive nature of these operations and their potential to rapidly change form. The goals of legal support in MOOTW are to ensure legal sufficiency of courses of action, advance the mission, and advise the commander on complex issues during the operation. The legal support staff advises commanders if the nature or characterization of the operation changes. For example, rules of engagement that were drafted for a peace operation may need to be revised if the mission changes to include combat. The legal support staff maintains situational awareness of changes in status of each operation to ensure legal advice and recommendations do not unnecessarily restrict or improperly permit certain courses of action.

*One of the Air Force judge advocate's most important jobs is to provide guidance on the role of [LOAC] in air operations. One strength of our DESERT STORM air campaign was our adherence to the law: our [judge advocate generals] JAGs defined the legal envelope and we stayed within it.... we cannot afford to wait for war to bring JAGs into the operations and planning environment. Putting a JAG on your battle and planning staffs [is] a [way] to accomplish this...*

**Joint Memorandum—11 December 1991  
Deputy Chief of Staff for Plans and Operations  
and the Air Force Judge Advocate General**

## OPERATIONS PLANNING

The legal support staff participates in deliberate, crisis action, and joint air operations planning to identify legal considerations and to recommend legally acceptable courses of action to the commander. They are responsible for providing legal advice to decision makers on the myriad of laws, policies, treaties, and agreements that influence or impact air and space operations. They translate national policy decisions into legally acceptable plans and orders that support national security objectives.

### Deliberate Planning

Commanders should seek legal advice during each phase of the deliberate planning process to ensure legal considerations are addressed. The legal support staff has the following responsibilities during the deliberate planning process:

- ✦ Prepare appropriate appendices and legal annexes and ensure plans comply with relevant multilateral and bilateral international agreements, Department of Defense (DOD) guidance, governmental directives and policy, the law pertaining to the use of force, and domestic and international law.
- ✦ Review the entire plan with a particular focus on areas with legal significance (e.g., legal authorities, targeting, fiscal considerations, host-nation support agreements, air navigation, use of force, and status of forces).
- ✦ Review relevant supporting plans to ensure appropriate appendices and legal annexes are complete and provide the necessary guidance to perform their various functions.
- ✦ Ensure the amount and type of legal support staff have been identified to deploy in support of combat or contingency operations, or to support air and space operations in-place.

The legal support staff should be thoroughly familiar with the deliberate plans they are tasked to support, the unique legal issues for the supported area of operations, and the capabilities of the employment locations they may be tasked to support. The mission of each employment location will uniquely impact legal readiness. Therefore, mission success requires advance planning by all legal support staffs.

The legal support staff should be familiar with the deliberate planning phases and be able to address the appropriate issues that may arise during each phase. Figure 2.1 outlines the role of legal support during the deliberate planning process.

<b>Deliberate Planning</b>	
<b>Combatant Commander</b>	<b>Role of Legal Support</b>
<b>Phase I - Initiation</b>	
<ul style="list-style-type: none"> <li>– Receive planning task from the Chairman, Joint Chiefs of Staff (CJCS).</li> </ul>	<ul style="list-style-type: none"> <li>– Contact counterparts and establish the basis for concurrent planning.</li> </ul>

<b>Deliberate Planning</b>	
<ul style="list-style-type: none"> <li>- Make available major forces for planning.</li> </ul>	<ul style="list-style-type: none"> <li>- Review previous plans.</li> <li>- Research applicable laws, policies, treaties, and international agreements.</li> <li>- Summarize relevant legal considerations (authorities, restraints, and constraints) and provide them to the planning team.</li> </ul>
<b>Phase II – Concept Development</b>	
<ul style="list-style-type: none"> <li>- Deduce mission statement.</li> <li>- Derive subordinate tasks.</li> <li>- Develop combatant commander’s strategic concept.</li> </ul> <p><b>The product: A concept of operations.</b></p>	<ul style="list-style-type: none"> <li>- Refine legal analyses.</li> <li>- Review applicable laws, policies, treaties, and international agreements.</li> </ul>
<b>Phase III – Plan Development</b>	
<ul style="list-style-type: none"> <li>- Select and time-phase forces.</li> <li>- Compute support requirements.</li> <li>- Simulate and/or analyze strategic deployments.</li> <li>- Identify and resolve shortfalls.</li> <li>- Complete operation plan (OPLAN).</li> </ul> <p><b>The product: A complete OPLAN.</b></p>	<ul style="list-style-type: none"> <li>- Incorporate legal considerations and instructions for developing rules of engagement in the combatant commander's planning guidance.</li> <li>- Review the combatant commander's estimate for compliance with law and policy and make appropriate recommendations.</li> <li>- Coordinate legal issues and support requirements with counterparts.</li> </ul>
<b>Phase IV – Plan Review</b>	
<ul style="list-style-type: none"> <li>- CJCS reviews and approves OPLAN/operations plans in concept (CONPLAN).</li> <li>- Revise plan in accordance with review comments.</li> </ul> <p><b>The product: An approved OPLAN.</b></p>	<ul style="list-style-type: none"> <li>- Review plan for compliance with law and policy.</li> <li>- Ensure plan complies with DOD directives, law, and policy.</li> </ul>
<b>Phase V – Supporting Plans</b>	
<ul style="list-style-type: none"> <li>- Prepare supporting plans.</li> </ul>	<ul style="list-style-type: none"> <li>- Review and advise on compliance with higher headquarters and DOD guidance.</li> </ul>

Figure 2.1. Legal Support Role in Deliberate Planning

## **Crisis Action Planning (CAP)**

The responsibilities of the legal support staff during crisis action planning are similar to those during deliberate planning, however, the time available for legal support planning is compressed. The legal support staff should be familiar with the CAP process and be able to address legal considerations in each phase of the process as outlined in figure 2.2.

<b>Crisis Action Planning</b>		
<b>Supported Combatant Commander</b>	<b>Supported Combatant Commander's Staff Judge Advocate</b>	<b>Air Force Component Staff Judge Advocate</b>
<b>Phase I – Situation Development</b>		
<ul style="list-style-type: none"> <li>– Detect, report, and assess events that have potential national security implications to determine whether a military response may be required.</li> <li>– Report actions being taken, forces available, expected time for earliest commitment of forces, and major constraints on the employment of forces.</li> </ul>	<ul style="list-style-type: none"> <li>– Contact counterparts and establish the basis for concurrent planning.</li> <li>– Review planning documents.</li> <li>– Research applicable laws, policies, treaties, and agreements.</li> <li>– Summarize relevant legal considerations (authorities, restraints, and constraints) and provide them to the crisis action team, combatant commander, and counterparts.</li> </ul>	<ul style="list-style-type: none"> <li>– Contact counterparts and establish the basis for concurrent planning and command relationships.</li> <li>– Review planning documents.</li> <li>– Research applicable laws, policies, treaties, and agreements.</li> <li>– Summarize relevant legal considerations (authorities, restraints, and constraints) and provide them to the crisis action team, combatant commander, and counterparts.</li> </ul>
<b>Phase II – Crisis Assessment</b>		
<ul style="list-style-type: none"> <li>– Keep the DOD and CJCS informed of new developments.</li> </ul>	<ul style="list-style-type: none"> <li>– Refine legal analyses.</li> </ul>	<ul style="list-style-type: none"> <li>– Assess legal implications of developments.</li> </ul>
<b>Phase III – Course of Action Development</b>		
<ul style="list-style-type: none"> <li>– In coordination with subordinate and supporting commanders, develop and analyze courses of action (COA).</li> <li>– Review and use applicable plans.</li> <li>– Issue guidance to subordinate and supporting commanders for time-phased force and deployment data development.</li> <li>– Submit the commander's estimate to the President / the Secretary of Defense (SecDef) and CJCS.</li> </ul>	<ul style="list-style-type: none"> <li>– Incorporate legal considerations and instructions for developing rules of engagement in the combatant commander's planning guidance.</li> <li>– Review the combatant commander's estimate for compliance with law and policy and make appropriate recommendations.</li> <li>– Coordinate legal issues and support requirements with counterparts.</li> </ul>	<ul style="list-style-type: none"> <li>– Discuss rules of engagement needs with commander and counterparts.</li> <li>– Coordinate legal issues and support requirements with counterparts.</li> <li>– Encourage forces to prepare wills and powers of attorney and resolve legal matters prior to mobilization.</li> <li>– Brief commanders and forces on legal environment.</li> </ul>
<b>Phase IV – Course of Action Selection</b>		
<ul style="list-style-type: none"> <li>– Begin detailed execution planning upon receipt of planning or alert order.</li> </ul>	<ul style="list-style-type: none"> <li>– Advise decision maker on lawful options; participate in execution planning.</li> </ul>	<ul style="list-style-type: none"> <li>– Participate in execution planning upon receipt of planning or alert order.</li> </ul>

Phase V – Execution Planning		
<ul style="list-style-type: none"> <li>– Combatant commander develops operation order (OPORD).</li> <li>– Refine deployment plan.</li> <li>– Force preparation.</li> <li>– Distributes OPORD.</li> </ul>	<ul style="list-style-type: none"> <li>– Advise on legal issues arising during execution planning.</li> <li>– Ensure compliance with law.</li> </ul>	<ul style="list-style-type: none"> <li>– Advise on legal issues arising during execution planning.</li> <li>– Ensure compliance with law.</li> </ul>
Phase VI – Execution		
<ul style="list-style-type: none"> <li>– Combatant commander executes OPORD.</li> <li>– Begin redeployment planning.</li> </ul>	<ul style="list-style-type: none"> <li>– Advise on legal issues during execution.</li> </ul>	<ul style="list-style-type: none"> <li>– Advise on legal issues during execution phase.</li> </ul>

Figure 2.2. Legal Support Role in Crisis Action Planning

## LEGAL SUPPORT TO COMMAND LEVELS, FUNCTIONS, AND ACTIVITIES

**The level of command will determine the scope of legal services required to support the mission.** The legal support staff in the administrative chain of command reviews actions and/or plans taken to prepare, deploy, employ, and redeploy Air Force capabilities in support of military operations. For example, a legal support staff serving in a major command crisis action team may be tasked to advise a commander on the legal basis of the mission, the foreign criminal jurisdiction provisions for a location hosting US forces, or the number and type of legal support capabilities that are required to support a forward operating location. At the wing level, the legal support staff may advise a supporting commander on the readiness of the force and legal issues they may encounter during a deployment. The legal support staff in the operational chain of command provides advice concerning the operational employment of air and space power. For example, legal support personnel assigned to a JFC may review and advise on operational matters such as LOAC violations or requests to modify the rules of engagement. **The role of the supported commander will dictate the issues the legal support staff will be required to address—either operational, administrative, or both.**

Although the primary purpose of the legal support staff is to provide legal advice and assistance to support the operation, a legal support staff may also be tasked to perform duties outside the legal fields of practice. In addition to providing advice in the traditional legal disciplines, the legal support staff may participate in such activities as:

- ★ Continuity of operations planning.
- ★ Operational employment of Air Force legal support.
- ★ Disaster or major accident response.
- ★ Issues arising from use of Reserve component forces.

- ✧ Military support to civilian agencies.
- ✧ Force protection.

## **COMBAT SUPPORT**

The legal support staff can prevent legal pitfalls arising out of logistics support activities which may impact the readiness of the force or limit the future courses of action during operations. During all phases of an operation, legal support is a key contributor in the logistics support process. The legal support staff provides legal advice to commanders, logistics support personnel, contracting officers, civil engineers, comptrollers, and others. This legal support staff is essential during the establishment of a forward operating location and for support actions taken to acquire facilities and real property, set up locations, sustain operations, and transfer facilities and real property back to the appropriate parties. For example, the legal support staff may assist during negotiations with the host nation for access rights and the status of forces or may participate as members of a reception team to receive employing forces.

The legal support staff advises commanders, comptrollers, and contracting officers with the goal of ensuring only authorized members obligate or bind the government and participate in the negotiation and procurement processes used to support the force. To preserve command prerogatives and ensure the mission is accomplished within the bounds of the law, the legal support staff makes sure deploying forces understand the legal constraints concerning negotiation and conclusion of international agreements and the process used for entering into contracts or agreements with host-nation representatives or other indigenous personnel. Commanders should normally include the legal support staff on reception teams and advanced echelon teams to ensure goods and services are properly acquired. Commanders should also retain the legal support staff after redeployment to address legal concerns as the force leaves a forward operating location.

The legal support staff advises on logistics support activities at the operational and tactical levels of war. At the operational level, the legal support staff advises on logistics support functions used to centrally procure materiel for the entire force (e.g., petroleum, large-scale service contracts). At the tactical level, the legal support staff assists in the procurement of goods and services from the local economy (e.g., vehicles, water, lodging, fuel) to sustain the force. The legal support staff also provides legal services to logistics reachback activities to expedite procurement and transfer of required materiel to forward operating locations. The legal support staff participates in the logistics support process to help reduce the initial deployment footprint and airlift requirements of the force. The SJA and the legal support staff advise commanders and logistics support activities on numerous legal issues. The following are examples:

- ✧ Acquisition and cross-servicing agreements.
- ✧ Support agreements among US forces, the host nation, and other forces.
- ✧ Contingency contracting actions.

- ✦ Contracting authority and contract ratifications.
- ✦ Fiscal authority, guidelines, and responsibilities for the use of funds.
- ✦ Sale, disposal, and transfer of military property and services.
- ✦ Negotiating, concluding, and reporting international agreements.

## **COMMAND-DIRECTED INVESTIGATIONS AND INQUIRIES DURING OPERATIONS**

The legal support staff participates in command-directed investigations and inquires during all phases of war or military operations other than war. The nature, lethality, and complexity of air, space, and information operations have the potential to give rise to accidents or incidents that require a formal investigation or inquiry. Because accidents or incidents have the potential to generate international and domestic interest from governments, the media, nongovernmental organizations, and the general public, commanders should involve the legal support staff as soon as possible after an accident or incident occurs.

The legal support staff ensures each investigation or inquiry is conducted in accordance with applicable law, directives, and instructions. This legal support preserves information or evidence gained during the process so it may be used during future judicial, nonjudicial, or administrative actions. The legal support staff participates on investigation teams and uses reachback to leverage the expertise and experience of legal specialties that specialize in a particular discipline. The legal support staff may be required to participate or assist in Air Force, joint, or multinational investigations involving numerous issues, not limited to the following:

- ✦ Violations of the Law of Armed Conflict.
- ✦ Instances of fratricide (friendly fire).
- ✦ Air and space accidents.
- ✦ Boards of inquiry.
- ✦ Military commissions.
- ✦ Allegations of unlawful command influence.
- ✦ International criminal tribunals.

## MAINTENANCE OF GOOD ORDER AND DISCIPLINE

*Proximate and visible justice best serves the disciplinary interests of the operational command.*

***Air Force Operations and the Law—A Guide for Air and Space Forces  
HQ USAF/JAI Pub***

In any environment, the legal support staff advises commanders on options that are available to enforce good order and discipline within the force. In some circumstances, commanders may require judiciary services to investigate and adjudicate cases at forward operating locations. The Air Force is served by an independent judiciary responsible for prosecuting and defending Air Force members who have been charged with offenses punishable under the UCMJ or when other circumstances require judge advocates to represent the government's or Air Force member's interests in judicial, nonjudicial, or administrative proceedings. The legal support staff assigned to the Air Force Judiciary should be prepared to provide expeditionary judiciary services wherever the Air Force operates. The legal support staff in this category consists of military judges, circuit trial and defense counsel, area defense counsel, and court reporters. Each unique capability within this category independently offers a distinct legal skill set that is designed to ensure justice is fair and impartial.



Expeditionary judiciary services ensure the fair and prompt administration of justice wherever the Air Force operates.

Military defense and judiciary services will be reasonably accessible to commanders and airmen during military operations to ensure the fair and prompt administration of military justice. The servicing staff judge advocate for the AETF, AEW, or AEG will advise commanders on military justice activities. Judge advocates assigned to forward operating locations may represent the government and prosecute offenders during court-martial proceedings conducted in the area of operations. Depending on the size of the supported Air Force population, defense services may be provided at a forward operating location within the area of operations or accessed through reachback to the trial judiciary circuit that has responsibility for the location or area of operations. When necessary, a complete trial team may be assembled at a forward operating location to conduct a court-martial (with legal research reachback if necessary).

## LEGAL SUPPORT REACHBACK

Reachback provides the legal support staff the capability to access the legal resources necessary to support air and space operations. It enhances the ability of the legal staff to seek assistance in recognizing pertinent legal issues, researching the law, and then providing accurate and timely advice to commanders or legal assistance to Air Force members. The diverse nature and complexity of each legal discipline only permits legal personnel to have a general knowledge

of each legal discipline. A robust reachback capability is essential to ensure experienced experts with appropriate resources properly research complex legal issues. In addition, a network of legal services accessible through reachback is used to support the readiness of the force by providing a channel in which to mitigate legal issues that may arise at the home station during an operation. Comprehensive legal services—enhanced through reachback—that are available at forward operating locations and at the home station enable Air Force forces supporting and conducting the operation to focus on the mission.

**Responsive reachback reduces the need for a large number of forward deployed legal personnel and quantities of equipment.** Reachback allows the legal support staff to obtain or coordinate support with legal activities that are not assigned to the AETF or physically located within the area of operations. Reachback is used to minimize the initial deployment footprint of the legal support staff and to obtain additional legal support and materiel to sustain a forward deployed legal capability. A supported/supporting relationship is established between home station legal activities and those at forward operating locations to provide a structured approach to obtain reachback services or resources. While reachback is designed to improve the efficiency and effectiveness of legal services, it is in no way intended to circumvent the chain of command. Unless specifically authorized, the legal support staff first seeks assistance to resolve complex legal issues from the servicing legal activity at the next higher level within the chain of command. The success of reachback in support of the legal support staff requires efficient and reliable communications and an effective logistics pipeline between supporting legal activities and forward operating locations. For the legal support staff, reachback is categorized in three primary capabilities: legal specialists, legal information services, and the legal assistance network.

### **Legal Specialists**

Legal professionals who specialize in a particular area of the law significantly enhance military operations by providing detailed and focused legal advice and analysis to resolve complex questions. The diversity and complexity of the air and space operational legal environment span all fields of practice and make it impracticable for one forward-deployed legal activity to address—in detail—all of the issues that may arise during an operation. Accordingly, reachback to a network of legal specialists has been established throughout the Air Force to enhance the ability of a forward deployed legal support staff to obtain specialized legal advice. For example, during Operation RESTORE HOPE, the forward-deployed legal support staff consulted with legal specialists in rear areas to address a legal question about the transfer of Air Force supplies to a coalition partner in the absence of an international agreement. In this case, the legal support staff used reachback capabilities to respond to the task force commander's needs. Access to legal specialists from forward operating locations exploits and maximizes the contribution of all legal support to the mission.

### **Legal Information Services**

**Legal information services accessible through reachback are a legal support force multiplier.** The dynamic nature of the law and the significant number and sources of legal

information require access to robust legal information services. Legal information services have been organized to provide immediate access to the legal information necessary to deliver timely and accurate legal advice to commanders and assistance to Air Force forces. The legal support staff requires remote access to up-to-date legal information through reachback and the means to renew deployable collections of legal information. At forward operating locations, the legal support staff uses multiple forms of communication to access legal information services. For example, they may access legal research services through the internet or obtain classified international agreements over a secure network. The Air Force legal services agency provides legal information reachback services for the legal support staff.

### **Legal Assistance Network**

**The legal support staff utilizes a legal assistance network through reachback to support Air Force forces.** Legal activities Air Force-wide provide legal assistance in jurisdictions throughout the world. The legal support staff applies this knowledge to assist clients at forward operating locations who may require legal assistance that involves the law of a particular state or nation. In the Air Force, the legal assistance program is centrally managed by the Air Force Legal Services Agency. It provides for the administration and policy governing legal assistance for all Air Force legal activities. At home station, Air Force legal activities are organized to support the operational readiness of Air Force members through programs designed to deliver mission-related legal assistance.

## **LEGAL SUPPORT EQUIPMENT**

Legal support equipment enhances the ability of the legal support staff to provide legal services in an expeditionary environment. This support consists of prepackaged deployable resources specifically designed for the legal mission and other organic resources assembled by the legal support staff. It also consists of equipment—information systems and supplies—that are provided by external sources and used by the legal support staff during an operation. For example, the legal support staff assigned to an AOC will use information systems connected to the command and control (C2) infrastructure to provide legal support to the units/cells. While this type of equipment is neither maintained nor deployed by the legal support staff, the ability to access the C2 infrastructure and to use information systems to provide legal services establishes a legal support equipment requirement.

Legal support equipment requirements are determined by comparing the existing capabilities of the forward operating location to the mission requirements. The mission of the legal support staff determines the legal support equipment requirements necessary to support an operation and illuminates requirements that exceed organic capability. Legal support equipment, whether or not it is managed, configured, or employed by the legal support staff, directly affects the ability of the legal support staff to identify, research, and render an accurate legal opinion or recommend a lawful course of action. Legal support equipment is configured to support a particular mission. Equipment requirements that exceed the capabilities of prepackaged legal support resources (e.g., classified systems) are referred to the supported commander's staff for action. To bolster the capability of the legal support staff, legal support equipment should be

configured to arrive concurrently with or at the earliest possible opportunity after deploying the legal support staff.

Legal support equipment requires comprehensive reachback capacity to sustain its capability. Legal support equipment is deployed with a smaller footprint by employing compact, multiuse equipment with increased dependability and survivability. The legal support staff will usually deploy with a limited amount of organic legal support equipment and will use reachback to rear areas, home station activities, or other available sources for long-term sustainment. Upon deployment, judge advocates and paralegals establish, through the administrative chain of command, a means to replenish legal support equipment and resources consumed during the operation. Legal equipment support and sustainment requirements will vary based on the location, duration, and legal support requirements of a particular operation. Legal support equipment allows access to legal information services and other reachback capabilities that are necessary to provide up-to-date, accurate, and timely legal services.



## CHAPTER THREE

### LEGAL SUPPORT FOR RULES OF ENGAGEMENT (ROE)

*ROE is the Commander's business. I was in the [combined force air and space operations center] CAOC during DESERT FOX. Who do you think was standing right behind me? It was my JAG. Note I said he was behind me, not to my left or my right.*

**General Hal M. Hornburg**  
**Former Commander, US Central Command Air Forces**

### INTRODUCTION

This chapter discusses the doctrinal principles of ROEs, their importance to air and space operations, and the involvement of commanders, operators, and legal support staffs in the ROE process.

### ROEs DEFINED

ROEs are directives issued by competent military authority to delineate the circumstances and limitations under which air, ground, and naval forces will initiate and/or continue combat engagement with other forces encountered. (Joint Pub 1-02, *DOD Dictionary of Military and Associated Terms*) **ROEs are rules that govern the use of force to reflect the will of the civilian and military leadership.** ROEs constrain the actions of air, space, and information forces to ensure their actions are consistent with domestic and international law, national policy, and objectives. Although ROEs are not law, they are authoritative guidance issued at the appropriate level of command to control the use of force. ROEs are based upon domestic and international law, history, strategy, political concerns, and a vast wealth of operational wisdom, experience, and knowledge provided by military commanders and operators.

### PURPOSES OF ROEs

One of the primary purposes of ROEs is to ensure that any use of force is consistent with national security and policy objectives. Used primarily to regulate the use of force, ROEs either allow or limit the ability and means to employ force. ROEs serve political, military, and legal purposes and define the parameters within which air and space forces must operate in the accomplishment of assigned missions. They ensure national policy and objectives are reflected in the actions of air and space forces and set forth constraints on a commander's actions so they are consistent with domestic and international law and national policy. ROEs help ensure the appropriate military capability is applied prudently and often reflect collateral limitations that restrict the use of force far beyond what is required by the Law of Armed Conflict (LOAC). **History has demonstrated that, to be most effective, ROEs should represent a confluence of**

**legal considerations, national policy objectives, and operational concerns.** When the actions of military personnel and units are framed by the disciplined application of force through effective ROEs, commanders can make sound judgments and select the best possible course of action to accomplish the mission.

**ROEs ensure that air and space forces comply with the law of armed conflict.** Although not law, ROEs derive much of their influence from the law. US military forces adhere to the LOAC and embrace the principles set forth therein, including the principles of military necessity, humanity, proportionality, and discrimination. ROEs are an important mechanism to assist commanders in fulfilling their obligations under the LOAC and are often used to reinforce certain principles of the LOAC. Of course, as discussed more fully below, were an enemy to misuse a protected place such as a church, mosque, or ancient historical site, the ROEs may modify use of force in self-defense or mission accomplishment.

## **PRINCIPLES OF ROEs**

- ✦ **Absent specific operational necessity, ROEs must never impede the inherent right of self-defense of US forces.** ROEs for US forces must never limit a commander's inherent authority and obligation to use all necessary means available to take action in self-defense of the commander's unit and other US forces in the vicinity. The right and obligation of self-defense should be specified in every set of ROEs and should never be compromised. For example, anticipatory self-defense serves as a foundational element in the Chairman of the Joint Chiefs of Staff (CJCS) standing rules of engagement (SROE), as embodied in the concept of hostile intent. This concept makes it clear that US forces do not have to be the subject of a hostile act before responding in self-defense.
- ✦ Air Force forces must follow applicable ROEs during all air, space, and information operations. To do otherwise might compromise US political and military objectives and the mission. Commanders at every echelon are responsible for establishing or requesting ROEs for mission accomplishment that comply with ROEs of senior commanders and the SROEs.
- ✦ ROEs should represent the proper balance between US interests and military objectives. Commanders should impose restrictions on the use of force when justified to accomplish the mission. Restricting the use of force should be designed to further mission accomplishment and conduct operations in accordance with the commander's intent and mission planning guidance. A proper balance is essential to ensure air and space forces appropriately respond to the actions of enemy forces, as political and diplomatic reasons may exist for controlling the use of force. Commanders should have the latitude and flexibility necessary to employ force to best meet military objectives within a broad array of permissible boundaries.
- ✦ ROEs should not be too specific or restrictive. ROEs should restrict the use of force to prevent overreaction or unnecessary escalation of the conflict, but should be permissive enough to ensure air and space forces do not under react to a particular situation. For example, ROEs that are written too broadly may result in an unintentional escalation of conflict or the possibility of fratricide. By contrast, ROEs that are too narrow may unnecessarily restrict the effects of air, space, or information operations.

- ★ ROEs should be current and responsive to change. ROEs should be constantly reviewed to ensure they keep pace with changing mission requirements. ROEs should account for changes in political or military objectives, the commander's intent, and the threat to US forces. For example, ROEs that govern information operations should be responsive to changes in the mission, environment, technology, and the evolving threat. Commanders should establish or request changes to the ROEs to ensure the use of force is consistent with mission accomplishment and the commander's intent.
- ★ ROEs should enhance operational effectiveness and efficiency. ROEs should permit an effective operational scheme of control for the COMAFFOR, JFACC, or combined force air and space component commander (CFACC) who is responsible for conducting air and space operations. ROEs should not be specific directions for how a commander is to employ forces or assets, as no set rules—no matter how lengthy or detailed—can address every possible scenario that air and space forces may face while conducting operations. ROEs should permit flexibility and enable the commander to maximize the contributions of air and space power across the spectrum of conflict.
- ★ ROEs should permit the timely and appropriate use of force by Air Force forces. ROEs should ensure force is applied in a well-disciplined manner, but should not delay the prompt execution of time-sensitive operations or attacks on targets of opportunity. Commanders should seek clarification or guidance through the operational chain of command or submit a request to modify the ROEs if the ROEs are not clear or could jeopardize the prompt engagement of time-sensitive targets.

## **CHARACTERISTICS OF EFFECTIVE ROEs**

Effective ROEs allow commanders to apply the principles of war and the fundamentals of air and space power to support national security objectives. To maximize the operational effectiveness of air and space power, ROEs should:

- ★ Be simple, clear, brief, and seamless and should avoid excessively qualified language.
- ★ Make it transparent and obvious to commanders and Air Force forces why a rule is necessary to accomplish the mission.
- ★ Be tailored to the audience and easy to understand, remember, and apply.
- ★ Not contain strategy or doctrine, or simply restate the LOAC.
- ★ Be constantly reviewed for revision, modification, or amplification.
- ★ Be properly communicated and briefed to all airmen on a continual basis by an array of commanders, warfighters, and judge advocates.

## ROLE OF LEGAL SUPPORT STAFF

Legal support is essential to the development, interpretation, modification, and proper implementation of the ROEs. The legal support staff should be trained, operationally oriented, and readily accessible to assist commanders and operators with ROE issues.

The legal support staff does not own or control the ROE process, but serves as the principal advisor to the commander and the commander's staff. The legal support staff has an affirmative duty to provide legal advice to commanders and their staffs that is consistent with the law and the governing ROEs at all times. Ordinarily, judge advocates provide legal advice to commanders who will select the most appropriate course of action to accomplish the mission. For example, during joint operations, a judge advocate will offer legal advice during ROE development, but the operators (planning and executing in the operational chain of command) have the responsibility to formulate and submit ROEs for approval to the COMAFFOR or JFACC and in turn present proposed changes to the JFC.

### Developing ROEs

The staff judge advocate (SJA) assumes the role of principal assistant to the J-3 [Operations] or J-5 [Plans] in developing and integrating ROE into operational planning.

**CJCSI 3121.01A, *Standing Rules of Engagement for US Forces*, Enclosure L**

The legal support staff provides advice during all levels of operations planning to support and sustain ROE development. Judge advocates advise commanders and their staffs throughout all phases of the joint operations planning process to help ensure ROEs are legally acceptable, operationally feasible, and properly balanced against applicable law, national policy, and the commander's intent and guidance. The legal support staff is an important member of the AOC ROE cell and supports ROE processes throughout each phase of the operation. (See chapter four, *Legal Support to Air and Space Operations Centers*.)

**The legal support staff should be involved early in the planning process to ensure effective ROEs are developed.** Early involvement of the legal support staff in the operations planning process will ensure legal issues are identified and legally acceptable courses of action and supporting ROEs are developed consistent with the commander's intent. A thorough understanding of operational issues aids judge advocates in preparing advice that will allow commanders to achieve their objectives within the limits of the law and national policy. For example, to properly advise an operational commander, a judge advocate must be fully cognizant of the commander's "No Strike" and "Restricted" target lists. **Involved and engaged judge advocates maximize planning efforts and help ensure proper ROEs are developed to support mission accomplishment.**

The legal support staff interprets ROEs to support the execution of time-sensitive operations. The legal support staff should understand the intent of the President, the Secretary of Defense, the combatant commander, and subordinate commanders when preparing advice on ROEs. ROEs should be developed to support the mission requirements of an operation and should be crafted to minimize delays in the execution of time-sensitive operations. For example, during all phases of an operation, from planning to execution, the legal support staff tailors legal advice to support the targeting cycle. Judge advocates will work in concert with commanders and their staffs to develop ROEs that allow air and space forces to effectively attack time-sensitive military objectives.

**ROE development and mission planning are collaborative processes and require significant staff integration.** ROE development is best achieved when legal support and operators collaborate to develop ROEs and/or request supplemental measures to fully implement the commander's intent. Judge advocates advise operations and planning staffs on the legality of proposed ROEs and, when necessary, recommend actions that should be taken to ensure compliance with the law and policy.

### **Interpreting ROEs**

An Air Force judge advocate's ROE role is that of an advisor, not a decision maker. A judge advocate's duty, first and foremost, is to properly advise commanders on the law and the commander's responsibilities with respect to the law. In this advisory capacity, judge advocates focus on interpreting the ROEs, the LOAC, and other guidance to develop legal recommendations that will advance the commander's objectives. Thus, judge advocates should be thoroughly familiar with international and domestic law, national policy, operations orders, and other sources of information to effectively interpret the intent and meaning of the ROEs. After considering legal advice, commanders will ultimately exercise their discretion, wisdom, and decision-making authority to select the best course of action that will comply with the law and further mission accomplishment.

The legal support staff interprets ROEs issued from multiple sources. Each operation will have a unique set of ROEs to support the needs of a particular mission. For US forces, ROEs are generally established by combatant commanders and higher authority and incorporate political, military, and legal concerns. For all US operations, the CJCS SROEs are normally the starting point for ROEs unless rules have been previously established in deliberate plans or through agreements with other nations. Drafting ROEs to support multinational forces under the operational control of a US or a foreign commander requires detailed coordination and thorough understanding of the laws, policies, and political objectives of each contributing nation. The legal support staff develops comparative law studies that identify the legal requirements of each nation to ensure multinational ROEs will not conflict with the obligations of each contributing nation. The analytical and advocacy skills of a judge advocate assist the commander in interpreting the legal requirements and obligations of other nations and the ROEs that have been issued from multiple sources.

## Modifying ROEs

The legal support staff assists commanders in modifying or requesting changes to the ROEs. With few exceptions, ROEs are fundamentally permissive in nature and allow commanders to modify or request changes to the ROEs to support mission accomplishment. At various levels in the operational chain of command, ROE supplemental measures may be approved to allow or limit the use of force for mission accomplishment. The legal support staff assists commanders in determining the appropriate ROEs and recommends changes when necessary. Commanders should seek clarification or modification to the ROEs through the operational chain of command when warranted. Modification or clarification may be warranted when the ROEs are inadequate, faulty, create the risk of fratricide, or hinder a commander's ability to carry out the mission.

## Implementing ROEs

**Air Force commanders expect judge advocates to be knowledgeable of and to fully advise Air Force forces on ROEs.** Judge advocates are available to advise commanders and Air Force forces on the ROEs. The legal support staff at every stage of an operation maintains situational awareness of the current ROEs and is vigilant to recommend changes to the commander. The legal support staff helps draft, interpret, and request ROEs or supplemental rules and instructions when necessary.

The legal support staff assists commanders in fulfilling their obligations to implement and disseminate ROEs. Implementing and disseminating ROEs are ongoing responsibilities that involve commanders, operators, and judge advocates. The legal support staff assists commanders and their staffs to help maintain positive control over the ROEs and to help ensure each level of command receives the current version of the ROEs. In addition, the legal support staff works in concert with commanders and their staffs to train air and space forces on the ROEs and to standardize and interpret their intent and meaning. Judge advocates are available to provide tailored ROE training to various audiences, from aircrews to security forces. For example, judge advocates, with the assistance of the operators, may provide training on the ROEs, status of personnel, mission and forces, the Code of Conduct for US Forces, and other constraints imposed by the mission or the law.

## RULES FOR THE USE OF FORCE

**Judge advocates advise commanders on the rules for the use of force at times and in areas where ROEs are not applicable.** Since the CJCS SROEs only apply to all military operations outside the territorial jurisdiction of the US, judge advocates advise commanders on the rules for the use of force when the SROEs do not apply. To support home station operations within the territorial jurisdiction of the US, judge advocates advise commanders on issues relating to force protection and the use of force on military installations. In addition, some military operations within the US do not require the use of force. For example, the use of force during a humanitarian relief mission is generally not required; these operations, by their nature, are assistance missions. However, US forces always retain the right of self-defense.

## **COMMANDER'S ROE CHECKLIST**

### **Primary ROE Considerations**

#### **What do the ROEs tell me?**

- ★ When can US forces and others be defended?
- ★ What can be attacked?
- ★ How can it be attacked?
- ★ Where can it be attacked?
- ★ When can it be attacked?
- ★ Whose permission is needed to attack?

#### **What purpose do the ROEs serve?**

- ★ Provide guidance on the use of force—political, military, and legal.
- ★ Control the transition from peace to war (or vice versa).
- ★ Provide a mechanism to facilitate planning.
- ★ Prevent fratricide, civilian casualties, national/coalition political damage, or mission failure.

#### **Have ROEs been agreed upon for multinational operations?**

- ★ By military commanders?
- ★ By policy makers?
- ★ Do the ROEs of the multinational force permit the same degree of individual self-defense and unit self-defense as the US SROEs?

### **ROE Fundamentals**

#### **Mission Planning**

- ★ ROEs are not a substitute for guidance, intent, and judgment or planning.
- ★ ROE development is a collaborative process involving commanders, operators, judge advocates, and others.
- ★ ROE development is an integral part of operations planning including branch/sequel plans.
- ★ ROE development begins with mission analysis.

- ★ ROE instructions are set out in the commander's initial planning guidance.
- ★ ROE development is tied to COA development.
- ★ COA analysis includes ROE refinement.

### **Advisories**

- ★ US ROEs are fundamentally permissive.
- ★ Brief current ROEs at every combined/joint task force (C/JTF) update.
- ★ Monitor ROE training and interpretation.
- ★ Do not substitute ROEs for planning.
- ★ Use serial ROE messages and not appendices.
- ★ Do not just ask for ROEs—justify ROEs.
- ★ Resolve ROE disputes **before** the fight.
- ★ Understand that ROEs during MOOTW are normally more restrictive than in war.

### **ROE Game Plan**

#### **Establish a close working relationship with your judge advocate.**

- ★ Early judge advocate involvement in each of the AOC divisions helps satisfy the legal review obligations under the LOAC and avoids potential last-minute problems with air tasking order (ATO) approval and mission execution.
- ★ Judge advocates can identify and diffuse potential showstoppers with host nations and overflight early in the planning process.
- ★ Judge advocates can assist operators in getting clear, concise ROEs and special instructions crafted and approved.

**Establish an ROE cell to enhance mission planning and execution.** A critical function is judge advocate involvement at inception to maximize planning efforts and to yield lawful ROEs.

- ★ Formulate ROE requests based on JFC objectives, guidance, and intent.
- ★ Ensure adequate dissemination of:
  - CJCS SROEs.
  - Any theater-specific ROEs.

- Mission-specific ROEs (often termed "serial ROEs").
- Applicable multinational or coalition ROEs.

- ★ Determine if ROE amendments/supplements are needed.
- ★ Institute scenario-based ROE training (JAs can coordinate efforts).

**Determine the effect of the ROEs.** ROEs and international law, to include LOAC, often impact targeting decisions; factor these restraints into planning/targeting process early on.

**Establish combat identification procedures that are consistent with the ROEs.**

- ★ Allow units and individuals to conduct actions appropriate for self-defense.
- ★ Adjust ROEs to fit warfighter needs.



## **CHAPTER FOUR**

### **LEGAL SUPPORT TO THE AIR AND SPACE OPERATIONS CENTER**

#### **INTRODUCTION**

Within a joint or coalition operation in which Air Force forces are present, a COMAFFOR will be designated to command those Air Force forces, using the appropriate degree of control (e.g., operational control [OPCON] or tactical control [TACON]). If the JFC elects to establish a JFACC to better command the overall air and space effort, the JFACC should be the component commander providing the preponderance of air assets and the capability to plan, task, and control joint air operations. In most operations, because the Air Force provides the preponderance of forces (and most importantly, with the AOC, the ability to command the forces) the COMAFFOR is normally dual-hatted as the JFACC. (See AFDD 2, *Organization and Employment of Aerospace Forces*.) Within a multinational operation, the air component commander is typically known as the combined force air and space component commander (CFACC). For the remainder of this discussion, this doctrine document will use the term "COMAFFOR" when referring to the air component commander.

Similarly, this document will use AOC to describe the Air Force command node and JAOC when specifically discussing the joint node. An AOC represents the single focal point for centralized planning, direction, control, and coordination of air and space operations for an AETF. (See AFDD 2, *Organization and Employment of Aerospace Forces*.) The legal support staff provides legal services to assist the commander and AOC in assessing, planning, and executing air and space operations.

#### **PRIMARY FUNCTIONS AND CAPABILITIES**

The legal support staff contributes expertise to the AOC in areas of domestic, foreign, and international law that directly affect the conduct of air and space operations. To meet this challenge the legal support staff acquires the knowledge, experience, access, and training needed to function within a joint and/or multinational environment. The training needed to prepare the legal support staff may include obtaining knowledge about the law governing navigation on the sea, through the air, or in space; the rules governing the use of force; the application of the LOAC; the targeting process; the law of neutrality; and joint operations planning.

The primary function and responsibility of a judge advocate within the AOC is to recommend legally acceptable courses of action to the operational branch of the chain of command. Judge advocates serve in an advisory capacity and are assisted by paralegals to provide legal services throughout the AOC. To render timely and accurate legal advice during the planning and execution of air and space operations, the legal support staff requires access to the same information that is available to commanders and their staffs. The legal support staff assigned to support AOC divisions and specialty teams requires access to weapons systems and munitions data, C2 information systems, targeting information, and other information and

processes used to plan, coordinate, and execute air and space operations. The legal support staff that is fully engaged and integrated within the AOC is best able to provide accurate and timely legal advice. Accordingly, the COMAFFOR and the AOC staff should fully utilize the legal support staff while air and space operations are being planned and before they are executed. In addition, the legal support staff should be able to review the effects of air and space operations to ensure the operations were conducted within limits of the law. Early and timely identification of legal issues allows commanders to make decisions on alternative courses of action prior to or during execution.

## **ORGANIZATION OF LEGAL SUPPORT**

The legal support staff is integrated into the various divisions and cells within the AOC. The organization within an AOC is subject to considerable variation, and its size and internal structure will vary to support the requirements of the operation. Legal support to an AOC is categorized as a specialty team designed to assist the AOC director and all AOC core teams to include the Strategy Division, Combat Plans Division, Combat Operations Division, and the Air Mobility Division. (See AFDD 2, *Organization and Employment of Aerospace Forces* and AFDD 2-8, *Command and Control for Joint Operations*.) In addition, legal support is provided to support special functions within a core team such as targeting and rules of engagement cells. As a specialty team, the legal support staff is not directly assigned or dedicated to support a particular division, but is available to support the demands of the entire organization.

The COMAFFOR should ensure the Air Force legal support staff is adequately represented as part of the joint legal support staff and is available in sufficient number to support the requirements of the AOC. The nature and scope of the air campaign, the operations tempo within the AOC, and the requirements of the supported commander determine the amount and configuration of Air Force legal support provided to the AOC. For example, in smaller operations, a single legal activity may support both the COMAFFOR and the AOC.

Legal support in an AOC is provided by judge advocates and paralegals with training and security clearances commensurate with their duties. Paralegals assist judge advocates in identifying legal issues and supporting functions and processes within an AOC, but **only a judge advocate may provide legal advice or render a legal opinion**. While the internal organization of the AOC will vary, the legal support staff provides services to enhance the mission of the AOC, and judge advocates will provide advice to lawfully achieve mission objectives.

### **Legal Support to the Strategy Division**

The legal support staff assists the Strategy Division within an AOC by evaluating legal issues raised by the operational environment and the objectives of the supported commander. Within the Strategy Division, the legal support staff concentrates on long-range planning to support the development, refinement, dissemination, and assessment of the COMAFFOR's plans and operations (in support of JFC strategy) and the air and space operations plan (AOP). When supporting the Strategy Division, the legal support staff focuses on long-range planning and

execution rather than on the details of day-to-day operations. The legal support staff provides tailored legal services to support the planning requirements of the Strategy Division.

As the AOP is developed and objectives are identified, the legal support staff reviews mission objectives found in the strategy and identifies legal constraints that may restrict or prevent certain courses of action. (See figure 4.1.) Judge advocates balance the intent of the commander with the limitations and constraints found in law, policy, or other guidance and advise the commander on the lawfulness of each course of action. **The primary role of the judge advocate is to ensure the proposed strategy, including branches and sequels, is consistent with the law, policy, and orders from superior headquarters and commanders that govern the operation and to address any legal constraints that may affect joint or coalition forces.**

### **Legal Support to the Combat Plans Division**

The legal support staff assists the Combat Plans Division in developing legally acceptable plans and orders that support the AOP and the guidance issued by the JFC and the COMAFFOR. Within the Combat Plans Division, judge advocates facilitate the conversion of the strategic guidance refined by the Strategy Division into plans and orders that direct the execution of air, space, and information operations.

The legal support staff participates in a recurring planning process to assist commanders in identifying, prioritizing, and selecting specific tasks to be accomplished and targets to be engaged with available resources. In this capacity, judge advocates advise the guidance, apportionment, and targeting team, master air attack plan (MAAP) team and the air tasking order and airspace control order (ATO/ACO) team. The legal support staff participates in target list development, production of the MAAP, drafting special instructions (SPINS), and publishing of the ACO and the final ATO. (See figure 4.1.)

The legal support staff reviews targets, tactics, and weapons used in or in support of air, space, and information operations. Judge advocates review all proposed targets and weapons to ensure air and space operations comply with international and domestic law and national policy. The legal support staff focuses on ensuring targets are engaged, tactics are used, and weapons are employed consistent with the LOAC and the ROEs. For example, a judge advocate may serve on a joint targeting coordination board or advise a commander on the requirements to protect cultural property and to minimize collateral damage during an air strike. Although the ultimate decision whether to strike a target rests with the commander, judge advocates perform a legal review on proposed targets to identify any legal considerations.

<b>Air Tasking Order Phases</b>	
<p style="text-align: center;"><b>Phase 1 - JFC/Component Coordination</b></p> <ul style="list-style-type: none"> <li>- The JFC consults with component commanders to assess the results of the warfighting effort and to discuss the strategic direction and future operations plans.</li> <li>- Component commanders may make recommendations, describe support requirements, and state their ability to support other components.</li> <li>- The JFC's planning guidance and objectives will identify targeting priorities, the joint target list and joint integrated prioritized target list planning guidance, procedures, appropriate maneuver and movement control, joint fire support coordinating procedures, and ROEs. This guidance also includes an air apportionment decision.</li> </ul>	<p style="text-align: center;"><b>Role of the Legal Support Staff</b></p> <ul style="list-style-type: none"> <li>- The JFC and COMAFFOR legal support staffs evaluate all the information going to the JFC and COMAFFOR to assess a wide variety of potential legal issues or report on the resolution of legal matters already being addressed.</li> <li>- The legal support staff reviews proposals going to the JFC and COMAFFOR to ensure compliance with the LOAC, international, host nation and domestic law, ROEs, and other orders and guidance from superior commanders.</li> </ul>
<p style="text-align: center;"><b>Phase 2: Target Development</b></p> <ul style="list-style-type: none"> <li>- The JFC's objectives stated during Phase 1 are used to focus target development. All potential targets are processed through the AOC Combat Plans Division.</li> </ul>	<p style="text-align: center;"><b>Role of the Legal Support Staff</b></p> <ul style="list-style-type: none"> <li>- The legal support staff ensures targeting complies with higher headquarters guidance, ROEs, and the LOAC.</li> <li>- The AOC legal support team develops processes to ensure all proposed targets are reviewed regardless of when they are proposed.</li> </ul>
<p style="text-align: center;"><b>Phase 3: Weaponneering/Allocation</b></p> <ul style="list-style-type: none"> <li>- During this phase, targeting personnel quantify the expected results of lethal and nonlethal weapons employed against prioritized targets. The final prioritized targets are then included in the master air attack plan, the foundation for the joint air tasking order.</li> </ul>	<p style="text-align: center;"><b>Role of the Legal Support Staff</b></p> <ul style="list-style-type: none"> <li>- The review of the target contains an analysis of whether the effect of the attack may result in disproportionate collateral damage or other violations of international law.</li> <li>- The legal support staff ensures the master air attack plan complies with higher headquarters guidance, ROEs, and the LOAC.</li> </ul>
<p style="text-align: center;"><b>Phase 4: ATO Development</b></p> <ul style="list-style-type: none"> <li>- After the MAAP is approved by the COMAFFOR/JFACC, detailed preparations continue by the Combat Plans Division on joint air tasking orders and the special instructions that accompany each air tasking order.</li> </ul>	<p style="text-align: center;"><b>Role of the Legal Support Staff</b></p> <ul style="list-style-type: none"> <li>- The legal support staff ensures the air tasking order reflects the correct ROEs before it is released.</li> </ul>
<p style="text-align: center;"><b>Phase 5: Force Execution</b></p> <ul style="list-style-type: none"> <li>- The COMAFFOR/JFACC directs the execution and/or deconflicts all capabilities and forces made available for a given joint air tasking</li> </ul>	<p style="text-align: center;"><b>Role of the Legal Support Staff</b></p> <ul style="list-style-type: none"> <li>- The legal support staff advises the Combat Operations Division during combat missions, search and rescue missions, and</li> </ul>

<b>Air Tasking Order Phases</b>	
<p>order.</p> <ul style="list-style-type: none"> <li>- The AOC/JAOC should be responsive to required changes during the execution of the air tasking order. In-flight reports and initial battle damage assessments may cause a redirecting of joint air capabilities/forces before launch or a redirection once airborne.</li> <li>- The COMAFFOR/JFACC will normally be responsible for retargeting missions and responding to moving targets or changing priorities.</li> </ul>	<p>other operations likely to raise legal issues.</p> <ul style="list-style-type: none"> <li>- They ensure “re-roled” missions and attacks on time-sensitive targets are reviewed for compliance with the LOAC. They also offer advice on other legal issues arising during operations.</li> <li>- The legal issues may include allegations of violations of the LOAC by coalition or enemy forces. All personnel are required to report these allegations to appropriate superior officers. The legal support staff advises and assists in the investigation and provides continuing legal support to the command investigating the allegation.</li> </ul>

Figure 4.1. Role of Legal Support in ATO Development

## Legal Support to the Combat Operations Division

The legal support staff assists the Combat Operations Division in monitoring and executing current air, space, and information operations. Within the Combat Operations Division, the legal support staff concentrates on evaluating the legality of air and space employment options designed to support the overall COMAFFOR objectives. Accordingly, judge advocates provide legal advice to support combat search and rescue (CSAR) operations and attacks on time-sensitive targets. For example, when attacking time-sensitive targets, a judge advocate considers factors including the sufficiency and accuracy of target data, the requirements of the LOAC, compliance with the ROEs, and safeguards against fratricide. (See figure 4.1.) **Commanders should fully integrate the legal support staff into combat operations processes to ensure orders do not unnecessarily restrict lawful actions or inadvertently permit unlawful activities.**

The legal support staff maintains situational awareness to identify legal issues resulting from the execution of planned or time-sensitive operations. Judge advocates continuously monitor and evaluate tactics, technology, capabilities, or other conditions to identify legal issues that may impact an operation. They recommend that commanders modify or forward a request to modify the ROEs when conditions or circumstances warrant changes to those rules. They and their legal staff advise on the changing nature of operations during execution with the goal of ensuring the legal integrity of military operations. The legal support staff that is properly integrated within the Combat Operations Division is in the best position to understand and identify legal issues that may impact an operation and is available to provide immediate legal advice on targets of opportunity and other time-sensitive operational requirements.

For example, where time-sensitive targets are involved, judge advocates should provide commanders with advice on the full range of options. Because of the urgent nature of time-sensitive targets, judge advocates provide critical legal advice immediately. Moreover, the legal support staff should be forward thinking, anticipating potential legal issues for targets identified

as time-sensitive. Commanders may seek legal advice if conditions change during air operations and request a legal opinion from the supporting judge advocate. The legal support staff quickly and accurately assesses targets and forms sound legal opinions based on national and other policy, the ROEs, and the LOAC to support the commander's objectives.

The legal support staff evaluates the effects of air, space, and information operations. After execution, the legal support staff reviews battle damage assessment (BDA) information and reports for potential LOAC violations or instances of fratricide. When directed by the supported commander, the legal support staff should promptly initiate or assist in investigations of potential LOAC violations or instances of fratricide. **Commanders should immediately involve the legal support staff as soon as a potential LOAC violation or instance of fratricide has occurred, has been reported, or is suspected.** The legal support staff reports LOAC violations and instances of fratricide through the operational chain of command and takes actions to preserve evidence and information to support future investigations or inquiries. (See figure 4.1.)

## **Legal Support to the Air Mobility Division**

Within the Air Mobility Division, the legal support staff advises on actions taken to plan, coordinate, task, and execute air mobility operations. For example, judge advocates may advise the air mobility control team (AMCT) on command relationships during mission execution. Within an AOC, air mobility operations may give rise to challenging legal issues that involve command relationships, interpretations of international agreements, and overflight or landing rights. If time permits, the legal support staff may use reachback to address complex legal issues involving air mobility operations to enable the optimal use and flexibility of global air mobility assets.

## CHAPTER FIVE

### ROLE OF LEGAL SUPPORT IN OPERATIONAL READINESS

*Operational readiness is at the heart of everything we do for the Air Force; it is not limited to deployments. ...it reflects the ability to provide the complete set of legal capabilities at any place, at any time.*

**Major General William A. Moorman  
Former Air Force Judge Advocate General**

#### INTRODUCTION

**Operational readiness is a mindset and an evaluation of a status attributed to the actions taken to prepare, sustain, and reconstitute military capabilities before, during, and after a military operation.** The legal support staff contributes to the operational readiness of Air Force forces through robust and tailored legal services aimed at maximizing the readiness of Air Force forces in the legal environment in which they will operate. This chapter explores legal support contributions to the combat support process and discusses the means by which the legal support staff achieves and maintains operational readiness.

#### OPERATIONAL READINESS OF AIR FORCE FORCES

The legal support staff is integrated within each phase of the combat support process and provides legal services to maximize readiness. Legal services are provided at each level of command and are configured to directly or indirectly support the operational readiness of Air Force members and its activities. The contributions of the legal support staff to operational readiness extend from the legal readiness of individual airmen to the legal issues encountered at the strategic level. Commanders should fully integrate legal support within the combat support process to allow the legal support staff to prevent or identify and then mitigate the adverse effects of legal issues. Legal support within the combat support process occurs at home station and at forward operating locations and utilizes each category of expeditionary legal support and the full spectrum of legal services that are available at home station. (See figure 5.1.) Operational readiness is enhanced through legal services that are accessible during all phases of the combat support process from deployment preparation to force recovery. (See AFDD 2-4, *Combat Support*.)



The legal staff provides legal assistance to deploying members to maximize the readiness of the force.



Figure 5.1. Combat Support Process

### Readying the Force

The legal support staff provides legal services to assist commanders in creating an organized, trained, equipped, and disciplined force ready to operate in peace and war. At each level, the legal support staff strengthens Air Force primary functions by supporting actions taken to prepare Air Force forces for deployment or in-place operations. **Commanders should utilize available legal services well prior to a known deployment or before the start of operations as legal support may later be limited and directed to support other operational requirements.** For example, the legal support staff advises commanders on a wide range of legal issues pertaining to fiscal law, conscientious objector issues, disciplinary matters, personnel law, contract law, training on rules of engagement, and other legal matters. In addition, commanders should encourage their airmen to take advantage of predeployment legal services offered throughout the Air Force to maximize the readiness of their units. While not an exhaustive list, the legal support staff may take any or all of the following actions to ready the force:

- ✦ Advise commanders of forces preparing for deployment.
- ✦ Develop and implement robust preventive law programs.
- ✦ Participate in the logistics support process to obtain, preposition, or transfer resources to sustain operations.
- ✦ Provide training and mission-related legal assistance on the legal issues influencing readiness (e.g., estate planning, LOAC, ROEs).
- ✦ Prepare legal support capabilities for deployment.

## Preparing the Force

The legal support staff prepares the force by enhancing the operational environment with legal services tailored to support base planning and assessment tasks. Preparing the force requires servicing legal activities to identify, assess, and analyze information or conditions that may impose legal constraints on the operational environment. In this phase, the legal support staff participates in planning and assessment activities to understand and document legal issues that may impede operations. In addition, the legal support staff determines the legal capabilities required to support operations and adjusts legal services to support the current environment. Following are examples of the actions the legal support staff may take to prepare the force:

- ✦ Identify and resolve legal issues within the operational environment (e.g., host-nation support, use of force, environmental constraints).
- ✦ Remove, document, or resolve legal impediments encountered during base support planning activities.
- ✦ Determine legal reachback capabilities and requirements available to support forward deployed forces and those required to sustain operations.
- ✦ Identify legal support requirements and capabilities needed to support operations (e.g., legal services, equipment, facilities).

## Protecting the Force

The legal support staff participates in force protection activities to provide a secure operational environment for Air Force forces. Protecting Air Force personnel and resources generates a host of legal issues that range from the fiscal authority to obtain resources and provide training to the inherent right of self-defense. **Commanders should involve the legal support staff in the processes and activities used to plan and execute force protection activities.** When integrated to support force protection capabilities, judge advocates are best able to provide commanders with legal advice that is carefully crafted to meet the needs of the operational environment. While not an exhaustive list, the legal support staff may take any or all of the following actions to protect the force:

- ✦ Ensure commanders and operators understand their rights and obligations regarding the use of force inside and outside of the US (e.g., rules for the use of force, CJCS SROEs).
- ✦ Ensure operations and activities comply with international law and domestic law and policy (e.g., LOAC, ROEs, Posse Comitatus Act, domestic support, search authority, use of non-lethal weapons).
- ✦ Assist in developing and interpreting ROEs and the rules for governing the use of force (e.g., requests for supplemental ROEs measures, use of force training).

- ✦ Participate in force protection planning activities and development of force protection plans (e.g., force protection cells, assessment teams).
- ✦ Evaluate host-nation support agreements and cooperation arrangements.
- ✦ Review procurement actions for compliance with fiscal law (e.g., training, security measures, procurement of weapons).
- ✦ Review the status of detained or captured personnel or seized property.

### Positioning the Force

The legal support staff enhances the Air Force's ability to deploy, receive, and bed down forces. In every operations area, ranging from main operating bases to austere bare bases, the legal support staff facilitates the transition of a deploying force into a mission capable force. In this phase, the legal support staff provides legal services to create a legal environment that enables forces to begin operations without delay. **Commanders should ensure legal support is available in advance of and during initial deployment, reception, and beddown of forces to ensure legal issues do not impact future operations or activities.** For example, the legal support staff may take any or all of the following actions to position the force to:

- ✦ Deploy as part of advance and reception teams or operational cadre to receive and bed down deploying forces.
- ✦ Participate in negotiations for host-nation support and the status of US forces in a host nation (e.g., foreign criminal jurisdiction, landing fees, use of facilities, claims provisions, taxes).
- ✦ Develop comparative law studies of the operational environment (e.g., civil and criminal procedures, summary of unique host-nation laws, rights of US personnel apprehended by host-nation authorities).
- ✦ Support logistics processes to obtain goods and services from the local economy (e.g., contingency contracting actions, environmental law and land use issues).
- ✦ Assist commanders and their staff in developing local policies and procedures to protect the force and maintain discipline (e.g., US Central Command General Order Number 1, force protection plan).
- ✦ Educate deploying forces on legal issues and policies that apply to the location and operations conducted from the location (e.g., host-nation law, ROEs, claims provisions).
- ✦ Liaison with applicable US agencies and nongovernmental organizations within the host nation.

## Employing the Force

The legal support staff enhances the ability of employing Air Force forces to conduct and support air and space operations. In this phase, the legal support staff establishes and tailors legal services to sustain air and space operations. As Air Force forces begin to support mission objectives, legal services expand to focus on support for ongoing operations while continuing to receive and assist deploying combat and combat support forces. **Commanders should work closely with the legal support staff to understand the legal constraints of the operational environment and how legal issues may shape operations or activities.** Following are some examples of actions the legal support staff may take to employ the force:

- ✦ Refine the legal support requirements for the location and establish reachback connectivity.
- ✦ Accomplish mission training for the supported population (e.g., ROEs, LOAC, US Central Command General Order Number 1).
- ✦ Support actions to generate operational elements of the force (e.g., logistics support, operations planning, target reviews).
- ✦ Develop and organize legal services to support continuing operations (e.g., legal assistance, claims services, military justice support, legal support to C2).

## Sustaining the Force

The legal support staff enhances the ability of Air Force forces to sustain air and space operations. During this phase, legal support personnel provide legal services to support operations, sustain logistics, maintain discipline, and satisfy the legal needs of commanders and airmen. While not an exhaustive list, the legal support staff may take any or all of the following actions to sustain the force:

- ✦ Provide full-spectrum legal services to Air Force forces at forward operating locations (e.g., courts-martial, legal assistance, claims, C2 support).
- ✦ Employ legal reachback capabilities to enhance legal services (e.g., connectivity to legal information services, liaison with legal specialists).
- ✦ Refine legal support requirements and adjust legal services to meet mission requirements (e.g., ROE changes, tax program, upgraded equipment).
- ✦ Provide continuous support for the logistics processes (e.g., military construction, long-term service contracts, new contracts).
- ✦ Support C2 activities and ongoing operations (e.g., ROE training, target reviews, ATO generation).

## Recovering the Force

The legal support staff plays an integral role in recovering the force by providing legal services designed to reintegrate Air Force capabilities at the home station or at another deployed location. Recovering the force completes the combat support cycle and allows the forces to reconstitute their capabilities and prepare for future deployments. This phase generates significant legal issues that range from application of host-nation environmental laws at a forward operating area used by US forces to legal assistance provided to an Air Reserve Component (ARC) member under the Soldiers and Sailors Civil Relief Act (SSCRA) and the Uniformed Services Employment and Re-employment Rights Act (USERRA). **Commanders should ensure the legal support staff is available to support recovering forces at home station or at a new deployment location, to address legal issues generated by the departure of US forces.** Below are examples of actions the legal support staff may take to recover the force:

- ✦ Address legal issues concerning real property, materials, and real estate that are returned to the owner or host nation (e.g., environmental impact, value of improvements to facilities).
- ✦ Provide mission-related personal legal services to recovering Air Force forces.
- ✦ Ensure defense goods and services are sold, transferred, disposed of, or returned in accordance with law and policy (e.g., fitness equipment, temporary facilities, tent platforms, supplies).
- ✦ Adjudicate and settle claims for and against US forces (e.g., personal injury, property damage).
- ✦ Provide legal support to forces remaining behind to support recovery operations (e.g., legal assistance, contracting support, logistics).



The legal support staff resolves legal issues that arise during redeployment to protect US interests after forces depart a forward operating location.

## OPERATIONAL READINESS OF THE LEGAL SUPPORT STAFF

Operational readiness is a legal support competency, which defines legal support staff ability to provide the warfighter a complete set of legal capabilities at any time, at any place. Air Force readiness demands that the legal support staff be organized, trained, and equipped to support air and space operations at all levels and in varied environments. The legal support staff focuses attention **internally** to prepare and equip legal professionals to support mission requirements. The legal support staff achieves readiness by preparing highly trained airmen who possess the legal skills necessary to support air and space operations.

Legal support activities evaluate and report the ability of the legal support staff to support mission requirements through joint and Air Force reporting systems using objective readiness criteria. Through a systematic internal evaluation of the readiness of deployable and in-place legal capabilities, the legal support staff is able to measure its ability to support the mission and contributes to the readiness of the total force. **Commanders should evaluate the readiness of legal activities to support the operational requirements of both in-place and expeditionary missions.** The legal support staff receives the training and resources necessary to achieve readiness from many sources. Although not an exhaustive list, the legal support staff may participate in any or all of the following activities to prepare to support operations:

- ✦ Continuing legal education through civilian, joint, and multinational sources.
- ✦ Professional military education through Air Force, joint, and multinational sources.
- ✦ Military engagement activities with domestic and foreign agencies and activities.
- ✦ Comparative law studies and interactions with host-nation legal representatives.
- ✦ Joint and multinational exercises and training.
- ✦ Involvement in operations planning with access to the information and processes used to direct, control, and sustain air and space operations.
- ✦ Evaluation of application of legal principles to new missions, weapons systems, and tactics.



## SUGGESTED READINGS

### **Air Force Publications (accessible at <https://www.doctrine.af.mil>)**

Air Force Doctrine Document 1, *Air Force Basic Doctrine*.

Air Force Doctrine Document 2, *Organization and Employment of Aerospace Forces*.

Air Force Doctrine Document 2-1, *Air Warfare*.

Air Force Doctrine Document 2-2, *Space Operations*.

Air Force Doctrine Document 2-3, *Military Operations Other Than War*.

Air Force Doctrine Document 2-4, *Combat Support*.

Air Force Doctrine Document 2-5, *Information Operations*.

Air Force Doctrine Document 2-6, *Air Mobility*.

Air Force Doctrine Document 2-7, *Special Operations*.

Air Force Doctrine Document 2-8, *Command and Control*.

### **Joint Publications**

Joint Publication 0-2, *United Action Armed Forces (UNAAF)*.

Joint Publication 1-04, *Joint Tactics, Techniques, and Procedures for Legal Support to Military Operations*. (Draft)

Joint Publication 3-07, *Joint Doctrine for Military Operations Other Than War*.

Joint Publication 3-13, *Joint Doctrine for Information Operations*.

Joint Publication 3-56.1, *Command and Control for Joint Air Operations*.

Joint Publication 3-57, *Joint Doctrine for Civil-Military Operations*.

Joint Publication 3-60, *Joint Doctrine for Targeting*.

### **Other Publications**

Department of the Air Force. *Air Force Operations and the Law—A Guide for Air and Space Forces* (HQ USAF/JAI Publication) 2002.

Dunlap, Charles J. Jr., Col, USAF, *The Revolution in Military Legal Affairs: Air Force Legal Professionals in 21<sup>st</sup> Century Conflicts*, 51 A.F.L. REV. 293 (2001).

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## GLOSSARY

### Abbreviations and Acronyms

<b>ACO</b>	airspace control order
<b>AEF</b>	air and space expeditionary force
<b>AEG</b>	air expeditionary group
<b>AES</b>	air expeditionary squadron
<b>AETF</b>	Air and Space Expeditionary Task Force
<b>AEW</b>	air expeditionary wing
<b>AFDD</b>	Air Force Doctrine Document
<b>AFFOR</b>	Air Force forces
<b>AFRC</b>	Air Force Reserve Command
<b>AMCT</b>	air mobility control team
<b>ANG</b>	Air National Guard
<b>AOB</b>	air operations center (JP 1-02); air and space operations center {USAF}
<b>AOP</b>	air operations plan (JP 1-02); air and space operations plan {USAF}
<b>AOR</b>	area of responsibility
<b>ARC</b>	Air Reserve Component
<b>ATO</b>	air tasking order
<b>BDA</b>	battle damage assessment
<b>C2</b>	command and control
<b>C/JTF</b>	combined/joint task force
<b>CAOC</b>	combined force air operations center (JP 1-02); combined force air and space operations center {USAF}
<b>CAP</b>	crisis action planning
<b>CFACC</b>	combined force air component commander (JP 1-02); combined force air and space component commander {USAF}
<b>CJCS</b>	Chairman, Joint Chiefs of Staff
<b>COA</b>	course of action
<b>COMAFFOR</b>	Commander, Air Force Forces
<b>CONPLAN</b>	operations plan in concept format
<b>CSAR</b>	combat search and rescue
<b>DOD</b>	Department of Defense
<b>FDS</b>	foundational doctrine statements
<b>JAG</b>	judge advocate general

<b>JAOC</b>	joint air operations center (JP 1-02); joint air and space operations center {USAF}
<b>JFACC</b>	joint force air component commander (JP 1-02); joint force air and space component commander {USAF}
<b>JFC</b>	joint force commander
<b>LOAC</b>	law of armed conflict
<b>MAAP</b>	master air attack plan
<b>MAJCOM</b>	major command
<b>MOOTW</b>	military operations other than war
<b>NAF</b>	numbered air force
<b>NORAD</b>	North American Aerospace Defense Command
<b>OIF</b>	Operation IRAQI FREEDOM
<b>ONE</b>	Operation NOBLE EAGLE
<b>OPCON</b>	operational control
<b>OPLAN</b>	operation plan
<b>OPORD</b>	operation order
<b>ROE</b>	rules of engagement
<b>SecDef</b>	Secretary of Defense
<b>SJA</b>	staff judge advocate
<b>SPINS</b>	special instructions
<b>SROE</b>	standing rules of engagement
<b>SSCRA</b>	Soldiers and Sailors Civil Relief Act
<b>TACON</b>	tactical control
<b>UCMJ</b>	Uniform Code of Military Justice
<b>USERRA</b>	Uniformed Services Employment and Re-employment Rights Act

## Definitions

**air expeditionary force.** Deployed US Air Force wings, groups, and squadrons committed to a joint operation. Also called **AEF**. See also air and space expeditionary task force. (JP 1-02) [**air and space expeditionary force.** *An organizational structure composed of force packages of capabilities that provide warfighting commanders with rapid and responsive air and space power. These force packages are tailored to meet specific needs across the spectrum of response options and will deploy within an Air and Space Expeditionary Task Force as air expeditionary wings (AEWs), groups (AEGs), or squadrons (AESs). See also air and space expeditionary task force. Also called AEF.* (AFDD 2)] {Italicized words in brackets apply only to the Air Force and are offered for clarity.}

**air and space expeditionary task force.** A deployed numbered air force (NAF) or command echelon immediately subordinate to a NAF provided as the US Air Force component command committed to a joint operation. Also called **AETF**. See also **air expeditionary wing**. (JP 1-02)

**air expeditionary wing.** A wing or wing slice placed under the administrative control of an air and space expeditionary task force or air and space task force by Department of the Air Force orders for a joint operation. Also called **AEW**. (JP 1-02)

**air operations center.** The principal air operations installation from which aircraft and air warning functions of combat air operations are directed, controlled, and executed. It is the senior agency of the Air Force Component Commander from which command and control of air operations are coordinated with other components and Services. Also called **AOC**. (JP 1-02) [**air and space operations center.** *Operational campaign planning and execution is conducted through the air and space operations center (AOC). The air and space component commander uses the AOC, which the Air Force considers a weapon system, to command and control the integrated air and space effort to meet JFC objectives. Also called AOC.* (AFDD 1-2)] {Italicized words in brackets apply only to the Air Force and are offered for clarity.}

**air tasking order.** A method used to task and disseminate to components, subordinate units, and command and control agencies projected sorties, capabilities and/or forces to targets and specific missions. Normally provides specific instructions to include call signs, targets, controlling agencies, etc., as well as general instructions. Also called **ATO**. (JP 1-02)

**beddown.** A location at which a deploying unit operates during a contingency. It is usually, but not always, in the area of responsibility (AOR). (AFDD 2-4)

**command and control.** The exercise of authority and direction by a properly designated commander over assigned and attached forces in the accomplishment of the mission. Command and control functions are performed through an arrangement of personnel, equipment, communications, facilities, and procedures employed by a commander in planning, directing, coordinating, and controlling forces and operations in the accomplishment of the mission. Also called **C2**. (JP 1-02)

**deployment.** The relocation of forces and material to desired operational areas. Deployment encompasses all activities from origin or home station through destination, specifically including intra-continental US, intertheater, and intratheater movement legs, staging, and holding areas. (JP 1-02) [*Act of preparing, staging, and moving equipment and personnel from their home station to their deployed site, usually in an AOR, to support an operation.*] {Italicized words in brackets apply only to the Air Force and are offered for clarity.}

**home station.** The permanent location [*CONUS or overseas installations*] of active duty units and Reserve Component units (e.g., location of armory or reserve center). (JP 1-02) {Italicized words in brackets apply only to the Air Force and are offered for clarity.}

**information-in-warfare.** IIW is a set of air and space information operations functions that provides commanders battlespace situational awareness across the spectrum of conflict and range of air and space operations. IIW functions involve the Air Force's extensive capabilities to provide awareness throughout the range of military operations based on integrated intelligence, surveillance, and reconnaissance (ISR) assets; its information collection/dissemination activities; and its global navigation and positioning, weather, and communications capabilities. Also called **IIW**. (AFDD 2-5)

**information operations.** Actions taken to affect adversary information and information systems while defending one's own information and information systems. Also called **IO**. (JP 1-02) *The Air Force believes that in practice a more useful working definition is: [Those actions taken to gain, exploit, defend, or attack information and information systems and include both information-in-warfare and information warfare.]* {Italicized definition in brackets applies only to the Air Force and is offered for clarity.}

**information warfare.** Information operations conducted during time of crises or conflict to achieve or promote specific objectives over a specific adversary or adversaries. Also called **IW.** (JP 1-02) [*Information operations conducted to defend one's own information and information systems, or to attack and affect an adversary's information and information systems.*] (AFDD 2-5) {Italicized words in brackets apply only to the Air Force and are offered for clarity.}

**joint air operations.** Air operations performed with air capabilities/forces made available by components in support of the joint force commander's operation or campaign objectives, or in support of other components of the joint force. (JP 1-02).

**joint air operations center.** A jointly staffed facility established for planning, directing, and executing joint air operations in support of the joint force commander's operation or campaign objectives. Also called **JAOC.** See also **joint air operations.** (JP 1-02). [*joint air and space operations center. Joint operational campaign planning and execution is conducted through the joint air and space operations center (JAOC). The joint air and space component commander (JFACC) uses the JAOC to command and control the integrated air and space effort to meet JFC objectives.*] (AFDD 1-2) {Italicized words in brackets apply only to the Air Force and are offered for clarity.}

**joint force.** A general term applied to a force composed of significant elements, assigned or attached, of two or more Military Departments, operating under a single joint force commander. See also **joint force commander.** (JP 1-02)

**joint force air component commander.** The commander within a unified command, subordinate unified command, or joint task force responsible to the establishing commander for making recommendations on the proper employment of assigned, attached, and/or made available for tasking air forces; planning and coordinating air operations; or accomplishing such operational missions as may be assigned. The joint force air component commander is given the authority necessary to accomplish missions and tasks assigned by the establishing commander. Also called **JFACC.** See also **joint force commander.** (JP 1-02) [**joint air and space component commander.** *The JFACC uses the joint air and space operations center to command and control the integrated air and space effort to meet joint force commander's objectives. The Air Force position is that air power and space power together create effects that cannot be achieved through air or space power alone.*] (AFDD 1-2) {Italicized words in brackets apply only to the Air Force and are offered for clarity.}

**joint force commander.** A general term applied to a combatant commander, subunified commander, or joint task force commander authorized to exercise combatant command (command authority) or operational control over a joint force. Also called **JFC**. See also **joint force**. (JP 1–02)

**joint task force.** A joint force that is constituted and so designated by the Secretary of Defense, a combatant commander, a subunified commander, or an existing joint task force commander. Also called **JTF**. (JP 1–02)

**law of armed conflict.** See **law of war**. (JP 1–02)

**law of war.** That part of international law that regulates the conduct of armed hostilities. Also called **the law of armed conflict**. See also **rules of engagement**. (JP 1–02)

**logistics.** The science of planning and carrying out the movement and maintenance of forces. In its most comprehensive sense, those aspects of military operations that deal with: a. design and development, acquisition, storage, movement, distribution, maintenance, evacuation, and disposition of materiel; b. movement, evacuation, and hospitalization of personnel; c. acquisition or construction, maintenance, operation, and disposition of facilities; and d. acquisition or furnishing of services. (JP 1–02)

**military operations other than war.** Operations 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. Also called **MOOTW**. (JP 1-02) [*An umbrella term encompassing a variety of military operations conducted by the Department of Defense that normally complement the other instruments of national power. These military operations are as diverse as providing support and assistance (when consistent with US law) in a nonthreatening environment, and conducting combat not associated with war.*] (AFDD 2-3) {Italicized words in brackets apply only to the Air Force and are offered for clarity.}

**operational readiness.** The capability of a unit/formation, ship, weapon system, or equipment to perform the missions or functions for which it is organized or designed. May be used in a general sense or to express a level or degree of readiness. Also called **OR**. See also **combat readiness**. (JP 1-02)

**reachback.** The process of obtaining products, services, and applications, or forces, equipment, or materiel from Air Force organizations that are not forward deployed. (AFDD 2-8)

**rules of engagement.** Directives issued by competent military authority that delineate the circumstances and limitations under which the US forces will initiate and/or continue combat engagement with other forces encountered. Also called **ROE**. (JP 1-02)

**standing rules of engagement.** Fundamental policies and procedures governing actions to be taken by US force commanders during attacks against the US and all military operations, contingencies, or prolonged conflicts outside the territorial jurisdiction of the US. They provide implementation guidance on the inherent right and obligation of self-defense and the application of force for mission accomplishment. Also called **SROE**. (CJCSI 3121.01A)

**strategy.** The art and science of developing and employing instruments of national power in a synchronized and integrated fashion to achieve theater, national, and/or multinational objectives. (JP 1-02)

**sustainment.** The 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. (JP 1-02)

**tactics.** 1. The employment of units in combat. 2. The ordered arrangement and maneuver of units in relation to each other and/or to the enemy in order to use their full potentialities. (JP 1-02)

**war.** Open and often prolonged conflict between nations (or organized groups within nations) to achieve national objectives. (AFDD 1)