

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

AIR FORCE INSTRUCTION 51-401

11 AUGUST 2011



Law

**TRAINING AND REPORTING TO ENSURE
COMPLIANCE WITH THE LAW OF ARMED
CONFLICT**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This Instruction implements Air Force Policy Directive (AFPD) 51-4, *Compliance With the Law of Armed Conflict*. It prescribes Law of Armed Conflict (LOAC) compliance requirements, and it establishes training guidance and investigating and reporting procedures for alleged LOAC violations. This Instruction applies to all United States Air Force (USAF), Air Force Reserve (USAFR), and Air National Guard (ANG) military and civilian personnel and to contractor personnel assigned to or accompanying the force.

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SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed. Major changes include the revision of office symbols and reference sources and the addition of guidance to ensure Air Force personnel comply with the LOAC. It establishes investigating and reporting procedures for alleged LOAC violations, and provides investigation and reporting requirements applicable to civilian personnel and contractors accompanying the force. This document also

reflects a change in the responsibility for and required frequency of LOAC training and deletes the requirement for reporting of LOAC training completion in the Judge Advocate Unified Automated Reporting System (JAGUARS).

1. Purpose. This AFI provides guidance to ensure compliance with policy in AFPD 51-4.

1.1. All Air Force military and civilian personnel will comply with the LOAC in the conduct of military operations and related activities in armed conflict, regardless of how such conflicts are characterized. In support of this policy, the Air Force will conduct specialized training programs for military and civilian personnel designed to prevent LOAC violations. The Air Force will ensure that contract work statements require contractors authorized to accompany the armed forces to institute and implement effective programs to prevent violations of the LOAC by their employees and subcontractors in accordance with DoDD 2311.01E and DoD Instruction (DoDI) 3020.41, *Contractor Personnel Authorized to Accompany the U.S. Armed Forces*.

1.2. In appropriate publications, instructions and training programs, the Air Force will ensure that all Air Force military and civilian personnel know LOAC principles and fundamental rules; the extent of knowledge required will be commensurate with each individual's duties and responsibilities. This program will include training required by the 1949 Geneva Conventions for the Protection of War Victims and Hague Convention IV of 1907.

1.3. Air Force military and civilian personnel have the obligation to promptly report reportable incidents involving U.S. or enemy personnel. Report LOAC violations alleged to have been committed by or against members of other government agencies and other nations' military departments including all persons accompanying, contracted to, or serving with those forces. Consistent with Department of Defense (DoD) policy, LOAC obligations are similarly observed and enforced by contractors assigned to or accompanying deployed armed forces.

2. Responsibilities. This Instruction establishes the following responsibilities and authorities.

2.1. **The Judge Advocate General (AF/JA) will:** serve as Headquarters Air Force (HAF) office of primary responsibility to issue effective implementation of guidance for AFPD 51-4. To facilitate effective implementation the Air Force Operations and International Law Directorate (AF/JAO) will:

2.1.1. Oversee the preparation of adequate training materials to inform Air Force military and civilian personnel of their rights and obligations under the LOAC. Training materials will be developed to provide a level of the LOAC knowledge commensurate with an individual's duties and responsibilities.

2.1.2. Serve as the central collection point within the Air Force for all reports of reportable incidents and ensure all required offices within DoD are informed.

2.1.3. Make recommendations regarding reportable incidents against Air Force personnel.

2.1.4. Review reports and investigations forwarded to the Air Force from Commanders of the Combat Commands.

2.1.5. Ensure the Air Force Office of Special Investigations (AFOSI) or the Inspector General (IG), receive advice during investigations of known or reported deficiencies in command responsibility pertaining to LOAC implementation and enforcement.

2.1.6. Coordinate plans with the Department of the Army (DoD Executive Agent) for the investigation, collection, recording and reporting of information relating to reportable incidents.

2.1.7. Provide oversight on the training of all judge advocates and paralegals on the LOAC. Review and evaluate this training to ensure all judge advocates and paralegals are capable of assisting in the development and implementation of rules of engagement (ROE).

2.1.8. Coordinate and consult with subordinate staff judge advocates (SJAs) to assist them in correctly advising all levels of commands on the legal principles of the LOAC and command responsibility.

2.2. Pursuant to AFPD 51-4, the **Deputy Chief of Staff, Manpower, Personnel and Services (AF/A1) will**, in coordination with AF/JA, develop policy and procedural guidance to enable effective implementation of the LOAC education and individual training programs for all personnel to include Emergency Essential (EE) coded civilians.

2.3. Pursuant to AFPD 51-4, the **Deputy Chief of Staff, Plans and Operations (AF/A3/5) will:**

2.3.1. Ensure that plans, policies, procedures and operations activities under its purview are consistent with and adhere to the legal obligations of the United States under the LOAC.

2.3.2. Ensure that implementation of the LOAC training satisfies operational requirements.

2.3.3. Ensure that operational unit training standards are issued which specifically explain LOAC and ROE requirements.

2.3.4. Ensure that plans, policies, procedures for exercises and operations incorporate the requirement that qualified legal advisers at all levels of command provide advice about law of war compliance during planning and execution of exercises and operations.

2.4. **The Air Force Inspector General (SAF/IG) will:**

2.4.1. Inspect all activities to ensure that Air Force personnel have complied with LOAC training requirements, that Air Force plans include requirements of the LOAC, domestic and international law, and that Air Force operations are carried out consistent therewith.

2.4.2. Ensure the Air Force Office of Special Investigations (AFOSI) identifies and reports all reportable incidents using the most expeditious means available to the installation commander and servicing SJA.

2.4.3. Promulgate guidance to ensure AFOSI investigates incidents involving LOAC violations, committed by Air Force personnel or persons accompanying or serving with the Air Force.

2.4.4. Ensure AFOSI investigates reportable incidents under the appropriate case category.

2.5. Pursuant to AFPD 51-4, the **Assistant Secretary of the Air Force for Acquisition (SAF/AQ)** will provide guidance to ensure Air Force contract work statements for contractors authorized to accompany the armed forces are consistent with DoDI 3020.41.

2.6. **The Surgeon General (AF/SG) will:**

2.6.1. Develop plans, policies, and procedures to ensure that medical service personnel satisfy LOAC training requirements and adhere to the LOAC. This includes ensuring identification of deployed medical personnel is consistent with the member's status under the LOAC.

2.6.2. Supervise the individual training of medical service personnel to ensure adequate specialized training and instruction of medical personnel in requirements of the LOAC as it pertains to medical personnel.

2.7. Pursuant to AFPD 51-4, the **Chaplain (AF/HC) will:**

2.7.1. Develop plans, policies, and procedures to ensure that chaplains satisfy LOAC training requirements and adhere to the LOAC. This includes ensuring identification of deployed chaplains is consistent with the member's status under the LOAC.

2.7.2. Supervise the individual training of chaplains to ensure adequate specialized training and instruction in the requirements of the LOAC as it pertains to chaplains.

2.8. Pursuant to AFPD 51-4, the **Deputy Chief of Staff, Logistics (AF/A4/7) will:**

2.8.1. Develop plans, policies and procedures to ensure that all Air Force Security Forces satisfy LOAC training requirements and adhere to the LOAC.

2.8.2. Review individual training of Air Force Security Forces personnel to ensure adequate specialized training and instruction of such personnel on the treatment of prisoners of war and detainees.

2.8.3. Assist in promulgating plans, policies and procedures to ensure incidents involving alleged LOAC violations, committed by or against members of the Air Force or persons accompanying or serving with the Air Force, are appropriately investigated.

2.9. **Air Education and Training Command (AETC) will:**

2.9.1. Develop training plans, and procedures to instruct and train Air Force personnel at the start of their service on the content and requirements of the LOAC. The amount and content of any specialized training and instruction shall be commensurate with each individual's projected duties and responsibilities. For example, relevant specialized training should be specifically designed for personnel directly participating in combat operations, such as aircrew members, security forces, those personnel responsible for target selection and evaluation, and those personnel deemed non-combatant, such as medical personnel and chaplains.

2.9.2. Supervise instruction and training in the LOAC for personnel assigned for airman basic military training, officer military training and initial commissioned officer training

for direct appointment officers, as well as for officers and Airmen receiving technical instruction and training.

2.9.3. Develop plans and procedures to incorporate Air Reserve forces, Air National Guard elements and Air Force EE coded civilians in AETC LOAC training programs, and throughout other applicable training stages.

2.10. The USAF Academy will:

2.10.1. Develop plans, and procedures to provide instruction to all cadets on the content and requirements of the LOAC as part of their basic educational and training requirements. All course instruction will ensure that all Air Force personnel know LOAC principles and fundamental rules; the extent of knowledge required will be commensurate with the individual's duties and responsibilities. At a minimum, this program will include training required by the 1949 Geneva Conventions for the Protection of War Victims and Hague Convention IV of 1907.

2.10.2. Implement the objectives of this AFI, discuss the LOAC in academic courses and in military training, whenever it is relevant and appropriate.

2.11. The Air Force Judge Advocate General's School (AFJAGS) will:

2.11.1. Develop plans, and procedures to include adequate education and instruction in the content and requirements of the LOAC in military education and training programs the Air University administers. Their content will be commensurate with each individual's projected duties and responsibilities. AFJAGS has primary responsibility for supplemental LOAC instruction and related topics (e.g., the legal aspects of rules of engagement) for Air University, and it develops, in coordination with the other academic institutions of Air University, instructional lesson plans and teaching materials to carry out this responsibility.

2.11.2. Furnish more advanced education in the subject in more senior programs at the Air War College and Air Command and Staff College, and the College of Aerospace, Doctrine, Research and Education.

2.11.3. Include LOAC instruction in Air War College, Air Command and Staff College, Squadron Officer School, and Senior Noncommissioned Officer Academy curricula to ensure adequate knowledge of the subject commensurate with the nature of each enrollee's duties and responsibilities.

2.11.4. Supervise LOAC instruction within the Air University to ensure that it is current and fulfills DoD Law of War Program objectives.

2.11.5. Develop plans, policies, and procedures for LOAC training of Air Force Reserve and Air National Guard members in Air University training.

2.11.6. Develop for Air Force Officer Accessions Training Squadron and AETC LOAC training modules commensurate with the level of academic standards for Airmen in each program.

2.12. All other MAJCOMs, Direct Reporting Units and Field Operating Agencies will:

2.12.1. Ensure that plans, procedures and operations within their areas of responsibility are consistent with domestic and international legal obligations under the LOAC.

2.12.2. Supervise individual training of assigned Air Force members to ensure general and specialized LOAC instruction and training is commensurate with each individual's projected duties and responsibilities.

2.12.3. Supervise individual training of attached Air Force Reserve and Air National Guard members to ensure adequate LOAC training and instruction.

2.12.4. Ensure contract work statements related to contractors assigned to or accompanying deployed armed forces are consistent with the requirements in this Instruction and AFI 63-101, which require that contractors implement effective LOAC training and prevention programs.

2.13. **All other Air Force offices will** ensure that all plans, policies, procedures and operations within their area of responsibility are consistent with the international legal obligations of the United States under the LOAC. As necessary, Air Force offices should seek legal guidance from their servicing SJA.

3. Law of Armed Conflict in Expeditionary Skills Training Programs.

3.1. Refresher LOAC training will be conducted as part of the Air Force's Expeditionary Skills Training program in accordance with AFI 36-2201, *Air Force Training Program*. All commanders will ensure that assigned personnel are trained in the principles and rules of the LOAC using the Advanced Distributed Learning System (ADLS) computer based training. Although ADLS is the preferred method for training completion, units have the option to download computer-based training to a local server and deliver the courses off-line to individuals as needed.

3.2. Training can also be accomplished in a mass briefing format. Mass training must be led by a functional expert, ordinarily a judge advocate, or by a commander-approved (to include civilian equivalent) instructor utilizing the ADLS approved training materials. Downloaded training or mass briefing options should only be used by units with limited computer access or availability. For training completed outside ADLS, ancillary training monitors or unit training managers must certify completion and update ADLS to ensure members received full credit for the training.

4. Reports on Alleged Violations of the Law of Armed Conflict. Air Force personnel who suspect or have information which might reasonably be viewed as a violation of the LOAC must report this to their immediate commander or another appropriate official.

4.1. Contractor employees report reportable incidents to the commander of the unit they accompany or the installation to which they are assigned.

4.2. In addition to reporting incidents involving U.S. or enemy personnel, report incidents alleged to have been committed by or against contractors or persons accompanying or serving with the United States armed forces, and violations alleged to have been committed by or against allies of the United States, including personnel accompanying those forces.

5. Investigations of Alleged Law of Armed Conflict Violations.

5.1. **Individual Responsibilities.** All military and civilian personnel who, in the course of their duties, uncover information which might reasonably be viewed as a violation of the LOAC will report that information to their commanders. Contracts shall similarly require reporting through the chain of command by contractor personnel. If the immediate

commander appears to be involved or reporting to that commander is otherwise not feasible, personnel must report the incident to the next higher command authority. In instances where it is unreasonable to report within the chain of command, personnel shall report to the servicing SJA, IG, AFOSI or to a sister Service counterpart of one of these offices.

5.1.1. Military and civilian personnel with information or evidence concerning a reportable incident will take all prudent steps to safeguard that information and/or evidence. Limit the dissemination of information only to those with a need to know (e.g., the responsible commander, the SJA, and/or the local AFOSI Field Unit). Additionally, personnel will, when applicable, (a) preserve physical evidence through limiting access to evidentiary materials and crime scenes, (b) draw detailed sketches or take photographs documenting the circumstances of the incident, (c) collect any applicable descriptive notes, and (d) identify all possible witnesses and victims for later interview by investigators and legal personnel.

5.1.2. Military and civilian personnel must safeguard evidence and surrender it to the agency that investigates the alleged violation.

5.2. **Commanders and Staff Agencies.** Within Air Force channels, each commander and staff agency that receives a report of a reportable incident will report the facts promptly to the appropriate SJA and will make relevant information or evidence available to the appropriate investigating agency.

5.3. The Staff Judge Advocate will:

5.3.1. Notify the appropriate investigating agency of the receipt of a report of a reportable incident.

5.3.2. Assist and advise investigators.

5.3.3. Review completed investigation summaries and reports.

5.3.4. Develop and provide recommendations to the commander on the use of the evidence, and on the disposition of the report of investigation.

5.3.5. For reports of reportable incidents initiated within service channels, forward the initial report of investigation to The Judge Advocate General through AF/JAO. Subsequent reports to The Judge Advocate General of reportable incidents will include, but are not be limited to:

5.3.5.1. The incident report;

5.3.5.2. Report of investigation;

5.3.5.3. Summary of investigation and report on disposition of the case, including any disciplinary actions taken in light of LOAC violations. The report must include any recommendations for corrective action that should be undertaken at HAF level or above.

5.4. **Investigating Agency.** Upon notification of the alleged LOAC violation, the investigating agency will also coordinate its investigative efforts with affected command and legal officials.

RICHARD C. HARDING
Lieutenant General, USAF
The Judge Advocate General

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFPD 51-4, *Compliance with the Law of Armed Conflict*, XX XXXX 2011

AFI 36-2201, *Air Force Training Program*, 15 September 2010

AFI 63-101, *Acquisition and Sustainment Lifestyle*, 19 April 2009

Common Article 3 of the Geneva Conventions of 1949, August 12, 1949

Articles 1, 47, 50, *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, August 12, 1949

Articles 1, 48, 50, *Geneva Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea*, August 12, 1949

DoDD 2311.01E, *Department of Defense Law of War Program*, May 9, 2006

Department of Defense Instruction 3020.41, *Contractor Personnel Authorized to Accompany the U.S. Armed Forces*, October 3, 2005

Adopted Forms:

AF Form 847, *Recommendation for Change of Publication*, 22 September 2009

Abbreviations and Acronyms

AFJAGS—Air Force Judge Advocate General's School

AFOSI—Air Force Office of Special Investigations

AFPD—Air Force Policy Directive

DoDD—Department of Defense Directive

DoDI—Department of Defense Instruction

EE—Emergency Essential

HAF—Headquarters Air Force

JAGUARS—Judge Advocate Unified Automated Reporting System

LOAC—Law of Armed Conflict Air Force Instruction

ROE—Rules of Engagement

SJA—Staff Judge Advocate

Terms

Law of Armed Conflict.—Also known as the Law of War, LOAC is the part of domestic and international law that regulates the conduct of armed hostilities. LOAC encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, domestic law implementing those treaties and applicable customary international law.

Reportable Incident.—A possible, suspected, or alleged LOAC violation, for which there is credible information, or conduct during military operations other than war that would constitute a violation of LOAC if it occurred during armed conflict.