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FOR DOCTRINE DEVELOPMENT AND EDUCATION



[ANNEX 1-04 LEGAL SUPPORT TO OPERATIONS](#)

CONTINGENCY OPERATIONS

Last Updated: 4 March 2012

[Judge advocate generals](#) (JAG) provide decision-makers at all levels with the analysis needed to evaluate options, assess risks, and make law-compliant decisions. During any deployment, [Airmen](#) usually face legal issues comparable to those from previous operations. While the topics below are not an exhaustive list, they provide a primer on the types of legal issues addressed by JAG corps personnel in the past. Therefore, JAG personnel remain prepared to address these common legal pitfalls. See [Appendix A](#).

Legal Basis for Mission

The legal basis for a mission aids in defining the parameters, limitations, and scope of the operation. In order for commanders to determine the best course of action to accomplish the mission within the limits set forth by law, they should know the legal basis of the mission. For example, a United Nations (UN) Security Council resolution may provide the legal basis for operating under the UN charter, the authority for the use of force, and the status of participating forces. JAGs assist commanders to focus on the mission, avoid mission creep, and work toward an appropriate end state.

Status of Forces

Commanders should be aware of any legal issues that may adversely affect the mission, including the potential applicability of local, host nation, and international law to Air Force personnel and missions. Determining the status of personnel supporting the military operation is vital. JAGs should ascertain the status of personnel to ensure they understand the rights and obligations in the host nation.

Planning, Coordination, and Oversight

JAG personnel perform a wide variety of planning tasks at the strategic, operational, and tactical levels. They provide legal advice on the myriad regulations, laws, policies, treaties, and agreements that apply to joint military operations. JAG personnel actively participate in the entire planning process from analysis, to course of action (COA) development and recommendation, through execution.

Strategic and operational planning typically occurs at the [joint task force](#) (JTF) or at higher echelons. JAG personnel who perform planning tasks at the tactical level typically do so as members at the wing level or below.

JAG participation during operations planning at all levels is vital to mission success. JAGs and paralegals should be integrated into the planning environment and have ready access to needed information and specific personnel who plan and execute the operation. The legal advice provided by JAGs and paralegals is usually mission-specific. For example, supporting a commander who is tasked to provide close air support will have different legal issues than a commander who provides airlift and medical evacuation services. JAG corps personnel provide better legal advice if they understand the organization's mission, weapons, and weapon systems.

Military Justice

Air Force forces should maintain good order and discipline to function effectively and accomplish the mission. JAGs have a duty to ensure advice to commanders is proper so that justice is administered in a fair, consistent, and uniform manner. For example, there cannot be unjustified differences in punishments based on the status of offenders (e.g., officer versus enlisted, regular Air Force versus ANG and AFR). Especially when dealing with ANG and AFR forces, it is important to understand the concurrent military justice authority exercised by both the operational and administrative chains of command and the importance of consultation between commanders when contemplating military justice actions.

Claims

Prompt adjudication and payment of meritorious claims facilitates the mission by providing the host-nation population an avenue to submit claims for loss or damage because of US military operations. JAGs and paralegals are responsible for researching foreign claims procedures and making contact with other military claims activities within country as soon as possible.

Rules for the Use of Force

The appropriate use of force against lawful targets is a primary concern of the commander. JAGs and paralegals should understand the legal aspects of the [rules for the use of force](#) (RUF) for their operation. JAGs and paralegals should contact their primary ROE/RUF clients—commanders, aircrews, security forces (including augmentees), and SOF personnel to ensure the ROE and RUF facilitate accomplishment of the mission. Commanders should ensure that all personnel receive training in ROE and RUF.

Base Defense

Airmen, particularly [security forces personnel](#), are responsible for detecting and engaging enemy forces that threaten sustained operations. JAG corps personnel should understand the unique legal issues associated with base defense. For example, personnel may be tasked to provide personal protection, escort convoys, or employ

crew-served weapons and landmines. JAGs and paralegals should actively engage with Airmen performing base defense duties to ensure they understand the legal issues associated with their actions, ensure the [rules of engagement](#) (ROE) are appropriate for the mission, and investigate and report any potential law of armed conflict (LOAC) violations. Airmen may also be required to operate outside the perimeter of the supported installation to detect potential threats. JAGs and paralegals should be prepared to address legal issues associated with the tactics or weapons that may be used by Airmen performing base defense duties.

Noncombatants and Noncombatant Property

In many cases, JAG corps personnel will be asked to provide legal advice on noncombatant legal issues, LOAC compliance, and LOAC violations. Decisions made concerning noncombatant personnel or property may have a legitimate operational purpose that complies with the LOAC, but JAGs should ensure such actions are properly documented in the event a commander is accused of violating the LOAC.

Contractors and Other Civilians Accompanying the Force

Military operations are increasingly dependent on support from contractors and civilians accompanying the force. JAGs and paralegals should address legal issues associated with the employment of these vital support personnel.

Fiscal and Contracting Issues

Fiscal law is a potentially contentious issue in the deployed environment. Many locations witness increased contracting activity as they seek to expand or enhance their infrastructure and capabilities. Commanders should have a proactive approach, working closely with the JAG, contracting officer, civil engineer, comptroller, and others to ensure that proposed actions remain within the limits of the law. The same basic contracting and fiscal rules (such as the Anti-Deficiency Act¹) apply in the deployed environment as they do at home station. JAGs, in conjunction with contracting personnel, should assist commanders in ensuring only authorized personnel obligate the government. Special care should be taken to guard unauthorized personnel from entering into contracts and ensure the proper use of funds during the initial stages of a deployment when everyone is focused on “doing what it takes” to complete the mission.

Return of Non-Air Force Property and Facilities

The absence of a large forward-deployed force and our nation’s involvement in multiple military operations requires the Air Force to maintain an expeditionary force capable of deploying anywhere in the world at anytime. As a result, the Air Force may need access to property and facilities in support of military operations. At the outset, JAGs should consider what actions are required to return property and facilities back to the owner. Failure to address the liability of US use of private or foreign property and

¹ 31 U.S.C., paragraph 1341

facilities use may result in negative consequences upon return of the property or facilities.
