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Legal Support to Operations

HEADQUARTERS, DEPARTMENT OF THE ARMY

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Preface

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

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

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

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

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

Introduction

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

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

Legal Support to Operations and Functional Areas

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

Operational Law

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

Core Legal Disciplines

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

Doctrine to Train and Operate

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

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

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

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

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

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

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

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

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

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

Chapter 1 Role of the Judge Advocate

1.1 THE JUDGE ADVOCATE GENERAL'S CORPS MISSION

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

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

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

1.2 PERFORMING TRADITIONAL ROLES

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

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