

CHAPTER 23

JOINT OPERATIONS



U.S. Department Of Defense

I. INTRODUCTION

The U.S. Department of Defense (DoD), the oldest U.S. government agency, is the agency in charge of the U.S. military. With over 1.4 million men and women on active duty, and 718,000 civilian personnel, DoD is also the nation's largest employer. Another 1.1 million personnel serve in the National Guard and Reserve forces. In addition, more than 2 million military retirees and their family members receive benefits administered by DoD.¹

II. MISSION

DoD is responsible for providing the military forces needed to deter war and protect the security of the United States. The major elements of these forces are the Army, Navy, Air Force, and Marine Corps. The President is the Commander-in-Chief of the Armed Forces, while the Secretary of Defense exercises authority, direction, and control over the Department. This includes the Office of the Secretary of Defense, organization of the Chairman of the Joint Chiefs of Staff, the three Military Departments, the Combatant Commands, the Office of the Inspector General, seventeen Defense Agencies, ten DoD Field Activities, and other organizations such as the National Guard Bureau (NGB).²

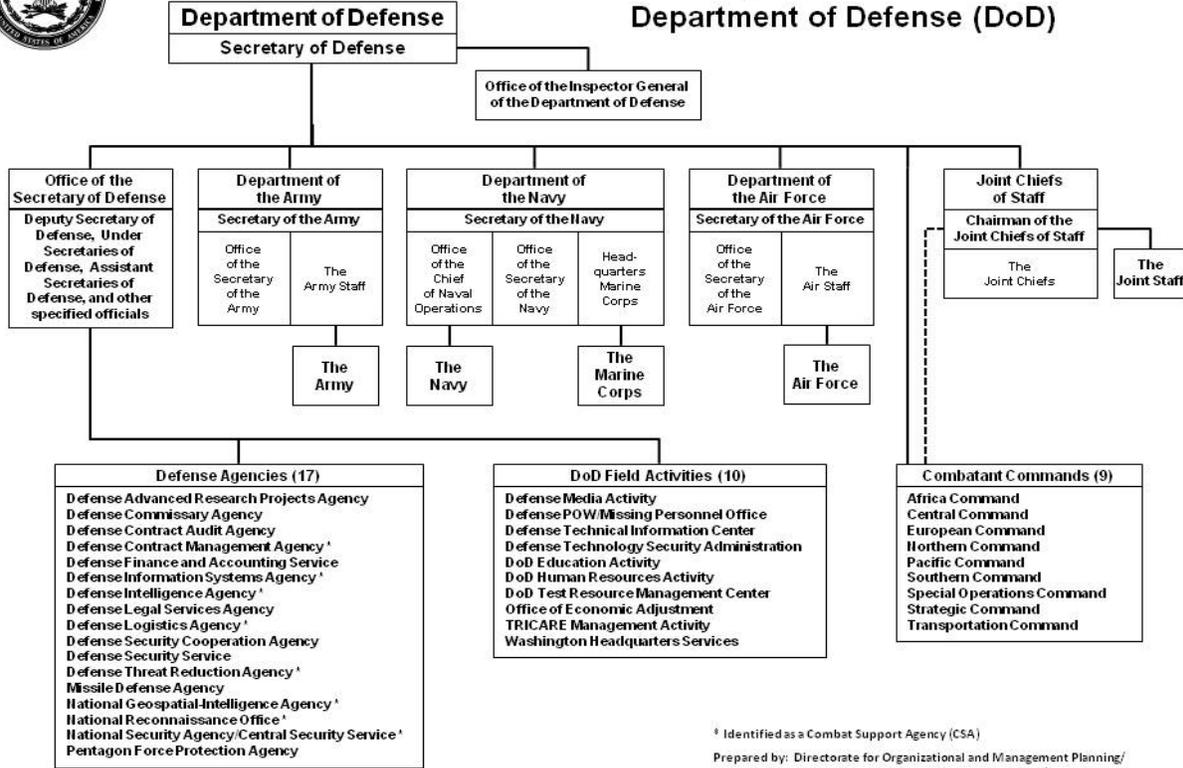
¹ U.S. Department of Defense, <http://www.defense.gov/about/> (last visited May 2, 2014).

² Organization and Functions of the Department of Defense, <http://odam.defense.gov/OMP/Functions/OrganizationalPortfolios/OrganizationandFunctionsGuidebook.aspx> (last visited May 2, 2014).

III. ORGANIZATION



Organization of the Department of Defense (DoD)



¹ Identified as a Combat Support Agency (CSA)

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IV. OPERATIONS

A. The Secretary of Defense

The Secretary of Defense is the principal defense policy adviser to the President and is responsible for the formulation of general defense policy and policy related to all matters of direct concern to the Department of Defense, and for the execution of approved policy. Under the direction of the President, the Secretary exercises authority, direction and control over the Department of Defense. The Secretary of Defense is a member of the President's Cabinet and the National Security Council.¹

B. The Deputy Secretary of Defense

The **Deputy Secretary of Defense** is delegated full power and authority to act for the Secretary of Defense and to exercise the powers of the Secretary on any and all matters for which the Secretary is authorized to act pursuant to law.²

C. The Office of the Secretary of Defense

The Office of the Secretary of Defense (OSD) is the principal staff element of the Secretary of Defense in the exercise of policy development, planning, resource management, fiscal, and program evaluation responsibilities. OSD includes the immediate offices of the Secretary and Deputy Secretary of Defense, Under Secretaries of Defense, Director of Defense Research and Engineering, Assistant Secretaries of Defense, General Counsel, Director of Operational Test and Evaluation, Assistants to the Secretary of Defense, Director of Administration and Management, and such other staff offices as the Secretary establishes to assist in carrying out assigned responsibilities.³

D. The Defense Agencies

Defense Agencies are established as DoD Components by law, the President, or the Secretary of Defense to provide for the performance, on a DoD-wide basis, of a supply or service activity that is common to more than one Military Department when it is determined to be more effective, economical, or efficient to do so. Each Defense Agency operates under the authority, direction, and control of the Secretary of Defense. The Defense Agencies assigned combat support or combat service support functions are designated as Combat Support Agencies (CSAs), which fulfill combat support or combat service support functions for joint operating forces across the range of military operations, and in support of the Commanders of the Combatant Commands executing military operations.⁴

E. The DoD Field Activities

DoD Field Activities are established as DoD Components by law, the President, or the Secretary of Defense to provide for the performance, on a DoD-wide basis, of a supply or service activity that is common to more than one Military Department when it is determined to be more effective, economical, or efficient to do so. Each DoD Field Activity operates under the authority, direction, and control of the Secretary of Defense. The Secretary or Deputy Secretary issues a chartering DoD Directive for each DoD Field Activity to prescribe its mission, organization and management, responsibilities and functions, relationships, and delegated authorities.⁵

V. CONCLUSION

The Department of Defense is the agency in charge of the U.S. military. It bears the responsibility of providing the military forces (Army, Navy, Air Force, and Marine Corps) needed to deter war and to protect the security of the United States. It is the key agency for joint operations in the U.S. government structure.

¹ Top Civilian and Military Leaders, <http://www.defense.gov/home/top-leaders/> (last visited May 2, 2014)

² *Id.*

³ Office of the Secretary of Defense, <http://www.defense.gov/osd/> (last visited May 2, 2014)

⁴ DoDD 5100.01, Enclosure 7, December 21, 2010.

⁵ DoDD 5100.01, Enclosure 8, December 21, 2010.

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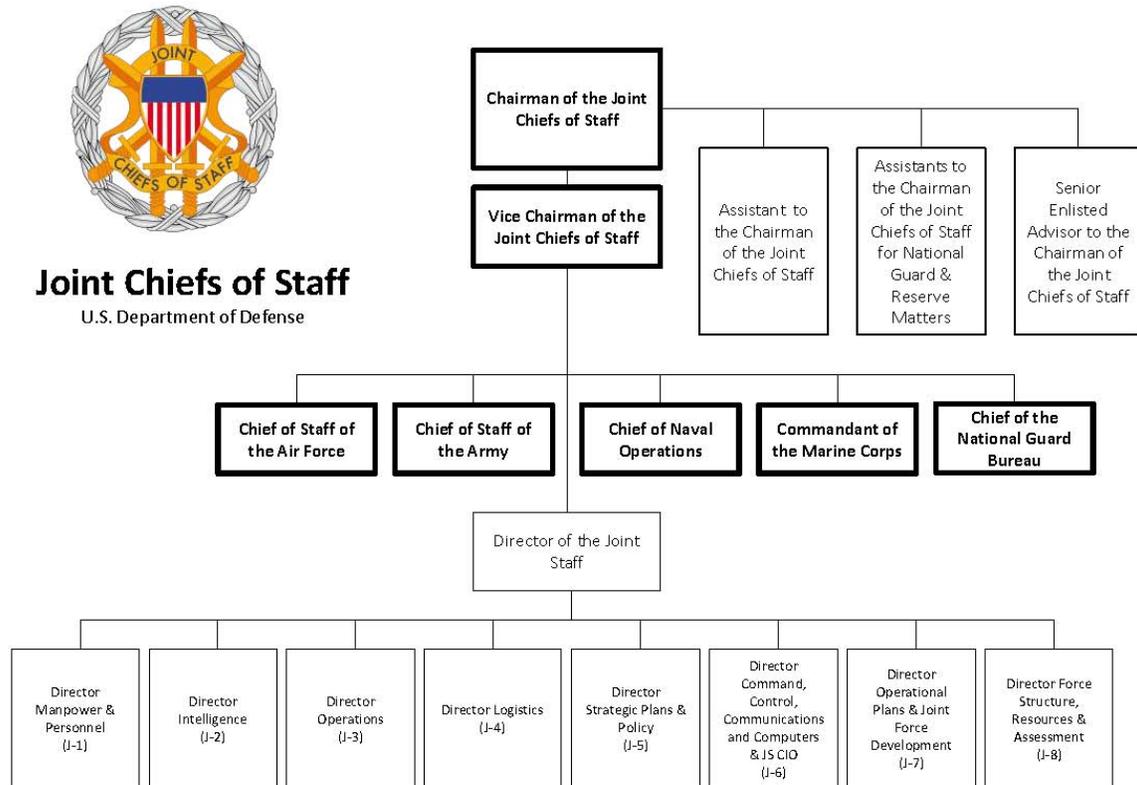


THE JOINT CHIEFS OF STAFF AND JOINT STAFF

I. INTRODUCTION The Joint Chiefs of Staff (JCS) consists of the Chairman, the Vice Chairman, the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps and the Chief of the National Guard Bureau. The collective body of the JCS is headed by the Chairman (or the Vice Chairman in the Chairman’s absence), who sets the agenda and presides over JCS meetings. Responsibilities as members of the Joint Chiefs of Staff take precedence over duties as the Chiefs of Military Services. The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the Secretary of Defense, and the National Security Council (NSC); all JCS members are by law military advisers, however, and they may respond to a request or voluntarily submit—through the Chairman—advice or opinions to the President, the Secretary of Defense, or the NSC. The Joint Chiefs of Staff have no executive authority to command combatant forces. As set forth in the Goldwater-Nichols DoD Reorganization Act of 1986: “The Secretaries of the Military Departments shall assign all forces under their jurisdiction to unified and specified combatant commands to perform missions assigned to those commands . . .”; the chain of command “runs from the President to the Secretary of Defense; and from the Secretary of Defense to the commander of the combatant command.”¹

¹ <http://www.jcs.mil/About.aspx> (last visited May 2, 2014).

II. ORGANIZATION



III. OPERATIONS

A. Chairman of the Joint Chiefs of Staff

The Chairman of the Joint Chiefs of Staff (CJCS) is the senior ranking member of the Armed Forces. As such, the Chairman of the Joint Chiefs of Staff is the principal military adviser to the President. He may seek the advice of and consult with the other JCS members and combatant commanders. When he presents his advice, he presents the range of advice and opinions he has received, along with any individual comments of the other JCS members.

The Secretaries of the Military Departments assign all forces to combatant commands except those assigned to carry out the mission of the Services: to recruit, organize, supply, equip, train, service, mobilize, demobilize, administer, and maintain their respective forces. The chain of command to these combatant commands runs from the President to the Secretary of Defense directly to the commander of the combatant command. The Chairman of the Joint Chiefs of Staff may transmit communications to the commanders of the combatant commands from the President and Secretary of Defense, but does not exercise military command over any combatant forces.

The Act also gives to the Chairman of the Joint Chiefs of Staff some of the functions and responsibilities previously assigned to the corporate body of the Joint Chiefs of Staff. The broad functions of the Chairman of the Joint Chiefs of Staff are set forth in Title 10, United States Code, and detailed in DoD Directive 5100.1. In carrying out his duties, the Chairman of the Joint Chiefs of Staff consults with and seeks the advice of the other members of the Joint Chiefs of Staff and the combatant commanders as he considers appropriate.²

² <http://www.jcs.mil/About.aspx> (last visited May 2, 2014).

B. Vice Chairman of the Joint Chiefs of Staff

The CJCS is assisted by the Vice Chairman of the Joint Chiefs of Staff, performs such duties as the Chairman may prescribe. By law, he is the second-ranking member of the Armed Forces and replaces the Chairman of the Joint Chiefs of Staff in his absence or disability. Though the Vice Chairman was not originally included as a member of the JCS, Section 911 of the National Defense Authorization Act of 1992 made him a full voting member.³

C. Assistant to the Chairman

The Assistant to the Chairman of the Joint Chiefs of Staff, a three-star position, oversees matters requiring close personal control by the Chairman with particular focus on international relations and politico-military concerns.⁴

D. Assistants to the Chairman for National Guard and Reserve Matters

These two major generals are the Chairman's subject matter experts concerning Reserve Component issues and as such provide advice and work initiatives to insure that the National Guard and Reserve effectively support the National Military Strategy.⁵

E. Military Service Chiefs

The military Service Chiefs are often said to “wear two hats.” As members of the JCS, they offer advice to the President, the SECDEF, and the NSC. As the chiefs of the Military Services, they are responsible to the Secretaries of their Military Departments for management of the Services. The Service Chiefs serve for four years. By custom, the Vice Chiefs of the Services act for their chiefs in most matters having to do with day-to-day operation of the Services. The duties of the Service Chiefs as members of the JCS take precedence over all their other duties.

F. The Joint Staff

The Joint Staff assists the Chairman of the Joint Chiefs of Staff in accomplishing his responsibilities for the unified strategic direction of the combatant forces; for their operation under unified command; and for their integration into an efficient team of land, naval, and air forces. The Joint Staff is composed of approximately equal numbers of officers from the Army, the Navy and Marine Corps, and the Air Force. In practice, the Marines make up about twenty percent of the number allocated to the Navy.

Since its establishment in 1947, statute has prohibited the Joint Staff from operating or organizing as an overall armed forces general staff; therefore, the Joint Staff has no executive authority over combatant forces.

The Chairman of the Joint Chiefs of Staff, after consultation with other JCS members and with the approval of the Secretary of Defense, selects the Director, Joint Staff to assist in managing the Joint Staff. By law, the direction of the Joint Staff rests exclusively with the Chairman of the Joint Chiefs of Staff. As the Chairman directs, the Joint Staff also may assist the other JCS members in carrying out their responsibilities.

In the joint arena, a body of senior flag or general officers assists in resolving matters that do not require JCS attention. Each Service Chief appoints an operations deputy who works with the Director, Joint Staff, to form the subsidiary body known as the Operations Deputies (OPSDEPS). They meet in sessions chaired by the Director, Joint Staff, to consider issues of lesser importance or to review major issues before they reach the Joint Chiefs of Staff. With the exception of the Director, this body is not part of the Joint Staff. There is also a subsidiary body known as the Deputy Operations Deputies (DEPOPSDEPs), composed of the Vice Director, Joint Staff, and a two-star flag or general officer appointed by each Service Chief. Currently, the DEPOPSDEPs are the Service directors for plans.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

Issues come before the DEPOPSDEPs to be settled at their level or forwarded to the OPSDEPS. Except for the Vice Director, Joint Staff, the DEPOPSDEPs are not part of the Joint Staff.

Matters come before these bodies under policies prescribed by the Joint Chiefs of Staff. The Director, Joint Staff, is authorized to review and approve issues when there is no dispute between the Services, when the issue does not warrant JCS attention, when the proposed action is in conformance with CJCS policy, or when the issue has not been raised by a member of the Joint Chiefs of Staff. Actions completed by either the OPSDEPs or DEPOPSDEPs will have the same effect as actions by the Joint Chiefs of Staff.⁶

V. CONCLUSION

The Joint Chiefs of Staff are central to the U.S. defense establishment. Today, the Joint Chiefs of Staff have no executive authority to command combatant forces. The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President and presents the range of advice and opinions he has received, along with any individual comments of the other JCS members. The Joint Staff assists the Chairman of the Joint Chiefs of Staff in accomplishing his responsibilities for the unified strategic direction of the combatant forces; for their operation under unified command; and for their integration into an efficient team of land, naval, and air forces. These important roles mean that the Joint Chiefs of Staff are central to the conduct and coordination of joint operations.

⁶ *Id.*



U.S. ARMY

Battles are won by the infantry, the armor, the artillery, and air teams, by soldiers living in the rains and huddling in the snow. But wars are won by the great strength of a nation—the soldier and the civilian working together.
~General of the Army Omar N. Bradley

I. INTRODUCTION

A. The Army is the primary landpower arm of our Nation’s Armed Forces.¹ It exists to serve the American people, to protect enduring national interests, and to fulfill the Nation’s military responsibilities.

B. The joint nature of modern warfare will drive the Army to “depend more on the other Services and vice versa.” The Army has transformed the force to meet the demands of this joint, contingency environment by making the close combat units more sustainable and expeditionary.

II. MISSION

A. The Army’s mission is to fight and win our Nation’s wars by providing prompt, sustained land dominance across the full range of military operations and spectrum of conflict in support of Combatant Commanders. “The Army exists to serve the American people, protect enduring national interests, and fulfill the Nation’s military responsibilities.”²

B. The Army accomplishes its mission by: (1) executing Title 10 and Title 32 United States Code directives, to include organizing, equipping, and training forces for the conduct of prompt and sustained combat operations on land; and (2) accomplishing missions assigned by the President, Secretary of Defense, and Combatant Commanders, and transforming for the future.³

III. ORGANIZATION

A. Force Structure. The major warfighting elements of the operational Army are the modular corps, modular divisions, brigade combat teams (BCT) and support brigades. Operational units are task-organized to make the most effective use of the functional skills and specialized equipment. In addition to conventional organizations, the Army maintains a number of Special Operations units. Major modular force organizations include:

1. *Army Service Component Command (ASCC), or Theater Army.* Armies are commanded by three- or four-star Generals. Of the nine ASCCs, six are focused on geographic regions, while three are focused on functional areas.⁴

2. *Corps.* Lieutenant Generals (three-star) command Corps. There are currently three modular corps headquarters: I Corps (Fort Lewis, WA); III Corps (Fort Hood, TX); and XVIII Airborne Corps (Fort Bragg, NC).⁵

3. *Divisions.* Divisions are commanded by Major Generals (two-star). The Army has eighteen division headquarters (ten modular Active Component, one Integrated, and eight National Guard).⁶ These modular division

¹ U.S. DEP’T OF ARMY, FIELD MANUAL 1, THE ARMY para. 2-26 (14 June 2005).

² *Id.*

³ The Official Homepage of the United States Army, <http://www.army.mil/info/organization/> (last visited April 30, 2014).

⁴ *Id.* The nine ASCCs are: U.S. Army Africa (USARAF); U.S. Army Central (USARCEN); U.S. Army North (USARNORTH); U.S. Army South (USARSO); U.S. Army Europe (USAREUR); U.S. Army Pacific (USARPAC); U.S. Army Special Operations Command (USASOC); Military Surface Deployment and Distribution Command (SDDC); and U.S. Army Space and Missile Defense Command/Army Strategic Command (USASMDC/ARSTRAT). The first six are geographic commands and the last three are functional commands. *Id.*

⁵ *Id.*

headquarters will remain as currently designated (*e.g.*, light, armored, airborne, and air assault); however, these headquarters will routinely have all types of brigades task-organized to them for operations.

4. *Brigade Combat Teams (BCT)*. Commanded by Colonels, BCTs are the Army’s combat power building blocks for maneuver, and the smallest combined arms units that can be committed independently.⁷ BCTs conduct offensive, defensive, stability and civil support operations and may contain artillery, engineer, and combat service support units. The BCT staff includes a brigade judge advocate (O-4), a trial counsel (O-3), and a senior paralegal NCO (E-7), who are responsible for providing legal services across all six core legal disciplines: military justice, international and operational law, administrative and civil law, contract and fiscal law, legal assistance, and claims. The brigade judge advocate serves as the legal advisor to the BCT commander. However, the BJA is under the technical supervision of the staff judge advocate⁸ There are three types of maneuver BCTs: Infantry, Heavy, and Stryker.

a. Infantry BCT (IBCT). Infantry battalions serve as the primary maneuver force for the brigade, and are organized with a HHC, three rifle companies, and a weapons company. Each rifle company has three rifle platoons, a weapons squad, and a 60mm mortar section.⁹ IBCTs are primarily light infantry units. Some specialized IBCTs are designated as airborne or air assault.

b. Heavy BCT (HBCT). The HBCT battalion is organized in a “two-by-two” design, consisting of two tank companies and two rifle companies.¹⁰ HBCTs utilize large, heavily armored, tracked vehicles such as the M1 Abrams tank, the M2/M3 Bradley Fighting Vehicle, and the M109 Paladin howitzer.

c. Stryker BCT (SBCT). The Army developed the SBCT to combine the strengths of its light and heavy forces and their technological advantages, providing a strategically responsive force for future contingencies. The SBCT is centered on the Stryker vehicle, a wheeled light armored vehicle. SBCT Infantry battalions are organized “three-by-three”; that is, three rifle companies, each with three rifle platoons. Each rifle company has a section of organic 120mm Stryker mortar carrier vehicles with 60mm dismounted mortar capability, a mobile gun system (MGS) platoon with three MGS vehicles, and a sniper team.¹¹

5. *Combat Support Brigades*. Five types of modular support brigades complement the BCTs: battlefield surveillance brigade, fires brigade, combat aviation brigade, maneuver enhancement brigade, and sustainment brigade. These brigades provide multifunctional capabilities to deployed forces. More than one type of support brigade may be task-organized to a division or corps, but a division headquarters does not routinely have a command relationship with supporting sustainment brigades.¹² A Division headquarters typically controls CSBs.

Army Units

Unit	Commander/Leader	Approx. Size	Unit	Commander/Leader	Approx. Size
Army Corps	General or Lieutenant General	100,000+	Battalion	Lieutenant Colonel	500-1,000
Division	Lieutenant General	50,000	Company	Captain	100-200
Brigade	Major General	20,000	Platoon	Lieutenant	40-50
	Colonel	3,000-4,000	Squad	Staff Sergeant	10-13

⁶ *Id.* The ten active Modular Divisions are: 1st Armored Division (Fort Bliss, TX); 1st Cavalry Division (Fort Hood, TX); 1st Infantry Division (Fort Riley, KS); 2nd Infantry Division (Camp Casey, Korea); 3rd Infantry Division (Fort Stewart, GA); 4th Infantry Division (Fort Carson, CO); 10th Mountain Division (Fort Drum, NY); 25th Infantry Division (Schofield Barracks, HI); 82nd Airborne Division (Fort Bragg, NC); and 101st Airborne Division (Fort Campbell, KY). The one active Integrated Division is 7th Infantry Division (Joint Base Lewis-McChord, Washington). The eight modular National Guard Divisions are: 28th Infantry Division (Harrisburg, PA); 29th Infantry Division (Fort Belvoir, VA); 34th Infantry Division (Saint Paul, MN); 35th Infantry Division (Fort Leavenworth, KS); 38th Infantry Division (Indianapolis, IN); 40th Infantry Division (Los Alamitos, CA); 42nd Infantry Division (Troy, NY); and 49th Armored Division (Austin, TX).

⁷ U.S. DEP’T OF ARMY, FIELD MANUAL 3-90.6, THE BRIGADE COMBAT TEAM, para. 1-1 (14 Sep. 2010) [hereinafter FM 3-90.6].

⁸ U.S. DEP’T OF ARMY, FIELD MANUAL 1-04, LEGAL SUPPORT TO THE OPERATIONAL ARMY, paras. 3-5–3-6; 4-7 (18 Mar. 2013).

⁹ FM 3-90.6, *supra* note 7, para. 1-45.

¹⁰ *Id.* at para. 1-32.

¹¹ *Id.* at para. 1-57.

¹² *Id.* at paras. 8-91–8-103.

B. Branches. In addition to units, Army personnel are divided into branches¹³:

1. *Combat Arms.* These branches, which are primarily responsible for engaging in combat operations, include Infantry, Armor, Field Artillery, Air Defense Artillery, Engineers, Aviation, and Special Forces.

2. *Combat Support.* These branches provide operational assistance to Combat Arms, including engagement in combat when necessary, along with additional responsibilities in providing logistical and administrative support to the Army and include Signal, Chemical, Military Intelligence, Military Police, and Civil Affairs.

3. *Combat Service Support.* These branches provide logistical and administrative support: Adjutant General, Chaplain, Finance, Quartermaster, Medical, Ordnance, Transportation, and the Judge Advocate General's Corps.

IV. OPERATIONS

The Army prepares leaders and Soldiers for the fluid operational environment. Within an operational environment, an Army leader may conduct major combat, military engagement, and humanitarian assistance simultaneously.¹⁴ The Army has two core competencies, which are combined arms maneuver and wide area security. Army operations are characterized by flexibility, integration, lethality, adaptability, depth, and synchronization.¹⁵ Commanders in these operations leverage the six warfighting functions—mission command, movement and maneuver, intelligence, fires, sustainment, and protection—to accomplish the mission. These warfighting functions are linked fundamentally to joint functions.¹⁶

V. CONCLUSION

The Army's primary mission is to fight and win our Nation's wars. The Army's structure provides the flexibility and lethality necessary to meet the demands of the fluid operational environment, which includes offensive, defensive and stability operations. The Army forms the key ground force for joint operations.

¹³ Doctrinally, the distinction between Combat Arms, Combat Support, and Combat Service Support is rapidly blurring, and the terms are becoming obsolete as all branches are blended together in the BCT.

¹⁴ U.S. DEP'T OF ARMY DOCTRINE PUBLICATION 3-0, UNIFIED LAND OPERATIONS, para. 9 (10 Oct. 2011).

¹⁵ *Id.* at para. 24.

¹⁶ *Id.* at para. 61.

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U.S. MARINE CORPS

REFERENCES

1. **MARINE CORPS DOCTRINAL PUBLICATION (MCDP) 1-0, MARINE CORPS OPERATIONS (Sept 2001).**

2. **U.S. MARINE CORPS CONCEPTS AND PROGRAMS 2013 available at: [HTTP://WWW.HQMC.MARINES.MIL/PANDR/CONCEPTSANDPROGRAMS/CONCEPTSANDPROGRAMS2013.ASPX](http://www.hqmc.marines.mil/pandr/conceptsandprograms/conceptsandprograms2013.aspx).**

I. MISSION

A. Under 10 U.S.C. § 5063, the Marine Corps' primary mission is to be "organized, trained, and equipped to provide fleet marine forces of combined arms, together with supporting air components, for service with the fleet in the seizure or defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign." In addition, the Marine Corps provides detachments and organizations for service on armed Navy vessels, security detachments for the protection of naval property at naval stations and bases, and such other duties as the President may direct.

B. The ground, air, and supporting forces that make up the Marine Corps are trained and equipped to make available to the President and the unified Combatant Commanders the capability to react quickly to any military contingency in the world. As a result, Marine operational forces are "task organized" and deployed to meet whatever contingency mission they may be assigned, ranging from a natural disaster, such as OPERATION UNIFIED RESPONSE, the relief effort following the January 2010 earthquake in Haiti, to sustained ground combat such as in OPERATION IRAQI FREEDOM (OIF) and OPERATION ENDURING FREEDOM (OEF). Because Marine forces often deploy from and are sustained by sea-based platforms, they are referred to as "expeditionary" (being able to operate in areas where there was previously no supporting infrastructure).

II. FORCE STRUCTURE

A. **Introduction.** The Marine Corps is organized as the nation's "force in readiness" into four broad categories: Headquarters, U.S. Marine Corps (the Commandant of the Marine Corps and his advisory staff agencies); the operating forces; Marine Corps Forces Reserve; and the supporting establishment (personnel, bases, and activities that support the operating forces). According to 10 U.S.C. § 5063, "the Marine Corps, within the Department of the Navy, shall be so organized as to include not less than three combat divisions and three air wings, and such other land combat, aviation, and other services as may be organic therein." The Marine Corps present force structure is approximately 195,000 active duty Marines and 39,000 Reservists.

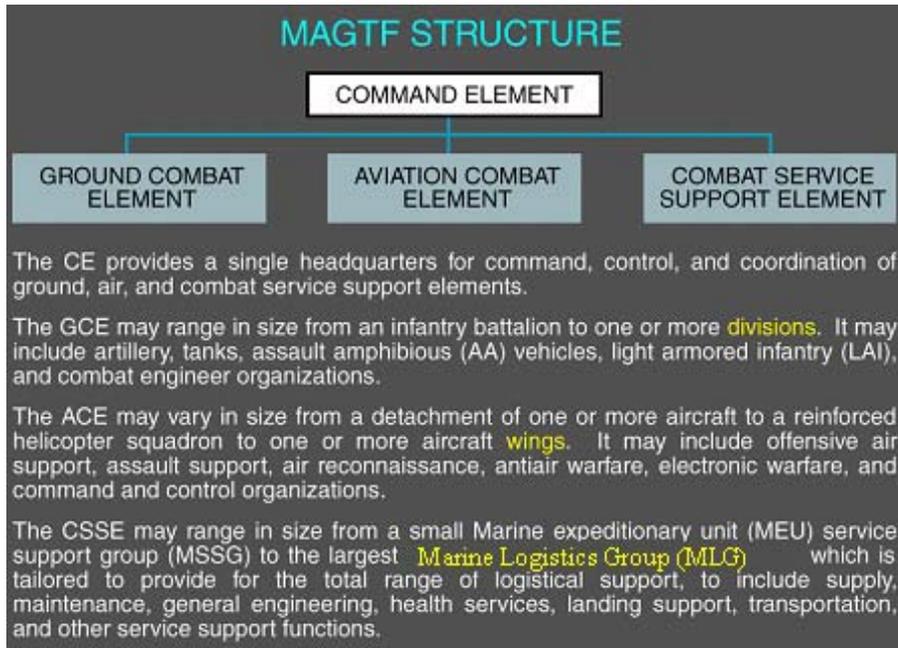
B. **Operating Forces.** The operating forces (as supplemented by the Reserves) are considered the heart of the Marine Corps. They constitute the forward presence, crisis response, and fighting power available to the Combatant Commanders. The Marine Corps has established three permanent combatant-level service components in support of unified commands with significant Marine forces assigned: U.S. Marine Corps Forces Command (MARFORCOM); U.S. Marine Corps Forces, Pacific (MARFORPAC); and U.S. Marine Corps Forces, Special Operations Command (MARSOC). Marine Corps Forces Command (MARFORCOM) is one of three major Marine Corps commands (with U.S. Marine Corps Forces, Pacific (MARFORPAC) and U.S. Marine Corps Forces, Reserve (MARFORRES)) that provide operating forces. About 64 percent of all active duty Marines are assigned to these operating forces. As dictated by 10 U.S.C. § 5063, operating forces are made available from four (3 active, 1 reserve) Divisions,

Wings, and Marine Logistics Groups (MLG). I and II Marine Expeditionary Forces (I and II MEFs) are provided by the Commander, MARFORCOM, to Combatant Commanders. III MEF is provided by the Commander, MARFORPAC, to the Commander, U.S. Pacific Command. This assignment reflects the recently realigned peacetime disposition of Marine Corps Forces (MARFOR). Marine forces are apportioned to the remaining geographic combatant commands for contingency planning and are provided to the Combatant Commands when directed by the Secretary of Defense. The newest Marine Corps Command, U.S. Marine Corps, Cyber (MARFORCYBER) became operational in October of 2010.

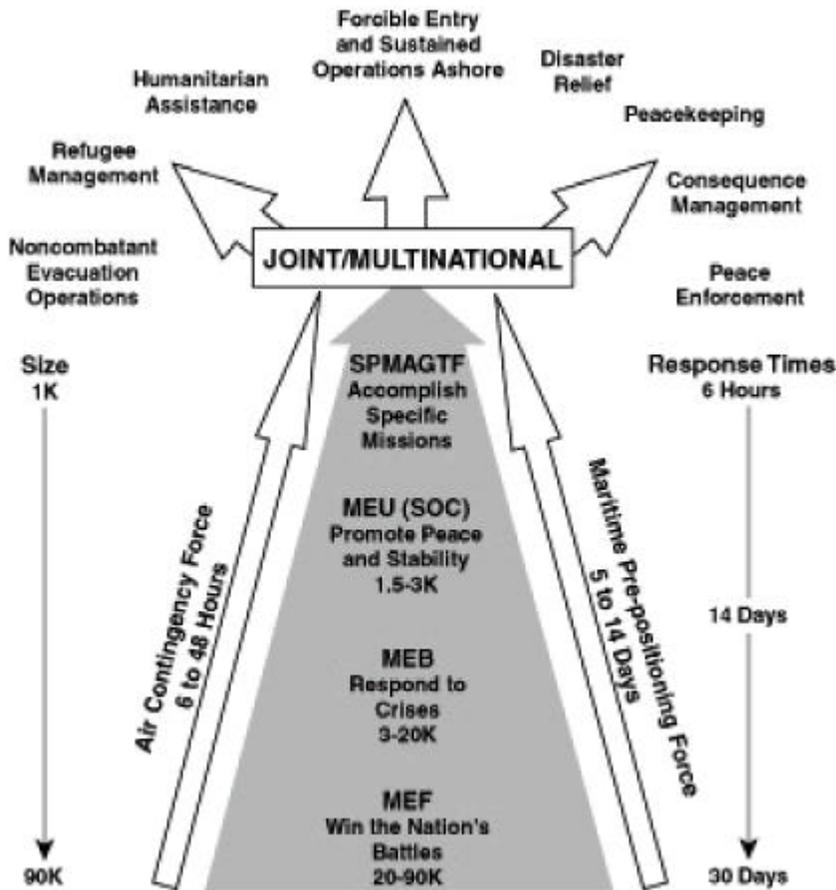
C. Legal Support. Command legal advice in the Marine Corps is provided primarily by a command's Staff Judge Advocate (SJA). Four Legal Services Support Sections (LSSS) (located in Camp Pendleton, CA, Camp Lejeune, NC, Camp Butler, HI, and Marine Corps Base Quantico, VA) and nine subordinate Legal Services Support Teams (LSST) provide consolidated legal services in garrison beyond the organic capability of a command's SJA. The LSSS and LSSTs provide support to commands and individual Marines, Sailors, and other eligible recipients within their designated Legal Services Support Area (LSSA). The LSSS and LSSTs provide a full range of legal services in the following functional areas: military justice, civil law, administrative law, ethics, claims, and legal assistance. Each subordinate LSST is comprised of a Trial Services Office, a Defense Service Branch Office, an Administrative Law Office, a Legal Assistance Office, and a Special Assistance U.S. Attorney (if required). Each LSSS is comprised of a regional office geographically co-located with the respective Marine Corps Installation (MCI) headquarters. The Officer-in-Charge (OIC) of each LSSS is responsible to the regional MCI Commanding General (CG) for the provision of legal services in garrison, beyond the organic capability of SJAs, to all operating forces and supporting establishment commands within the LSSS's designated LSSA. The OIC, LSSS also serves as a special staff officer to the regional MCI CG and has exclusive staff cognizance over the legal services support function within the region. While the OIC, LSSS is responsible for supporting the legal needs of the operational commands, he or she does not provide legal advice to the commanding general of the operating forces. That traditional duty remains with the SJA. Each major command (division, wing, logistics group) has an SJA and a small legal staff consisting of a Deputy SJA, several company grade officer staff attorneys, and an enlisted legal support staff. The bulk of the legal assets remain in the LSSS. During OIF and OEF, lawyers were directly assigned to deploying Battalion and Regimental staffs to provide legal counsel to that respective commander. This operational change, however, is not permanently embedded into the USMC Table of Organization (T/O). Marine Judge Advocates are also assigned to Headquarters, U.S. Marine Corps, the supporting establishment, and MARFORRES. These Judge Advocates are often called upon to support the operating forces through deployments as individual augmentees or by providing reach-back support. Legal support to Marine Air Ground Task Forces (MAGTFs) (see section III(A) below) is provided based on mission requirements. Marine Expeditionary Units (MEU) (see section III(E) below) traditionally deploy with one field grade officer JA and an enlisted legal chief. Marine Judge Advocates are unrestricted line officers and may also serve in command billets and various other non-legal billets.

III. TASK ORGANIZATION: THE MARINE AIR-GROUND TASK FORCE (MAGTF)

A. In order to meet mission-oriented expeditionary requirements, the Marine Corps has developed the concept of Marine Air-Ground Task Force (MAGTF) organization. The MAGTF is the Marine Corps principal organization for the conduct of all missions across the range of military operations. The MAGTF provides a combatant commander or other operational commander a versatile expeditionary force for responding to a broad range of crisis and conflict situations. MAGTFs are balanced, combined arms forces with organic command, ground, aviation, and sustainment elements. It is a building block concept: the fleet/joint commander's operational requirement or task is analyzed, and the appropriate units are drawn from a Marine division, aircraft wing, and MLG into an air-ground-logistics team under one commander to meet the task. The resulting MAGTF may be of any size, and the weight and composition of its component elements may vary, depending on the mission and enemy situation. The building block approach also lends itself to rapid expansion into a larger force as a situation demands. In each case, there will be a MAGTF command element (CE), a ground combat element (GCE) (under certain conditions, more than one), an aviation combat element (ACE), and a logistics combat element (LCE).



B. Four types of MAGTFs can be task organized as follows: the MEF, the Marine Expeditionary Brigade (MEB), the Marine Expeditionary Unit (Special Operations Capable) (MEU (SOC)), and the Special Purpose Marine Air Ground Task Force (SPMAGTF).



C. A MEF is the principal Marine Corps warfighting organization, particularly for a larger crisis or contingency, and is normally commanded by a lieutenant general. A MEF can range in size from 20,000 to 90,000 Marines and sailors, from less than one to multiple divisions and aircraft wings, together with one or more MLGs.

With sixty days of accompanying supplies, MEFs are capable of both amphibious operations and sustained operations ashore in any geographic environment. With appropriate augmentation, the MEF command element is capable of performing as a Joint Task Force (JTF) Headquarters. A MEF will normally deploy in echelon and will designate its lead element as the MEF (Forward). MEFs are the primary “standing MAGTFs,” existing in peacetime as well as wartime. The Marine Corps has three standing MEFs: I MEF is based in California and Arizona; II MEF is based in North and South Carolina; and III MEF is forward-based in Okinawa and mainland Japan.

D. A MEB is an intermediate-size MAGTF that bridges the gap between the MEF and the MEU, ranging in size from 3,000 to 20,000 Marines and sailors, and is normally commanded by a brigadier general (normally the deputy commander of the parent MEF). The MEB is not a standing organization; it is a task-organized unit created for a specific mission and is comprised of assets from the MEF. A MEB can operate independently or serve as the MEF’s advance echelon. It is normally composed of a reinforced infantry regiment, a composite Marine Air Group (MAG), and a Brigade Service Support Group (BSSG). A MEB is capable of rapid deployment and employment via amphibious shipping, strategic air/sealift, or maritime pre-positioning force assets. With thirty days of supplies, a MEB can conduct amphibious assault operations ashore in any geographic environment. During potential crisis situations, a MEB may be forward deployed afloat (typically aboard fifteen amphibious ships, including five large-deck amphibious assault ships) for an extended period in order to provide an immediate combat response.

E. Forward deployed MEU(SOC)s embarked aboard amphibious shipping (typically three ships) within a larger naval Expeditionary Strike Group (ESG) package, operate continuously in the areas of responsibility of numerous unified combatant commanders. A MEU(SOC) is typically comprised of approximately 2,200 Marines and sailors. These are standing units that provide the President and combatant commanders an effective means of dealing with the uncertainties of future threats by providing a forward-deployed force with unique capabilities for a variety of quick reaction, sea-based, crisis response options in either a conventional amphibious/expeditionary role or in the execution of maritime special operations. MEU(SOC) train for operations to be executed within six hours of receipt of the mission. The forward-deployed MEU(SOC), forged and tested in real-world contingencies, remains the benchmark forward operating Marine force. The MEU is commanded by a colonel and deploys with fifteen days of accompanying supplies. It is composed of a reinforced infantry battalion, a composite squadron, and a combat logistics battalion. The 11th, 13th, and 15th MEUs are drawn from I MEF assets based in Camp Pendleton, CA. The 22nd, 24th, and 26th MEUs are drawn from II MEF assets based in Camp Lejeune, NC and the 31st MEU is drawn from III MEF assets based in Okinawa, mainland Japan, and Hawaii. MEUs present these organic capabilities:

1. Amphibious Operations: Amphibious Assault, Amphibious Raids, Small Boat Raids (31st MEU), and Maritime Interception Operations

2. Expeditionary Support to Other Operations/Crisis Response and Limited-Contingency Operations: Noncombatant Evacuation Operations, Humanitarian Assistance, Stability Operations, Joint and Combined Operations, Aviation Operations from Expeditionary Sites, Theater Security Cooperation Activities, Airport and Port Seizures, Visit/Board/Search and Seizure, and Advance Force Operations

F. A SPMAGTF is task organized to accomplish a specific mission, operation, or regionally focused exercise. As such, SPMAGTFs can be organized, trained, and equipped to conduct a wide variety of expeditionary operations ranging from crisis response to training exercises and peacetime missions. Their duties cover the spectrum from NEOs to disaster relief and humanitarian missions as seen after the Asian Tsunami in the Indian Ocean in 2004. An emerging variant of the SPMAGTF, the SPMAGTF-(Security Cooperation) provides combatant commanders with Marine forces specifically task-organized for security cooperation and civil military operations.

G. **Air Contingency Forces.** All three MEFs maintain Air Contingency MAGTFs (ACM) in a continuous state of readiness. ACMs are on-call, task-organized alert forces, available to the unified combatant commanders for world wide deployment via airlift. An ACM can be deployed within eighteen hours of notification. The size can vary, with a task organization designed to meet the mission, threat, and airlift availability. An example of an ACM deployment occurred during the 2004 rebel uprising in Haiti in support of what would later be called Operation Secure Tomorrow.

H. **Maritime Prepositioning Force.** As is evident from the above, an overriding requirement for MAGTFs, and especially MEU (SOC) MAGTFs, is the ability to plan rapidly and effectively for the execution of real world contingencies with the forces, lift, logistics, and enemy situation at hand. MAGTFs deploy by amphibious shipping and airlift and are sustained on the ground by their own organic assets, as well as by Maritime Prepositioning Force (MPF) or other prepositioned equipment. The MPF program, which began in 1981, consists of sixteen self-

sustaining, roll-on/roll-off ships, civilian-owned and operated under long-term charters to the Military Sealift Command (MSC). The MPF is organized into three Maritime Prepositioning Ships Squadrons (MPSRON): MPSRON-1, based in the Mediterranean; MPSRON-2, based at Diego Garcia in the Indian Ocean; and MPSRON-3, based in the Guam-Saipan area. Each MPSRON provides enough tanks, artillery, vehicles, ammunition, supplies, food, fuel, and water to support a MEB for thirty days of combat. The ships can be used separately or in larger groups to support smaller or larger MAGTFs. A single MPF ship is capable of supporting a MEU for thirty days.

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U.S. NAVY

I. INTRODUCTION

“90% of the world’s commerce travels by sea; the vast majority of the world’s population lives within a few hundred miles of the oceans; nearly three quarters of the planet is covered by water.”¹ Since the founding of the United States Navy on October 13, 1775, our nation has recognized that seapower is critical to protecting U.S. national security and the American way of life.²

II. MISSION

A. Navy Mission. The mission of the Navy is to maintain, train and equip combat-ready Naval forces capable of winning wars, deterring aggression and maintaining freedom of the seas.³

B. Maritime Strategic Concept. “The expeditionary character and versatility of maritime forces provide the United States the asymmetric advantage of enlarging or contracting its military footprint in areas where access is denied or limited. Permanent or prolonged basing of our military forces overseas often has unintended economic, social or political repercussions. The sea is a vast maneuver space, where the presence of maritime forces can be adjusted as conditions dictate to enable flexible approaches to escalation, de-escalation and deterrence of conflicts. The speed, flexibility, agility and scalability of maritime forces provide joint or combined force commanders a range of options for responding to crises. Additionally, integrated maritime operations, either within formal alliance structures (such as the North Atlantic Treaty Organization) or more informal arrangements (such as the Global Maritime Partnership initiative), send powerful messages to would-be aggressors that we will act with others to ensure collective security and prosperity. *United States seapower will be globally postured to secure our homeland and citizens from direct attack and to advance our interests around the world.*”⁴

III. ORGANIZATION AND FORCE STRUCTURE

A. Components. The Department of the Navy has three principal components: (1) The Navy Department; (2) the operating forces, including the Marine Corps, the reserve components, and, in time of war, the U.S. Coast Guard (in peacetime a component of the Department of Homeland Security); and (3) the shore establishment.

1. *Navy Department.* The Navy Department is comprised of the Office of the Secretary of the Navy (SECNAV), and the Office of the Chief of Naval Operations (OPNAV). The Chief of Naval Operations (CNO) is the senior military officer in the Navy, and thus is akin to the Chief of Staff of the Army or Air Force.⁵

2. *Operating Forces.* The operating forces commanders and fleet commanders have a dual chain of command. Administratively, they report to the CNO and provide, train, and equip naval forces. Operationally, they provide naval forces and report to the appropriate Unified Combatant Commanders. Commander, Fleet Forces Command, commands and controls fleet assets in both the Atlantic and the Pacific Oceans for interdeployment training cycle

¹ U.S. Navy, U.S. Marine Corps, & U.S. Coast Guard, *A Cooperative Strategy for 21st Century Seapower* (2007), available at <http://www.navy.mil/maritime/MaritimeStrategy.pdf>.

² *Id.*

³ Mission of the Navy, available at <http://www.navy.mil/navydata/organization/org-top.asp>.

⁴ *A Cooperative Strategy for 21st Century Seapower*, supra note 1.

⁵ Navy Organization, available at <http://www.navy.mil/navydata/organization/org-over.asp>. Office of the Chief of Naval Operations, available at <http://www.navy.mil/navydata/organization/org-cno.asp>. The Marine Corps and Coast Guard are discussed elsewhere.

purposes. As units of the Navy enter the area of responsibility for a particular Navy area commander, they are operationally assigned to the appropriate numbered fleet. All Navy units also have an administrative chain of command (exercising administrative control, or ADCON), with the various ships reporting to the appropriate Type Commander.⁶

3. *Shore Establishment.* The shore establishment provides support to the operating forces (known as “the fleet”) in the form of facilities for the repair of machinery and electronics; communications centers; training areas and simulators; ship and aircraft repair; intelligence and meteorological support; storage areas for repair parts, fuel, and munitions; medical and dental facilities; and air bases.⁷

B. Power Projection. Three types of Naval power projection are the Carrier Strike Group (CSG), the Amphibious Ready Group (ARG), and its embarked Marine Expeditionary Unit (MEU).

1. *Carrier Strike Group.* A CSG generally consists of an aircraft carrier (CVN),⁸ its embarked air wing (CVW)⁹ of approximately eighty fixed- and rotary-wing aircraft,¹⁰ a cruiser and two destroyers,¹¹ a replenishment ship,¹² and a submarine.¹³ A CSG is normally commanded by a Rear Admiral (lower or upper half, one or two stars respectively), with a Lieutenant Commander (O-4) as staff judge advocate (SJA). The SJA is the only lawyer assigned to the Admiral’s staff.¹⁴

2. *Amphibious Ready Group/Expeditionary Strike Group.* An ARG generally consists of a “big-deck” amphibious assault ship (LHA/LHD), or “amphib”; its embarked Marine Expeditionary Unit (MEU) including an Aviation Combat Element (ACE) of approximately thirty to forty fixed- and rotary-wing aircraft,¹⁵ and two smaller amphibians (LPD/LSD). Each of the three vessels in an ARG will have a variety of landing craft used to transport Marines ashore, such as Landing Craft Air Cushioned (LCAC), Amphibious Assault Vehicle (AAV), and Landing Craft Utility (LCU). If the mission requires an expanded strike capability, the ARG is usually augmented by several

⁶ The Operating Forces, available at <http://www.navy.mil/navydata/organization/orgopfor.asp>. Example: a guided missile destroyer (DDG) homeported in San Diego reports *administratively* to a Destroyer Squadron (DESRON, i.e., its Type Commander), but deploys as part of a Carrier Strike Group (*see infra*), which reports *operationally* to Commander Third Fleet (C3F) when the CSG is transiting from San Diego to Hawaii, to Commander Seventh Fleet (C7F) when the CSG is transiting from Hawaii through the Indian Ocean, and to Commander Fifth Fleet (C5F) when the CSG arrives in the Arabian Gulf. C5F is dual-hatted as Commander U.S. Naval Forces Central Command (COMNAVCENT), the Naval Component Commander for Central Command (CENTCOM). *See generally* COMNAVCENT/C5F Mission & Area of Operations, available at <http://www.cusnc.navy.mil/mission/index.html>.

⁷ The Shore Establishment, available at <http://www.navy.mil/navydata/organization/org-shor.asp>.

⁸ “CVN” is the hull classification symbol or code for “Carrier, Aircraft (Nuclear-Propulsion)” (i.e., nuclear powered aircraft carrier). There are currently eleven nuclear powered aircraft carriers. Each has a crew of approximately 3,200 sailors. *See generally* U.S. Navy Fact File—Aircraft Carriers, available at http://www.navy.mil/navydata/fact_display.asp?cid=4200&tid=200&ct=4.

⁹ An air wing adds approximately 2,400 sailors onboard the aircraft carrier.

¹⁰ An embarked air wing will generally consist of F/A-18C/D Hornets and F/A-18E/F Super Hornets, EA-6B Prowlers (soon to be replaced by the EA-18G Growler), E-2C Hawkeyes, C-2A Greyhounds, and MH-60R/S, and HH-60H Seahawk helicopters.

¹¹ The cruisers and destroyers provide defense against air, surface, and submarine threats. As of 2015, an airwing will consist of 65-70 total combat aircraft, though the NIMITZ Class CVNS are capable of embarking nearly 90 aircraft.

¹² This ship performs underway replenishment of food, ammunition, fuel, repair parts, and other provisions for the other CSG ships.

¹³ Attack submarines (SSN) are designed to seek and destroy enemy submarines and surface ships; project power ashore with Tomahawk cruise missiles and Special Operation Forces; carry out Intelligence, Surveillance, and Reconnaissance (ISR) missions; support Carrier Strike Groups; and engage in mine warfare. *See generally* U.S. Navy Fact File—Attack Submarines – SSN, available at http://www.navy.mil/navydata/fact_display.asp?cid=4100&tid=100&ct=4.

¹⁴ The CSG Staff is typically assigned to a particular aircraft carrier (i.e., a CSG Staff is assigned to each of the eleven aircraft carriers). The strike group commander, if not operating as head of, or a component of a Joint Task Force (JTF), will usually be operating under the direction of a numbered fleet commander (*see supra*), who will have a more senior staff judge advocate (generally an O-5), but the strike group commander will rely almost exclusively on his own SJA for advice on a variety of issues ranging from rules of engagement, to military justice and foreign claims. Note also that each carrier typically has two Judge Advocates (JAs) as part of the “ship’s company,” typically an O-4 and an O-3. Those JAs work for the commanding officer of the carrier (an O-6), and will be primarily concerned with discipline on board the carrier. However, the strike group SJA and the carrier SJA often cooperate on various legal issues.

¹⁵ An ARG generally has a mix of AV-8B Harriers capable of Vertical/Short Take Off and Landing (V/STOL), along with rotary assets such as the CH-53E Super Stallion, CH-46 Sea Knight, AH-1Z Super Cobra, UH-1N Huey, or MV-22 Osprey tilt-rotor aircraft. In the next few years, the AB-8B Harriers will be replaced by the STOVL variant of the F-35 Joint Strike Fighter.

cruisers and destroyers, and a submarine to form an Expeditionary Strike Group (ESG). An ESG is normally commanded by a Rear Admiral (one-star), who is supported by an O-4 SJA.

C. Strategic Deterrence. The U.S. Navy maintains the ability to respond to nuclear aggression or threats with highly reliable, credible and survivable nuclear forces. Undetected ballistic missile submarines (SSBNs) provide the most survivable leg of the U.S. strategic defense arsenal.¹⁶ Since the 1960s, strategic deterrence has been the SSBN's sole mission, providing the United States with its most survivable and enduring nuclear strike capability.¹⁷ Each SSBN has two crews, Blue and Gold, which alternate manning the submarines while on patrol. This maximizes the SSBN's strategic availability, reduces the number of submarines required to meet strategic requirements, and allows for proper crew training, readiness, and morale.

D. Aegis Ballistic Missile Defense (BMD). The Aegis Ballistic Missile Defense (BMD) is the mobile sea-based component of the Missile Defense Agency's BMD System. The Navy embraces BMD as a core mission of and one of the key enabling capabilities that the Navy provides the joint force, assuring access in the maritime domain. Aegis BMD is capable of defeating short-to intermediate-range, unitary, and separating, midcourse-phase, ballistic missile threats with the Standard Missile-3 (SM-3), as well as short-range ballistic missiles in the terminal phase with the SM-2. As of November 2012, there are twenty-six Aegis BMD ships (five cruisers and twenty one destroyers) in the U.S. Navy. Of the twenty-six ships, sixteen are assigned to the Pacific Fleet and ten to the Atlantic Fleet. In response to the increasing demand for Aegis BMD capability from the Combatant Commanders, the Missile Defense Agency and Navy are working together to increase the number of Aegis BMD into the Aegis Modernization Program and new construction of the Aegis BMD destroyers.¹⁸

IV. OPERATIONS

The following six capabilities comprise the core of U.S. maritime power and reflect an increase in emphasis on those activities that prevent war and build partnerships:¹⁹

1. *Forward Presence.* Maritime forces will be forward deployed, especially in an era of diverse threats to the homeland. Operating forward enables familiarity with the environment, as well as the personalities and behavior patterns of the regional actors.

2. *Deterrence.* Preventing war is preferable to fighting wars. Deterring aggression must be viewed in global, regional, and transnational terms via conventional, unconventional, and nuclear means.

3. *Sea Control.* The ability to operate freely at sea is one of the most important enablers of joint and interagency operations, and sea control requires capabilities in all aspects of the maritime domain, including space and cyberspace.

4. *Power Projection.* Our ability to overcome challenges to access and to project and sustain power ashore is the basis of our combat credibility.

5. *Maritime Security.* Creating and maintaining security at sea is essential to mitigating threats short of war, including piracy, terrorism, weapons proliferation, drug trafficking, and other illicit activities.

6. *Humanitarian Assistance and Disaster Response.* Building on relationships forged in times of calm, we will continue to mitigate human suffering as the vanguard of interagency and multinational efforts, both in a deliberate, proactive fashion and in response to crises.

¹⁶ See generally U.S. Navy Fact File—Fleet Ballistic Missile Submarines - SSBN, available at http://www.navy.mil/navydata/fact_display.asp?cid=4100&tid=200&ct=4.

¹⁷ Beginning in 2002, four *Ohio* class guided-missile submarines were converted into guided missile submarines (SSGN). Armed with tactical missiles and equipped with superior communications capabilities, SSGNs provide the Navy with an unprecedented combination of strike and special operation mission capability within a stealthy, clandestine platform. Each SSGN is capable of carrying up to 154 Tomahawk or Tactical Tomahawk land-attack cruise missiles and has the capacity to host up to 66 SOF personnel at a time. See generally U.S. Navy Fact File—Guided Missile Submarines - SSGN, available at http://www.navy.mil/navydata/fact_display.asp?cid=4100&tid=300&ct=4.

¹⁸ For more information see Aegis Ballistic Missile Defense Fact Sheet, available at <http://www.mda.mil/global/documents/pdf/aegis.pdf>; or http://www.mda.mil/system/aegis_bmd.html

¹⁹ *Id.*

V. CONCLUSION

The United States Navy is committed to its fundamental mission to **win the nation's wars, deter aggression from state and non-state actors, and maintain the freedom of the seas.** Today, its challenge is to apply seapower in a manner that protects U.S. vital interests even as it promotes greater collective security, stability, and trust. While defending our homeland and defeating adversaries at war remain the indisputable ends of seapower, it must be applied more broadly if it is to serve the national interest. Moving forward, the U.S. Navy must contribute to winning wars decisively while enhancing its ability to prevent war, win the long struggle against terrorist networks, positively influence events, and ease the impact of disasters.”²⁰

²⁰ *A Cooperative Strategy for 21st Century Seapower*, supra note 1



U.S. AIR FORCE

Aim High...Fly-Fight-Win

I. INTRODUCTION

The U.S. Air Force traces its lineage to the Aeronautical Division of the U.S. Army Signal Corps, which was created in 1907 and acquired its first airplane from the Wright Brothers in 1909.¹ The Air Force remained a functional component of the Army until the U.S. Air Force was established as an independent, co-equal branch of the military following the enactment of the National Security Act of 1947. President Truman signed the act on 26 July 1947 and the first Secretary of the Air Force was sworn on 18 September 1947.²

The National Security Act established the requirement that the Air Force "shall be organized, trained and equipped primarily for prompt and sustained offensive and defensive air operations."³ The same day he signed the act, President Truman also signed Executive Order 9877, which established the first Air Force core missions of air superiority, airlift, air reconnaissance, strategic air force, air support to ground and naval forces, and coordination of air defense.⁴ Today, the Air Force continues to meet these requirements, even as they have evolved over the years, resulting in *Global Vigilance*, *Global Reach*, and *Global Power* for America and achieving its new vision as: "The World's Greatest Air Force—Powered by Airmen, Fueled by Innovation."⁵

II. MISSION OF THE AIR FORCE

A. Mission and Vision of the Air Force. The Air Force mission is to "*fly, fight, and win...in air, space, and cyberspace*."⁶ To achieve that mission, the Air Force adopted the following vision:

The United States Air Force will be a trusted and reliable Joint partner with our sister Services known for integrity in all of our activities, including supporting the Joint mission first and foremost. We will provide compelling air, space, and cyber capabilities for use by the combatant commanders. We will excel as stewards of all Air Force resources in service to the American people, while providing precise and reliable *Global Vigilance, Reach, and Power* for the Nation.⁷

This vision was modified in August 2013 to simply, "The World's Greatest Air Force—Powered by Airmen, Fueled by Innovation." However, the tenets of *Global Vigilance*, *Global Reach*, and *Global Power* remain part of that

¹ U.S. DEP'T OF AIR FORCE, CREATION OF THE AERONAUTICAL DIVISION FACT SHEET (3 Apr. 2009) available at <http://www.nationalmuseum.af.mil/factsheets/factsheet.asp?id=14205> (last visited 23 April 2014).

² U.S. DEP'T OF AIR FORCE, USAF ESTABLISHED FACT SHEET (22 Oct. 2013) available at <http://www.nationalmuseum.af.mil/factsheets/factsheet.asp?id=1845> (last visited 23 April 2014).

³ *Id.* See also, 10 U.S.C. § 8062(c) (2011) available at <http://www.law.cornell.edu/uscode/text/10/8062>.

⁴ U.S. DEP'T OF AIR FORCE, AIR FORCE 101 POWERPOINT PRESENTATION, slide 17 (Apr. 2014) available at <https://www.my.af.mil> (Common Access Card Required).

⁵ U.S. DEP'T OF AIR FORCE, THE WORLD'S GREATEST AIR FORCE—POWERED BY AIRMEN, FUELED BY INNOVATION: A VISION FOR THE UNITED STATES AIR FORCE (15 Aug. 2013) [hereinafter AF VISION] available at <http://www.af.mil/Airpower4America.aspx>.

⁶ U.S. DEP'T OF AIR FORCE, INSTR. 1-1, AIR FORCE STANDARDS para. 1.2 (7 Aug 2012) [hereinafter AFI 1-1] available at <http://www.e-publishing.af.mil>.

⁷ *Id.* at para. 1.2.1.

vision.⁸

B. Role and Responsibilities of the Air Force. Air Force doctrine states that the role of the Air Force is “to defend the United States and protect its interests through airpower, guided by the principles of joint operations and the tenets of airpower.”⁹ Airpower is defined as “the ability to project military power or influence through the control and exploitation of air, space, and cyberspace to achieve strategic, operational, or tactical objectives.”¹⁰ Doctrine further delineates the Air Force role in the application of airpower as distinguished from the other military services:

As the nation’s most comprehensive provider of military airpower, the Air Force conducts continuous and concurrent air, space, and cyberspace operations. The air, space, and cyberspace capabilities of the other Services serve primarily to support their organic maneuver paradigms; the Air Force employs air, space, and cyberspace capabilities with a broader focus on theater-wide and national-level objectives. Through airpower, the Air Force provides the versatile, wide-ranging means towards achieving national objectives with the ability to deter and respond immediately to crises anywhere in the world.¹¹

To achieve its overall mission and vision, the Air Force conducts five core missions. These missions have evolved from the six original core missions established by President Truman in 1947. Today they are: 1) air and space superiority; 2) intelligence, surveillance, and reconnaissance; 3) rapid global mobility; 4) global strike; and 5) command and control.¹² The Air Force accomplishes these core missions through a commitment to three core values: *Integrity first, Service before self, and Excellence in all we do.*¹³

III. ORGANIZATION AND FORCE STRUCTURE

A. Total Force. The Air Force total force concept is defined as all “the US Air Force organizations, units, and individuals that provide the capabilities to support the Department of Defense in implementing the national security strategy. Total force includes Regular Air Force, Air National Guard of the United States, Air Force Reserve military personnel, US Air Force military retired members, US Air Force civilian personnel (including foreign national direct and indirect-hire, as well as non-appropriated fund employees), contractor staff, and host-nation support personnel.”¹⁴

B. Standard Organization of the Air Force. The following is the basic command structure of the Air Force as established and described by Air Force Instruction (AFI) 38-101, *Air Force Organization*, dated 16 March 2011.¹⁵

1. Headquarters, U.S. Air Force (HQ USAF). Consists of the Secretariat led by the Secretary of the Air Force (SecAF) and the Air Staff led by the Chief of Staff (CSAF).

2. Major Commands (MAJCOM). Management headquarters directly subordinate to HQ USAF and assigned a major component of the Air Force mission. MAJCOMs are generally functional or geographic. MAJCOMs are commanded by a three (O-9) or four-star general officer (O-10). The following is the current list of Air Force MAJCOMs:¹⁶

a. Air Combat Command (ACC)

⁸ AF VISION, *supra* note 5.

⁹ U.S. DEP’T OF AIR FORCE, AIR FORCE DOCTRINE, VOL. 1, BASIC DOCTRINE 1 (14 Oct. 2011) [hereinafter AF DOCTRINE, V1], available at <https://doctrine.af.mil/download.jsp?filename=Volume-1-Basic-Doctrine.pdf> (last visited 30 Apr. 2014).

¹⁰ *Id.* at 24.

¹¹ *Id.*

¹² AF VISION, *supra* note 5.

¹³ *Our Mission*, AIR FORCE.COM, <http://www.airforce.com/learn-about/our-mission/> (last visited 29 Apr. 2014).

¹⁴ U.S. DEP’T OF AIR FORCE, AIR FORCE DOCTRINE, VOL. 2, LEADERSHIP 8 (4 Nov. 2011) [hereinafter, AF DOCTRINE, V2], available at <https://doctrine.af.mil/download.jsp?filename=Volume-2-Leadership.pdf> (last visited 30 Apr. 2014).

¹⁵ See, U.S. DEP’T OF AIR FORCE INSTR. 38-101, AIR FORCE ORGANIZATION (16 Mar. 2011) [hereinafter, AFI 38-101].

¹⁶ U.S. DEP’T OF AIR FORCE, U.S. AIR FORCE FACT SHEET (18 Jan. 2006) available at <http://www.af.mil/AboutUs/FactSheets/Display/tabid/224/Article/104613/the-us-air-force.aspx> (last visited 23 April 2014).

- b. Air Education and Training Command (AETC)**
- c. Air Force Global Strike Command (AFGSC)**
- d. Air Force Materiel Command (AFMC)**
- e. Air Force Reserve Command (AFRC)**
- f. Air Force Space Command (AFSPC)**
- g. Air Mobility Command (AMC)**
- h. Pacific Air Forces (PACAF)**
- i. United States Air Forces Europe and Air Forces Africa (USAFE)**
- j. Air Force Special Operations Command (AFSOC)**
- k. Air National Guard (ANG)***

*The Air National Guard is considered a component in addition to a command in that it has a dual mission. In Federal status, the ANG augments the Active Component. In non-Federal status, the ANG reports directly to their respective state governors.

3. Numbered Air Force (NAF). A level of command directly under a MAJCOM. NAFs have been described as a tactical echelon in that they provide operational leadership and supervision. A NAF is assigned subordinate units, such as wings, groups and squadrons. Their purpose is to ensure the readiness of assigned forces and prepare forces for deployment and employment. Numbered Air Forces are typically commanded by a three-star general (O-9). There are currently 16 activated NAFs worldwide.

a. Named Air Force. Operates at the same level of command as a numbered air force, there is currently one named air force, United States Air Forces Central (USAFCENT), which serves as the air component of United States Central Command.

b. Component NAFs (C-NAF). C-NAFs support the Air Force component commander (COMAFFOR) at the operational and tactical level. When designated as the Air Force component to a Unified Combatant Command (UCC), the C-NAF will function at the strategic, operational and tactical level. There are currently 9 C-NAFs supporting the UCCs and United States Forces Korea (a subunified combatant command). A C-NAF may carry a number, but also have a name associated with it. For example, First Air Force is the C-NAF supporting US Northern Command (USNORTHCOM), but it also referred to as Air Forces Northern (AFNORTH).

4. Wing. A level of command below the NAF or higher headquarters. A wing has a distinct mission with significant scope. A wing is usually composed of a primary mission group (e.g., operations, training, etc.) and the necessary supporting groups. By pulling together the mission and support elements, a wing provides a significant capability under a single commander. It is often responsible for maintaining the installation. A wing has several squadrons in more than one dependent group. There are generally three types of wings: operational, air base wing (support), and specialized wings. Either of these types may serve as the host wing on an installation. In practice, Air Base Wings have been created and utilized as the host units of joint bases. Wings must have a minimum of 1,000 people assigned. Wings are commanded by either a Colonel (O-6) or a Brigadier General (O-7) at larger installations.

5. Group. A level of command between wings and squadrons. Groups bring together multiple squadrons or other lower echelon units to provide a broader capability. For instance, a mission support group pulls together several squadrons in a variety of areas to provide a full spectrum mission support capability. Groups will have a minimum adjusted population of at least 400 personnel assigned. Groups are often commanded by a Colonel (O-6).

6. Squadron. Squadrons are the basic building block organizations in the Air Force, providing a specific operational or support capability. A squadron may be either a mission unit, such as an operational flying squadron, or a functional unit, such as a civil engineer, security forces, or maintenance squadron. A squadron has a substantive mission of its own that warrants organization as a separate unit based on factors like unity of command, functional grouping and administrative control, balanced with efficient use of resources. Squadrons vary in size according to responsibility, but will have a minimum adjusted population of at least 35 personnel. Squadrons are often commanded by a Major (O-4) or Lieutenant Colonel (O-5).

7. Flight. If internal subdivision is required, a flight may consist of sections, then elements. A flight may be either a numbered flight, named flight, alpha flight, or a functional flight. A numbered or named flight is the smallest unit in the Air Force. It is usually led by a First Lieutenant (O-2) or a Captain (O-3).

8. Other Organizations. Other types of organizations in the Air Force include: (1) direct reporting units (DRUs) such as the Air Force Academy or Air Force District of Washington; (2) laboratories; (3) centers; and (4) field operating agencies (FOA). In addition, the Civil Air Patrol (CAP) serves as the civilian auxiliary of the Air Force.

C. Commander, Air Force Forces (COMAFFOR). Although all Air Force units, regardless of level, have an Air Force commander, the title of Commander, Air Force Forces (COMAFFOR) is reserved exclusively to the single Air Force commander of an Air Force Service component command assigned or attached to a joint force commander (JFC) at the unified combatant command, subunified combatant command, or joint task force (JTF) level.¹⁷

The COMAFFOR provides unity of command. To a JFC, a COMAFFOR provides a single face for all Air Force issues. Within the Air Force Service component, the COMAFFOR is the single commander who conveys commander's intent and is responsible for operating and supporting all Air Force forces assigned or attached to that joint force. Thus, the COMAFFOR commands forces through two separate branches of the chain of command: the operational branch and the administrative branch. The operational branch runs through joint channels from the JFC and is expressed in terms such as operational control (OPCON), tactical control (TACON), and support. The administrative branch runs through Service channels only, from the AETF, up through the appropriate component numbered Air Force (C-NAF), major command (MAJCOM), to the Air Force Chief of Staff (CSAF) and Secretary of the Air Force (SECAF); this authority is expressed as administrative control (ADCON).¹⁸

D. The Air & Space Expeditionary Force (AEF). The Air Force supports global combatant commander (CCDR) requirements through a combination of assigned, attached (rotational), and mobility forces that may be forward deployed, transient, or operating from home station. The AEF is the force generation construct used to manage the battle rhythm of these forces in order to meet global CCDR requirements while maintaining the highest possible level of overall readiness. The total force is part of the AEF. Through the AEF, the Air Force establishes a predictable, standardized battle rhythm ensuring rotational forces are properly organized, trained, equipped, and ready to sustain capabilities while rapidly responding to emerging crises. Thus, while AEF forces may deploy, they stand up as part of an air expeditionary task force, not as their own warfighting entity. In short, the AEF is the mechanism for managing and scheduling forces for expeditionary use; the Air Expeditionary Task Force (AETF), discussed below, is the Air Force warfighting organization attached to a JFC.¹⁹

E. Air Expeditionary Task Force (AETF). The AETF is the organizational structure for Air Force forces in response to operational tasking. In other words, the AETF is how the Air Force will support the JFC. The AETF provides a task-organized, integrated package with the appropriate balance of force, sustainment, control, and force protection. While the task force model itself is not new, its emphasis within the Air Force is recent. (AETFs) can be sized and tailored to meet the specific requirements of the mission. The basic building block of an AETF is the squadron; however, a squadron normally does not have sufficient resources to operate independently. Thus, the smallest AETF is normally an air expeditionary group; larger AETFs may be composed of several expeditionary wings. Within an AETF, the AETF commander organizes forces as necessary into wings, groups, squadrons, flights, detachments, or elements to provide reasonable internal spans of control, command elements at appropriate levels, and to retain unit identity. AETFs may be established as an Air Force Service component to a joint task force (JTF), or as a subordinate task force within a larger Air Force Service component to address specific internal tasks. If an

¹⁷ AF DOCTRINE, V1, *supra* note 9, at 66.

¹⁸ *Id.*

¹⁹ See, U.S. DEP'T OF AIR FORCE INSTR. 10-401, AIR FORCE OPERATIONS PLANNING AND EXECUTION para. 2.2 (7 Dec. 2006, Incorporating Through Change 4, 13 Mar. 2012) [hereinafter, AFI 10-401] available at <http://www.e-publishing.af.mil>. See also, AF DOCTRINE, V1, *supra* note 9, at 71.

AETF is formed as the former, the AETF commander is also a commander, Air Force forces (COMAFFOR). Otherwise, the AETF commander is not a COMAFFOR, but reports to a COMAFFOR.²⁰

F. Joint and Coalition Operations. The Air Force prefers—and in fact, plans and trains—to employ in the joint fight through a commander, Air Force forces (COMAFFOR) who is normally also dual-hatted as a joint force air component commander (JFACC) when operations involve air assets from multiple services. Joint doctrine provides that the JFACC should be from the service with the majority of air assets in the joint force. The JFACC may become a combined force air component commander (CFACC) when operations involve multinational air assets.²¹

IV. AIR OPERATIONS

A. Core Missions. As mentioned earlier, the Air Force currently has five core missions: 1) air and space superiority; 2) intelligence, surveillance, and reconnaissance; 3) rapid global mobility; 4) global strike; and 5) command and control.²² These core missions have evolved since they were first established by President Truman in 1947, but fundamentally they have remained the same.

1. Air & Space Superiority. Includes the ability to control the air and space so that our military forces do not have to worry about being attacked from the air and space, while ensuring that joint forces have the freedom to attack in the air, on the ground, and at sea.

2. Intelligence, Surveillance, and Reconnaissance. Includes the exploitation of the vertical dimension through a mix of aircraft, satellites, and other technologies to gain a decisive information advantage over our foes helping joint force leaders make informed decisions to maintain deterrence, contain crises, or achieve success in battle.

3. Rapid Global Mobility. Includes delivering essential equipment and personnel for missions ranging from major combat to humanitarian relief operations around the world. Mobility forces also provide in-flight refueling necessary for joint power projection and medical airlift resulting in unprecedented survival rates across the joint force.

4. Global Strike. Includes the ability of the Air Force's nuclear and conventional precision strike forces to credibly threaten and effectively conduct global strike operations by holding any target on the planet at risk and, if necessary, disabling or destroying it promptly—even from bases in the continental United States. Whether employed from forward bases or enabled by in-flight refueling, global strike derives from a wide-range of systems that include bombers, missiles, special operations platforms, fighters, and other Air Force aircraft.

5. Command and Control. Includes providing access to reliable Air Force communications and information networks so that the joint team can operate globally at a high tempo and level of intensity.

B. Airpower Operations. The Air Force supports joint force commanders by conducting specific airpower operations that provide specific effects. The following is a summary of these operations from Air Force Doctrine, Volume 4, *Operations*.²³ Each of these operations has their own expanded Doctrine Annex that describes these operations in greater detail available online through the Curtis E. LeMay Center for Doctrine Development and Education.

1. Strategic Attack. Strategic attack is defined as offensive action that is specifically selected to achieve national or military strategic objectives. These attacks seek to weaken the adversary's ability or will to engage in

²⁰ AF DOCTRINE, V1, *supra* note 9, at 72-74.

²¹ *See*, AF DOCTRINE, V1, *supra* note 9, at 112-114.

²² U.S. DEP'T OF AIR FORCE, GLOBAL VIGILANCE, GLOBAL REACH, AND GLOBAL POWER FOR AMERICA (15 Aug. 2013) *available at* <http://www.af.mil/Airpower4America.aspx>.

²³ *See*, U.S. DEP'T OF AIR FORCE, AIR FORCE DOCTRINE, VOL. 4 OPERATIONS (5 Jun. 2013) *available at* <https://doctrine.af.mil/download.jsp?filename=Volume-4-Operations.pdf> (last visited 29 Apr. 2014) [hereinafter, AF DOCTRINE, V4].

conflict, and may achieve strategic objectives without necessarily having to achieve operational objectives as a precondition.

2. Counterair Operations. Counterair is a mission that integrates offensive and defensive operations to attain and maintain a desired degree of air superiority.

3. Counterland Operations. Counterland operations are airpower operations against enemy land force capabilities to create effects that achieve joint force commander objectives. The aim of counterland operations is to dominate the surface environment using airpower.

4. Countersea Operations. Countersea operations are conducted to attain and maintain a desired degree of maritime superiority through the destruction, disruption, delay, diversion, or other neutralization of threats in the maritime domain and prevent opponents from doing the same.

5. Airspace Control. Airspace control is the process used to increase operational effectiveness through safe, efficient, and flexible use of airspace. Properly employed, airspace control maximizes the effectiveness of combat operations while minimally impacting the capabilities of any service or functional component.

6. Space Operations. Space operations involve space superiority and mission assurance. The essence of space superiority is controlling the ultimate high ground of space. However, space superiority is focused on mission assurance rather than dominating or “owning” space.

7. Cyberspace Operations. Cyberspace operations involve the employment of cyberspace capabilities where the primary purpose is to achieve military objectives or effects in or through cyberspace. Cyberspace operations are not synonymous with information operations (IO). IO is a set of operations that can be performed in cyberspace and other domains.

8. Air Mobility. Joint doctrine defines air mobility as the rapid movement of personnel, materiel, and forces to and from or within a theater by air.

9. Special Operations. Air Force special operations forces, include dedicated special operations aviation units, battlefield Airmen (combat control teams, pararescue teams, special operations weather teams, and tactical air control party units), and dedicated SOF intelligence, surveillance, reconnaissance (ISR) units.

10. Homeland Operations. For the Air Force, homeland operations is the umbrella construct through which it supports homeland defense (HD), defense support of civil authorities (DSCA), and emergency preparedness (EP) operations designed to detect, preempt, respond to, mitigate, and recover from incidents and threats to the homeland, whether man-made or natural.

11. Nuclear Operations. The Air Force role in nuclear operations is to organize, train, equip, and sustain forces with the capability to support the national security goals of deterring adversaries from attacking the United States and its interests with their nuclear arsenals or other weapons of mass destruction (WMD); dissuading competitors from developing WMD; assuring allies and partners of the US' ability and determination to protect them; and holding at risk a specific range of targets.

12. Irregular Warfare (IW). As an integral part of the IW campaign, the Air Force is prepared to support and conduct principal IW activities or operations that may be undertaken in sequence, in parallel, or blended within a coherent campaign to address irregular threats.

13. Foreign Internal Defense (FID). Generally, the preferred methods of helping another country are through education and developmental assistance programs. Most Air Force FID actions entail working by, with, and through foreign aviation forces to achieve US strategic and operational objectives.

14. Global Integrated Intelligence, Surveillance, and Reconnaissance. The Air Force defines Global Integrated Intelligence, Surveillance, and Reconnaissance as cross-domain synchronization and integration of the

planning and operation of ISR assets; sensors; processing, exploitation and dissemination systems; and, analysis and production capabilities across the globe to enable current and future operations.

15. Targeting. Targeting is the process of selecting and prioritizing targets and matching the appropriate response to them, considering operational requirements and capabilities.

16. Information Operations (IO). The purpose of IO is to affect adversary and potential adversary decision-making with the intent to ultimately affect their behavior. IO influences, disrupts, corrupts, or usurps the decision-making of adversaries while protecting our own.

17. Electronic Warfare (EW). EW is defined by joint doctrine as military action involving the use of electromagnetic and directed energy to control the electromagnetic spectrum or to attack the enemy.

18. Personnel Recovery. The Air Force organizes, trains, and equips personnel to conduct personnel recovery operations (PRO) using the fastest and most effective means. Although traditionally PRO assets have focused on the recovery of downed aircrews, Air Force PRO forces have been responsible for the recovery of any isolated personnel.

C. The Air & Space Operations Center (AOC). The AOC provides operational-level command and control (C2) of air component forces as the focal point for planning, executing, and assessing air component operations. The AOC can be tailored and scaled to a specific or changing mission and to the associated task force the commander, Air Force forces (COMAFFOR) presents to the joint force commander (JFC). The baseline AOC organization includes an AOC commander, five divisions (strategy, combat plans, combat operations, ISR, and air mobility), and multiple support/specialty teams. Each integrates numerous disciplines in a cross-functional team approach to planning and execution. Liaisons from other Service and functional components may also be present to represent the full range of joint air, space, and cyberspace capabilities made available to the COMAFFOR/JFACC.²⁴ In joint or coalition operations, the AOC will be referred to as the Joint Air Operations Center (JAOC) or Coalition Air Operations Center (CAOC) as the COMAFFOR becomes the JFACC or CFACC.²⁵

V. CONCLUSION

“Today the pace of technological change moves ever faster while America's role in protecting against aggression and fostering world democracy is more complex...With these challenges in mind, the Air Force looks eagerly to the future while remembering the lessons and achievements of the past as well as honoring the memory, sacrifices and contributions of those who succeeded, often in the face of skepticism, in building what is now the world's only truly global air and space force.”²⁶

²⁴ *Id.* at 46.

²⁵ *Id.* at 47.

²⁶ *About the Air Force: History: Part IV*, AIR FORCE.COM, <http://www.airforce.com/learn-about/history/part4/> (last visited, 29 Apr. 2014).

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SEMPER PARATUS

U.S. COAST GUARD

I. INTRODUCTION

This section provides a brief overview of United States Coast Guard (USCG) missions and the unique operational law issues it faces. As an armed force, the Coast Guard shares a similar national security role with the DoD services, and thus its attorneys must be prepared to address many of the same operational law issues encountered by DoD services. However, because of its role as the Nation's primary maritime law enforcement agency, Coast Guard missions can also involve many unique operational law issues that differ from those ordinarily faced by DoD services.

II. MISSIONS, AUTHORITIES, AND ACTIVITIES

A. Primary Missions. Under 14 U.S.C. § 1, 14 U.S.C. § 2 and 10 U.S.C. § 101(a)(4), the United States Coast Guard is designated as both an armed force and a Federal law enforcement agency. The Coast Guard is the principal Federal agency responsible for maritime safety, security, and stewardship. As such, the Coast Guard protects vital economic and security interests of the United States, including the safety and security of the maritime public, natural and economic resources, the global maritime transportation system, and the integrity of U.S. maritime borders.¹ It has eleven statutory missions discussed in more detail below that enable it to protect the public, the environment, and U.S. economic interests in the Nation's ports and waterways, on international waters, or in any maritime region as required to support national security.²

B. Authority. In the maritime environment, there is no geographical limit to the USCG's authority (although the exercise of that authority may be subject to flag and coastal State consent in accordance with international law). To the extent that seizure, arrest, and prosecution are desired outcomes of any maritime interdiction, the USCG is

¹ See 14 U.S.C. § 1 (LexisNexis 2014), which provides: "The Coast Guard as established January 28, 1915, shall be a military service and a branch of the armed forces of the United States at all times. The Coast Guard shall be a service in the Department of Homeland Security, except when operating as a service in the Navy." See also 10 U.S.C. § 101(a)(4)–(5) (defining the Coast Guard as an "armed force" and a "uniformed service") (LexisNexis 2014).

² See COAST GUARD PUBLICATION 1, U.S. COAST GUARD: AMERICA'S MARITIME GUARDIAN (1 May 2009) [hereinafter USCG PUB 1], available at http://www.uscg.mil/doctrine/CGPub/Pub_1.pdf. 14 U.S.C. § 2 (LexisNexis 2014) sets forth the USCG's missions:

The Coast Guard shall enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States; shall administer laws and promulgate and enforce regulations for the promotion of safety of life and property on and under the high seas and waters subject to the jurisdiction of the United States covering all matters not specifically delegated by law to some other executive department; shall develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, ice-breaking facilities, and rescue facilities for the promotion of safety on, under, and over the high seas and waters subject to the jurisdiction of the United States; shall, pursuant to international agreements, develop, establish, maintain, and operate icebreaking facilities on, under, and over waters other than the high seas and waters subject to the jurisdiction of the United States; shall engage in oceanographic research of the high seas and in waters subject to the jurisdiction of the United States; and shall maintain a state of readiness to function as a specialized service in the Navy in time of war, including the fulfillment of Maritime Defense Zone command responsibilities.

well-positioned to enforce U.S. law in waters subject to U.S. jurisdiction, on the high seas, and in foreign territorial seas in cooperation with coastal states.

C. Maritime Law Enforcement. Since the beginning of the Nation, Congress has authorized the USCG to exercise broad law enforcement authority upon the high seas and waters over which the United States has jurisdiction, and aboard any vessel, wherever located, that is subject to the jurisdiction, or to the operation of any law, of the United States.³ The USCG is also specifically authorized to respond to acts of maritime terrorism.⁴ The Coast Guard routinely exercises its maritime law enforcement authority on foreign flagged vessels thousands of miles from the United States, sometimes on the high seas, and sometimes in foreign waters.⁵ The USCG is also authorized to carry weapons ashore, and to make seizures and arrests at maritime facilities.⁶ The Coast Guard's commissioned, warrant, and petty officers are also designated by statute as officers of the customs.⁷

D. Activities. Coast Guard law enforcement and homeland security operations cover a wide spectrum of activities including maritime smuggling of illicit drugs and other contraband, migrant smuggling and human trafficking, piracy, violations of U.N. Security Council resolutions, acts of violence in the maritime realm, and maritime transportation of weapons of mass destruction. International and domestic law govern the USCG's conduct of maritime interdiction operations. Generally, international law applicable to USCG operations focuses on the exclusive jurisdiction of flag States on the high seas, and on the sovereign rights and control that coastal States exercise in their territorial seas. Thus, except in the exercise of national or collective self-defense, flag State and coastal State cooperation and consent are required for maritime interdiction activities not undertaken pursuant to the enforcement of U.N. Security Council resolutions. USCG maritime interdiction activities throughout the world always take into consideration the need to cultivate and sustain such cooperation and necessary consent.

E. International Agreements. Consistent with the well-settled legal principles discussed above, the USCG seeks flag or coastal State consent for extraterritorial enforcement operations on foreign vessels or in foreign waters, or exercises a variety of international legal authorities to obtain authority and jurisdiction over vessels not otherwise subject to exclusive U.S. jurisdiction. The USCG, as executive agent for the Department of State, has negotiated and completed more than sixty bilateral agreements between the United States and other countries that provide expedited procedures or preapproval for obtaining flag or coastal state consent for the USCG to conduct boardings and searches of foreign flagged vessels suspected of various illegal activities.⁸ In cases in which such agreements are not in place, the USCG takes a leading role in the Maritime Operational Threat Response (MOTR) process to coordinate interagency concurrence and assistance in approaching foreign governments for authorization to take appropriate action.⁹

F. Federal, State, and Local Cooperation. In accordance with 14 U.S.C. § 141, the USCG is specifically authorized to lend assistance to and receive assistance from other Federal and state agencies. Unlike DoD personnel restrained by the Posse Comitatus Act,¹⁰ the Coast Guard may utilize its personnel and facilities "to assist any

³ 14 U.S.C. § 89(a) (LexisNexis 2014).

⁴ 33 U.S.C. § 1226 (LexisNexis 2014).

⁵ *See, e.g.*, The Maritime Drug Law Enforcement Act (MDLEA), 46 U.S.C. §§ 70501–70508 (LexisNexis 2014). The MDLEA is the primary U.S. law that the USCG enforces in its maritime counter-drug mission in cooperation with the U.S. Navy and other interagency partners. Congress expressly provides that the MDLEA applies extraterritorially. The USCG cooperates with foreign navies and coast guards through various bilateral agreements and agreed operational procedures that extend authority for USCG personnel to board, search and inspect foreign flagged vessels and/or to conduct patrols in foreign territorial seas in cooperation with partner-states. In many cases, foreign partners waive jurisdiction over suspected drug smuggling vessels in favor of the application of U.S. laws.

⁶ 14 U.S.C. § 99 (LexisNexis 2014).

⁷ *See* 4 U.S.C. § 143 (2006); 19 U.S.C. § 1401 (LexisNexis 2014).

⁸ The texts of all bilateral agreements relating to USCG boarding activities are reproduced in the Coast Guard Fast Action Reference Materials (FARM). The Center for Law and Military Operations (CLAMO) at the Judge Advocate General's Legal Center and School maintains copies of the FARM and also has made the latest edition of the FARM available at the maritime operations portal on the CLAMO website (AKO account required for access).

⁹ Coast Guard operational cases can potentially have a direct impact on U.S. foreign relations. As a result, cases and the legal issues arising therein are often resolved through interagency processes, such as the MOTR process. *See e.g.*, The Maritime Operational Threat Response (MOTR) Plan (Approved by POTUS November 8, 2006) of the National Strategy for Maritime Security called for in NSPD-41/HSPD-13 (Maritime Security Policy, December 21, 2004).

¹⁰ 18 U.S.C. § 1385 (LexisNexis 2014). The Posse Comitatus Act was made applicable to the Navy and Marine Corps by policy. *See* U.S. DEPARTMENT OF DEFENSE INSTR. 3025.21, DEFENSE SUPPORT OF CIVILIAN LAW ENFORCEMENT AGENCIES, (27 Feb. 2013)

Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia, to perform any activity for which such personnel and facilities are especially qualified.”¹¹ Furthermore, the Coast Guard, with the consent of the appropriate agency head, “may avail itself of such officers and employees, advice, information, and facilities of any Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia as may be helpful in the performance of its duties.”¹² This unique authority provides the USCG with great flexibility when partnering with DoD and other Federal and state agencies to support various missions.

III. ORGANIZATION

A. Administrative. Following the events of September 11, 2001, the USCG was transferred to the Department of Homeland Security (DHS).¹³ Notably, the Homeland Security Act specifically provided that the USCG’s authorities, functions, and capabilities would remain intact following its transfer to DHS.¹⁴ The Commandant of the USCG reports directly to the Secretary of Homeland Security. Although the USCG ordinarily operates under DHS, “[u]pon the declaration of war if Congress so directs in the declaration or when the President directs,” the USCG may be transferred to the Department of the Navy.¹⁵

B. Forces. Presently, the USCG force is comprised of approximately 41,000 active duty military personnel, over 8,000 Reservists, over 8,000 civilian employees, and approximately 30,000 Auxiliarists.¹⁶

C. Geography. The majority of day to day Coast Guard operations are directed by the Pacific Area (PACAREA) and Atlantic Area (LANTAREA) Commands. Operational responsibilities are further delegated to District Commanders underneath each Area. PACAREA is located in Alameda, CA with an area of responsibility encompassing four Districts in the Western United States and the Pacific Ocean. LANTAREA is located in Portsmouth, VA with an area of responsibility encompassing five Districts in the Eastern United States, Atlantic Ocean, and Gulf of Mexico. PACAREA and LANTAREA are each commanded by a Vice Admiral (O-9); each District is commanded by either a Rear Admiral (Upper Half) (O-8) or Rear Admiral (Lower Half) (O-7). Each Coast Guard District exercises operational control over shore commands such as Sectors, Air Stations, and Small Boat Stations. While PACAREA and LANTAREA exercise operational control over larger USCG cutters,¹⁷ Districts and Sectors retain operational control of smaller cutters. Command centers at USCG Headquarters, LANTAREA and PACAREA, Districts, and Sectors control operations within their respective areas of responsibility.

[hereinafter DoDI 3025.21]; U.S. DEPT OF NAVY, SEC’Y NAVY INSTRU. 5820.7C, COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS (26 Jan. 2006) [hereinafter SECNAVINST 5820.7C].

¹¹ 14 U.S.C. § 141(a) (LexisNexis 2014).

¹² *Id.* at §141(b).

¹³ *See* Homeland Security Act of 2002, Pub. L. 107-296, 116 Stat. §§2144, 2249, 2314 (codified primarily at 6 U.S.C. §§ 101-557).

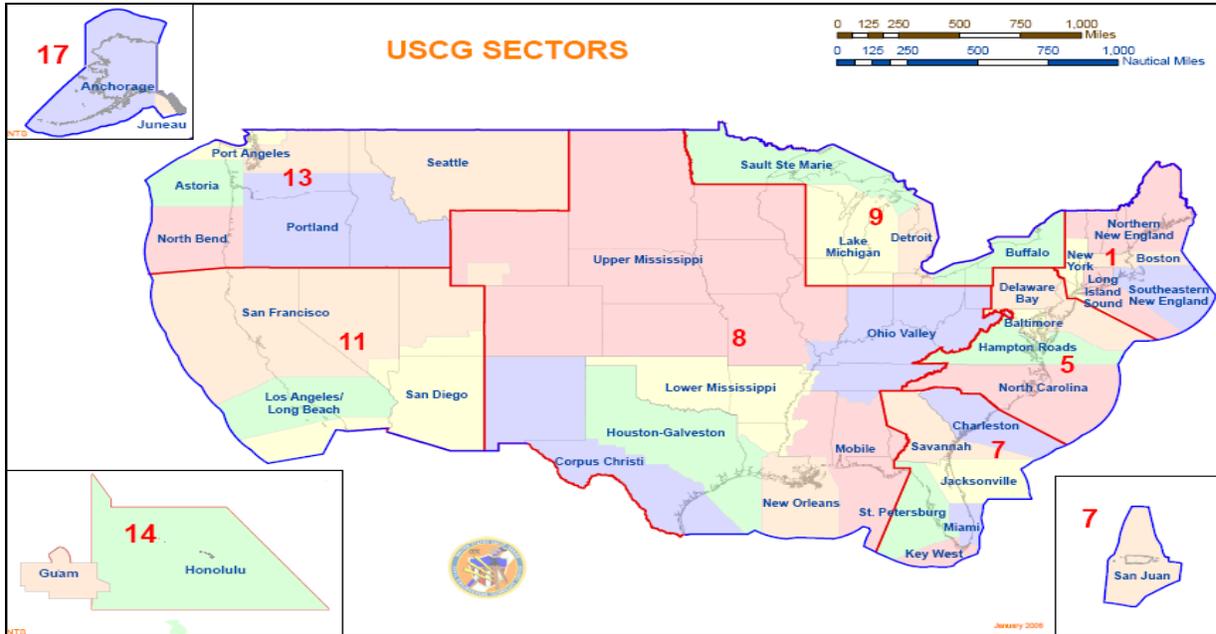
¹⁴ *See* 6 U.S.C. § 468 (LexisNexis 2014).

¹⁵ *See* 14 U.S.C. §§ 1, 3 (LexisNexis 2014); *see also* Coast Guard and Maritime Transportation Act of 2006, Conf. Rept., H. Rept. 109-413, § 211, as adopted by House and Senate conferees on April 6, 2006 (to accompany H.R. 889). The USCG operated as a component of the U.S. Navy during World War I and World War II.

¹⁶ U.S. COAST GUARD, U.S. COAST GUARD PUBLICATION 3-0, OPERATIONS 22 (Feb. 2012) [hereinafter CG PUB 3-0], *available at* http://www.uscg.mil/doctrine/CGPub/CG_Pub_3_0.pdf.

¹⁷ A Coast Guard “cutter” is any vessel sixty-five feet or more in length. A “larger” cutter is defined as any vessel over 179 feet in length.

The following chart shows the USCG's geographical organization of Sectors within each District:



Sectors, as indicated on the diagram above, are located in most large ports within the U.S. and have oversight of marine safety, security, and environmental response missions in all United States port areas, coastlines, and major navigable rivers. The Sector Commander can act under one of four main legal titles while conducting Sector missions, which are: 1) Officer In Charge of Marine Inspection (OCMI, used for vessel safety controls); 2) Captain of the Port (COTP, used for safety and security issues affecting persons, vessels, or waterfront facilities in a port area); 3) Federal Maritime Security Coordinator (FMSC, used while addressing issues surrounding an Area Maritime Security Plan); or 4) Federal On-Scene Coordinator (FOSC, used while overseeing a response to an oil spill or hazardous materials release in the coastal zone under the National Contingency Plan).

IV. OPERATIONS OVERVIEW

A. Role. The USCG's fundamental responsibility to protect the public, the environment, and U.S. economic and security interests. The USCG carries out this responsibility in America's inland waterways, ports and harbors; along 95,000 miles of U.S. coastline; in the U.S. territorial seas; in the nearly 3.4 million square miles of U.S. Exclusive Economic Zone (EEZ); and on international waters and other maritime regions of importance to the United States.

B. History. The USCG's history shows a gradual accumulation of additional responsibilities, resulting primarily from its status as the nation's primary maritime law enforcement agency and protector of U.S. ports and waterways.¹⁸ On August 4, 1790 the First Congress authorized the construction of ten vessels to enforce tariff and trade laws, prevent smuggling, and protect the collection of the Federal revenue, which became known as the Revenue Cutter Service. In 1915 the Revenue Cutter Service merged with U.S. Life-Saving Service and was renamed the U.S. Coast Guard, and was placed under the Treasury Department. In 1939 President Franklin Roosevelt ordered the transfer of the Lighthouse Service to the Coast Guard. In 1946 Congress permanently transferred the Commerce Department's Bureau of Marine Inspection and Navigation to the Coast Guard. In 1967

¹⁸ See generally USCG PUB 1, *supra* note 2.

the USCG transferred to Department of Transportation. Finally, in 2003 the USCG transferred to the Department of Homeland Security. As the service merged with other agencies over time, it accumulated the missions it has today. Although the USCG occupies a unique position as an armed force that also serves as the Nation's primary maritime law enforcement agency (and now the lead Federal agency for maritime homeland security), it is probably best known for its humanitarian service missions.

C. Mission Categories. The Homeland Security Act (HLSA) of 2002, Pub. L. 107-296, which transferred the USCG from the Department of Transportation to DHS, categorizes the USCG's eleven statutory missions as either Homeland Security or Non-Homeland Security missions.¹⁹

1. Homeland Security missions include: Ports, Waterways, and Coastal Security; Drug Interdiction; Migrant Interdiction; Defense Readiness; and Other Law Enforcement.²⁰

2. Non-Homeland Security missions include: Marine Safety; Search and Rescue; Aids to Navigation; Living Marine Resource Protection (Fisheries Enforcement); Marine Environmental Response; and Icebreaking.²¹

V. HOMELAND SECURITY OPERATIONS

The following is a brief description of the USCG's principal operations as organized within the HLSA.

A. Maritime Homeland Security (MHLs)/Maritime Homeland Defense (MHLd).

1. As both a military service and a Federal law enforcement agency, the USCG plays a unique role in homeland security and homeland defense. Although homeland security had always been incorporated into the USCG's maritime security role,²² the USCG refocused its homeland security capabilities in the wake of September 11, 2001. Following the attacks, the USCG quickly organized and conducted the largest port security operation since World War II to protect the U.S. Marine Transportation System (MTS).²³ The USCG immediately deployed resources and established security zones around vessels and significant critical infrastructure such as power plants, bridges, dams, and locks—in addition to providing overall security in U.S. ports. Additionally, on September 21, 2001, the USCG promulgated temporary regulations creating stationary and moving Naval Vessel Protection Zones (NVPZ), in order to ensure the safety and security of U.S. naval vessels within U.S. navigable waters. Many of these security zones, including those created under the NVPZ regulations, were made permanent.²⁴

2. On a day-to-day basis, the USCG carries out its homeland security mission as a law enforcement agency while working with the Department of Justice (DOJ) and numerous DHS agencies, such as Immigration and Customs Enforcement and Customs and Border Protection. In addition to its general law enforcement authorities, the USCG draws on a broad range of legal authorities specifically tailored to port and waterways safety and security to carry out its homeland security missions.²⁵ Moreover, the Maritime Transportation Security Act (MTSA) of 2002,²⁶ while establishing new security requirements, clarifies USCG legal authorities and provides additional homeland security assets and capabilities.²⁷

¹⁹ See 6 U.S.C. § 468(a) (LexisNexis 2014).

²⁰ *Id.* § 468(a)(2).

²¹ *Id.* § 468(a)(1).

²² See *id.* §§ 468(a), (c), & (e).

²³ The Marine Transportation System or MTS is the marine portion of the national transportation system and consists of waterways, ports, and intermodal landside connections that allow various modes of transportation to move people and goods to, from, and on the water. See *Marine Transportation System*, U.S. DEP'T OF TRANSP., http://www.marad.dot.gov/ports_landing_page/marine_transportation_system/MTS.htm (last visited Mar. 25, 2014).

²⁴ 33 C.F.R. §§ 165.9, 165.2010–2030 (LexisNexis 2014). A Naval Vessel Protection Zone is a 500-yard regulated area of water placed around large U.S. naval vessels (vessels greater than 100 feet in length) used as a safety and security measure. *Id.* § 165.2015.

²⁵ See, e.g., 33 U.S.C. § 1225 (LexisNexis 2014) (waterfront safety); 33 U.S.C. § 1226 (LexisNexis 2014) (Port, harbor, and coastal facility security); 14 U.S.C. § 99 (LexisNexis 2014) (law enforcement ashore); 50 U.S.C. § 191 (LexisNexis 2014) (Regulation of anchorage and movement of vessels during national emergency); and 14 U.S.C. § 91 (LexisNexis 2014) (Safety of naval vessels).

²⁶ Maritime Transportation Security Act (MTSA) of 2002, Pub. L. 107-295, 116 Stat. 2064.

²⁷ Maritime Safety and Security Teams (MSST) are one example of a new asset. MSSTs are quick-response forces capable of rapid, nationwide deployment via air, ground, or sea transportation, and were created to “safeguard the public and protect vessels, harbors, ports, facilities, and cargo in waters subject to the jurisdiction of the United States from destruction, loss or injury from crime, or sabotage due to terrorist activity” 46 U.S.C. § 70106 (LexisNexis 2014).

B. Maritime Law Enforcement, Drug Interdiction, and Migrant Interdiction.

1. Since its founding as the Revenue Cutter Service in 1790,²⁸ the USCG has been the Nation's primary maritime law enforcement agency. The USCG's statutorily-defined law enforcement mission provides that it "shall enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States."²⁹ Coast Guard active duty commissioned, warrant, and petty officers are authorized to "make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States."³⁰ Notwithstanding the Posse Comitatus Act, authorized DoD assistance to USCG law enforcement missions includes: the provision of information collected during military operations; use of military equipment and facilities—or providing DoD personnel to operate and maintain that equipment; and use of U.S. Navy vessels to embark USCG Law Enforcement Detachments (LEDETs) for counterdrug support and homeland security missions.³¹ Today, the USCG's law enforcement mission involves significant USCG-DoD interaction, as LEDETs are statutorily required to deploy on U.S. Navy ships assigned to "drug-interdiction areas" to interdict illegal narcotics.³²

2. Drug traffickers operating out of South and Central America typically transport multi-ton loads of cocaine on fishing or other commercial vessels, "go-fast" vessels, and self-propelled semi-submersibles.³³ Drug loads typically range in size from two to ten tons, but loads in excess of twenty tons are not uncommon. Coast Guard LEDETs and other boarding team personnel receive extensive training in the drug interdiction mission and are uniquely qualified to find well-concealed drug loads, collect other evidence (e.g., biometrics, ion scans) and prepare detailed prosecution case packages in support of Federal investigations and prosecutions.

3. The USCG's migrant interdiction mission is part humanitarian operations, part border control, and part law enforcement. Because migrants take great risks to flee their countries, often sailing in overloaded and unseaworthy vessels, USCG migrant interdiction operations often begin as search and rescue operations. Nonetheless, migrants pose a significant potential security threat, and as outlined in Executive Orders and other Presidential directives, the President suspended the entry of undocumented aliens into the United States and established a policy that the USCG interdict migrants as far as possible from U.S. shores.³⁴ As in the counter drug realm, the nature of the migrant interdiction mission continues to change in response to increasingly sophisticated smuggling operations and enhanced security risks that undocumented migration poses to the United States.

C. National Defense. Though the more familiar non-defense missions dominate the public perception of the USCG, the USCG is at all times an armed force of the United States.³⁵ Indeed, the USCG is a military, multi-mission maritime service that has answered America's calls continuously for over 220 years. In addition to its status

²⁸ The Revenue Cutter Service was also known as the Revenue Marine.

²⁹ 14 U.S.C. § 2 (LexisNexis 2014).

³⁰ 14 U.S.C. § 89 (LexisNexis 2014).

³¹ 10 U.S.C. §§ 371–382 (LexisNexis 2014); 10 U.S.C. § 379 (LexisNexis 2014) (mandating the assignment of Coast Guard personnel to certain naval vessels for law enforcement purposes).

³² 10 U.S.C. § 379 (LexisNexis 2014). LEDETs may also deploy on U.S. Navy or allied vessels to support maritime homeland security or related operations.

³³ To further complicate the U.S. counterdrug mission, South American countries[?] began building self-propelled, fully-submersible (SPSF) submarines. See *U.S. Southern Command Posture Statement*, 112th Cong. 10 (2011) (statement of General Douglas M. Fraser, Commander, U.S. Southern Command, noting that drug traffickers have begun using SPSFs to transport narcotics), available at <http://www.dod.mil/dodgc/olc/docs/testFraser04052011.pdf>. Admiral Hernando Wills, Colombian Navy, predicted in February 2011 that "remote-controlled subs" would perfect the evolution of this subsurface threat. Dan Molinski, *Colombia Captures Drug Smugglers' Submarines*, WALL ST. JOURNAL, Feb. 14, 2011, <http://online.wsj.com/article/SB10001424052748703703804576144752329031500.html>.

³⁴ See Presidential Decision Directive 9, 18 June 1993 (directing implementation of preemption, interdiction, and deterrence measures by the Coast Guard on the high seas to counter alien smuggling efforts into the United States); Exec. Order No. 12,807, 57 Fed. Reg. 23,133 (Jun. 1, 1992) (directing Coast Guard to interdict vessels and undocumented aliens and return those vessels and aliens to their country of origin), amended by Exec. Order No. 13,286, 68 Fed. Reg. 10,619 (Feb. 28, 2003); Proclamation No. 4865, 46 Fed. Reg. 48,107 (Sept. 29, 1981) (suspending entry of undocumented aliens into the United States by sea). See also Exec. Order No. 13276, 67 Fed. Reg. 69985 (Nov. 15, 2002) (directing DoD support for the Coast Guard interdiction mission).

³⁵ 14 U.S.C. § 1 (establishing the U.S. Coast Guard as a military service and branch of the armed forces) (LexisNexis 2014), and 10 U.S.C. § 101(a)(4) (including "the Army, Navy, Air Force, Marine Corps, and Coast Guard" in the definition of "armed forces") (LexisNexis 2014).

as a Federal maritime law enforcement agency³⁶ within the DHS, the USCG is “a military service and a branch of the armed forces of the United States at all times.”³⁷ The USCG’s role as both a maritime law enforcement agency and a military service is not a matter of changing hats depending on the mission—the USCG is at *all* times military and at *all* times may exercise its unique and broad law enforcement authority. During peacetime, the USCG supports the Navy and regional Combatant Commanders by participating in port security and military exercises, providing polar icebreaking capabilities, and conducting Freedom of Navigation operations. The USCG has served alongside the U.S. Navy during critical national defense missions in every major conflict in the Nation’s history,³⁸ and today, the USCG routinely supports DoD’s homeland defense mission.

VI. NON-HOMELAND SECURITY OPERATIONS

A. Marine Safety. The USCG’s Maritime Safety mission involves numerous aspects of the maritime industry. USCG marine safety experts establish vessel design and equipment standards, inspect vessels (ranging in size from small charter fishing boats to passenger cruise ships), investigate marine casualties (accidents involving vessels and waterfront facilities), implement waterways management criteria (for example, the management of bridge opening and closing schedules), and oversee merchant mariner credentialing, among other items. Sectors, discussed above, have the largest role in overseeing these missions, which typically fall under the OCMI or COTP role of the Sector Commander. At the international level, the USCG promotes maritime safety standards as the primary United States representative to the International Maritime Organization.

B. Search and Rescue. From the founding of the U.S. Life Saving Service in 1848, Search and Rescue (SAR) has been a cornerstone USCG mission.³⁹ The USCG is the lead U.S. agency for maritime SAR in U.S. waters. Each year, the USCG saves thousands of lives and millions of dollars of property. In fact, in 2012 the USCG responded to 20,510 SAR cases and saved 3,800 lives. To carry out its SAR mission, the USCG closely coordinates with Federal, state, local, and tribal authorities, as well as the maritime industry.⁴⁰ Established and operated under international⁴¹ and national legal obligations and standards, the USCG serves as a model for other SAR services in other countries.

C. Living Marine Resource Protection and Fisheries Enforcement. Protecting the Exclusive Economic Zone (EEZ) and key areas of the high seas is another important mission for the Coast Guard. The U.S. EEZ is the largest in the world, containing 3.3 million square miles of ocean and 90,000 miles of coastline, and the USCG is the Nation’s primary at-sea fisheries enforcement agency charged with protecting EEZ resources. In 2012 the commercial fishing industry landed over nine billion pounds of fish worth over \$5 billion in 2012 in the U.S.,⁴² thus, protection of this resource is very important. To carry out these missions, the USCG enforces both international treaties and domestic fisheries laws, including the Magnuson-Stevens Fisheries Conservation and Management Act,⁴³ a primary U.S. fishery law which extends U.S. fisheries management authority out to the full extent of the EEZ (200 nautical miles as authorized by international law).⁴⁴ The USCG’s fisheries priorities, in order of importance, are: (1) to protect the U.S. EEZ from foreign encroachment; (2) to enforce domestic fisheries laws; and (3) to enforce international fisheries agreements. The USCG’s efforts reflect the substantial economic interest the Nation has in protecting its ocean resources. At the policy and strategic levels, the USCG closely coordinates with the National Oceanographic & Atmosphere Administration (NOAA) for this mission, since the enforcement of fisheries laws is also a primary mission of the National Marine Fisheries Service, which falls under NOAA.

³⁶ 14 U.S.C. § 89 (LexisNexis 2014).

³⁷ 14 U.S.C. § 1 (LexisNexis 2014).

³⁸ For example, most recently during Operation Iraqi Freedom.

³⁹ 14 U.S.C. § 88; 14 U.S.C. § 2 (LexisNexis 2014).

⁴⁰ See THE NATIONAL SEARCH AND RESCUE PLAN OF THE UNITED STATES (2007), *available at*:

http://www.uscg.mil/hq/cg5/cg534/sar_manuals.asp#NSP, and U.S. COAST GUARD ADDENDUM TO THE UNITED STATES NATIONAL SEARCH AND RESCUE SUPPLEMENT TO THE INTERNATIONAL AERONAUTICAL AND MARINE SEARCH AND RESCUE MANUAL, COMDTINST M16130.2F (Jan. 2013) for extensive discussion regarding USCG interaction with local, state, and other federal agencies on SAR missions. Often such interactions are conducted under Memoranda of Agreement with these agencies.

⁴¹ See International Convention on Maritime Search and Rescue Convention (SAR Convention), 1979, with Annex, T.I.A.S. No. 11093.

⁴² See *Commercial Fisheries Statistics*, NOAA OFFICE OF SCIENCE AND TECHNOLOGY, <http://www.st.nmfs.noaa.gov/commercial-fisheries/commercial-landings/annual-landings/index> (last visited Mar. 13, 2014).

⁴³ 16 U.S.C. §§ 1801–1891 (LexisNexis 2014).

⁴⁴ See United Nations Convention on the Law of the Sea, 1982, 1833 U.N.T.S. 397 (entered into force 16 Nov. 1994), art. 57; Proclamation No. 5030, 3 C.F.R. 22 (1983); 33 C.F.R. § 2.30 (2012).

D. Marine Environmental Protection.

1. The USCG executes its Marine Environmental Protection (MEP) mission through both regulation of the marine industry (which is part of the “Prevention” mission set for the Coast Guard) and enforcement actions against polluters who violate the law (which is part of the “Response” mission set for the Coast Guard). On the Prevention side, the USCG inspects marine facilities, waterfront oil terminals, mobile fuel transfer facilities, and many types of vessels to ensure they are in compliance with safety and environmental protective measures.⁴⁵ On the Response side, the USCG oversees spill cleanups and takes action via civil penalties against polluters. The USCG also has the regulatory authority to halt marine operations by facilities and vessels until they have properly addressed a pollution issue. Under the Federal Water Pollution Control Act (FWPCA or Clean Water Act) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), its two primary pollution response authorities, the USCG can supervise the cleanup of pollution by a responsible party, or assume control of the cleanup as FOSC (as mentioned above) if needed. In response to the *Exxon Valdez* oil spill on March 23, 1989, Congress passed the Oil Pollution Act of 1990⁴⁶ (OPA 90), which amended the FWPCA. OPA 90 re-emphasizes the role of the USCG as the Federal agency with primary responsibility for preventing and responding to maritime oil spills. As discussed above, USCG Sector Commanders, typically with the rank of Captain (O-6), are the pre-designated Federal On-Scene Coordinators under the National Contingency Plan for spills involving oil or releases involving hazardous substances in all coastal areas in the U.S.⁴⁷ In 2010, the USCG served as the lead agency for the Federal response to the *Deepwater Horizon* oil spill—the United States’ first ever declared spill of national significance, or SONS. Initially, the District Commander for the Eighth Coast Guard District (headquartered in New Orleans) was designated as the Federal On-Scene Coordinator; weeks later, the Commandant of the Coast Guard was designated as the National Incident Commander for this incident.

2. The USCG also plays a critical role in many DOJ prosecutions for environmental crimes in the maritime realm involving other Federal statutes, such as the Clean Water Act,⁴⁸ the Act to Prevent Pollution from Ships,⁴⁹ CERCLA,⁵⁰ the Ocean Dumping Act,⁵¹ and the Refuse Act.⁵² Often, vessel crew member efforts to conceal pollution crimes from USCG investigators result in DOJ prosecutions for false official statements and obstruction of justice.⁵³

E. Maritime Mobility: Aids to Navigation and Icebreaking. The Maritime Transportation System (MTS) “facilitates America’s global reach into foreign markets and the nation’s engagement in world affairs.”⁵⁴ The USCG is a leading force in ensuring a safe and efficient MTS. Pursuant to its maritime mobility responsibilities, the USCG domestically maintains aids to navigation (e.g. buoys, lighthouses, dayboards, etc.),⁵⁵ administers the Nation’s bridges, oversees waterways and vessel traffic management systems, and conducts icebreaking operations in critical waterways to ensure the continued flow of commerce by water.

VII. USE OF FORCE POLICY/RULES OF ENGAGEMENT

Since a primary USCG mission is law enforcement, most USCG use of force issues arise in that context. The use of force in law enforcement operations is governed by the USCG Use of Force Policy,⁵⁶ which comports with requirements established in the Fourth Amendment to the U.S. Constitution that any use of force by a law

⁴⁵ See, for example, 33 C.F.R. § 154 (LexisNexis 2014), which details regulations regarding bulk oil and hazardous materials facilities and USCG oversight responsibilities pertaining to those entities.

⁴⁶ Pub. L. No. 101-380, 104 Stat. 507 (1990).

⁴⁷ See, e.g. 40 C.F.R. § 300 (LexisNexis 2014). By Memorandum of Understanding the Coast Guard and the Environmental Protection Agency split oil spill and hazardous materials release oversight responsibility between inland (EPA) and coastal (USCG) zones. *Id.*

⁴⁸ 33 U.S.C. § 1251–1376 (LexisNexis 2014).

⁴⁹ 33 U.S.C. §§ 1901–1915 (LexisNexis 2014).

⁵⁰ 42 U.S.C. §§ 9610–9675 (LexisNexis 2014).

⁵¹ 33 U.S.C. §§ 1401–1445 (LexisNexis 2014).

⁵² 33 U.S.C. § 407 (LexisNexis 2014).

⁵³ See 18 U.S.C. § 1001; U.S. COAST GUARD MARITIME LAW ENFORCEMENT MANUAL, COMDTINST M16247, series, chs. 6, 9, & 12 (2010) (For Official Use Only manual) (copy on file with CLAMO) [hereinafter MLEM].

⁵⁴ USCG PUB 1, *supra* note 2, at 11.

⁵⁵ See 14 U.S.C. § 81 (LexisNexis 2014).

⁵⁶ See MLEM, *supra* note 55, ch. 4.

enforcement officer must be reasonable under the circumstances present.⁵⁷ The USCG adheres to the Standing Rules of Engagement (SROE)⁵⁸ as directed within that instruction.

⁵⁷ See e.g., *Graham v. Connor*, 490 U.S. 386 (1989); *Tennessee v. Garner*, 471 U.S. 1 (1985).

⁵⁸ JOINT CHIEFS OF STAFF, CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION 3121.01B, STANDING RULES OF ENGAGEMENT, (13 June 2005).

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NORTH ATLANTIC TREATY ORGANIZATION (NATO)

I. OVERVIEW

A. The North Atlantic Treaty Organization (NATO) has existed since 1949, yet its organization remains obscure to many Judge Advocates (JA). This chapter discusses NATO's structure and decision making process.

B. Twelve countries founded NATO on 4 April 1949 by signing the North Atlantic Treaty in Washington, D.C. Because it was signed in Washington, the North Atlantic Treaty is often referred to as the "Washington Treaty." NATO's Headquarters are located in Brussels, Belgium.

C. Article 9 of the North Atlantic Treaty develops the basic structure of NATO, establishing a "Council to consider matters concerning the implementation of this Treaty." This Council is known as the North Atlantic Council (NAC). All NATO members have a Permanent Representative (PermRep) of ambassadorial rank who represents them in the NAC. PermReps must be available "to meet promptly at any time." The NAC meets regularly in "Permanent Session," to fulfill its treaty based obligation. The NAC occasionally meets at the level of Ministers of Defense (aka DEFMIN), where the United States is represented by the Secretary of Defense, and at the level of Ministers of Foreign Affairs (aka FORMIN), where the United States is represented by the Secretary of State. The NAC meets less frequently at a "Summit" meeting of NATO Heads of State and Government, where the U.S. is represented by the U.S. President. When the NAC meets to discuss the Alliance's nuclear policy, it is called the "Nuclear Planning Group" (NPG), which does not include France.¹

D. Article 9 also created "such subsidiary bodies as may be necessary." Besides the NAC and NPG, the third principal NATO committee is the Military Committee (MC).² The MC is composed of the Military Representatives (MilReps), usually general officers of three star or equivalent rank, from all NATO members. The MC is the senior military authority in NATO and the primary source of military advice to the Secretary General and the NAC. The MC meets regularly in Permanent Session. The MC occasionally meets at the level of Chiefs of Defense (aka CHODs), where the U.S. is represented by the Chairman of the Joint Chiefs of Staff.

E. There are two supporting staffs at NATO Headquarters: the International Staff (IS), and the International Military Staff (IMS). The IS provides direct support to the NAC and the civilian/political committees under it. The IS facilitates reaching consensus among the Allies on the political side of NATO by chairing meetings, preparing policy recommendations, and drafting communiqués and reports. The IMS provides support for the Military Committee and is composed of military officers from each NATO country. The IMS facilitates reaching consensus among the Allies on the military side of NATO by chairing meetings, and preparing draft military advice, which is typically considered by Allies in MC working groups at the staff/action officer level, and then by the MC itself.

F. The Alliance's integrated military command structure is headed by two Strategic Commands (SC): Allied Command Operations (ACO) and Allied Command Transformation (ACT).³ ACO is located at Supreme Headquarters Allied Powers Europe (SHAPE) in Mons, Belgium, which is forty-five miles south of NATO

¹ http://www.nato.int/cps/en/natolive/topics_50069.htm. France wants its nuclear deterrent to remain independent from the NATO Alliance.

² http://www.nato.int/cps/en/natolive/topics_49174.htm.

³ http://www.nato.int/cps/en/natolive/topics_49608.htm. Traditionally, ACO and ACT were known as Strategic Allied Command Europe (SACEUR) and Strategic Allied Command Atlantic (SACLANT), respectively. The Commander of U.S. European Command (USEUCOM) is dual-hatted as the Commander of ACO, and is still referred to as SACEUR. The Commander of U.S. Joint Forces Command (JFCOM) was formerly dual-hatted as the Commander of ACT, which is now referred to as SACT (pronounced "sack T") vice SACLANT. With French reintegration into NATO's military command structure in 2009, France is now filling the SACT position.

Headquarters in Brussels. ACT is located in Norfolk, Virginia. The SCs are responsible to the Military Committee for the overall direction and conduct of all NATO military matters within their command areas. The SCs provide direct advice to the Military Committee, and are authorized to provide direct advice to the NAC on matters within their purview while keeping the Military Committee simultaneously informed. When preparing for and conducting operations, the SCs may receive political guidance directly from the NAC, although this is typically done via the MC. ACO and ACT are continuously represented at NATO Headquarters by representatives from their respective staffs to facilitate the timely two-way flow of information.

G. Article 3 requires “the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, [to] maintain and develop their individual and collective capacity to resist armed attack.” Thus NATO seeks to be interoperable across numerous military forces, many with several branches.⁴ The individual nations have joint and individual responsibilities to be able to defend themselves and others.

H. Article 5 is the heart of NATO in that “[t]he Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all” This Article forms the basis for collective self-defense, but it is not unlimited since “if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, *such action as it deems necessary*, including the use of armed force, to restore and maintain the security of the North Atlantic area.” [emphasis added]. The first time NATO invoked Article 5 was in response to the September 11, 2001, attacks against the United States, by sending five Airborne Warning and Control Systems (AWACS) aircraft from NATO Allies to assist in U.S. continental defense operations.⁵

I. Article 5, as well as Article 51 of the United Nations Charter, requires notification to the United Nations Security Council of measures taken in self-defense. Actions planned or actually undertaken pursuant to Article 5 are referred to as “Article 5 Operations.” Article 6 defines the area where Article 5 applies, that is, essentially, “on the territory of any of the Parties in Europe or North America” or the islands in the North Atlantic “under the jurisdiction of any of the Parties . . . north of the Tropic of Cancer.” Also included in the geographic confines of Article 6 are attacks “on the forces, vessels, or aircraft of any of the Parties when in or over these territories . . . the Mediterranean Sea or the North Atlantic area north of the Tropic of Cancer.” Besides Article 5 operations, NATO conducts Article 4 operations, such as Peace Support Operations (PSO).⁶ The first NATO PSO was the Implementation Force (IFOR) in the Balkans in 1995, pursuant to the General Framework Agreement for Peace (GFAP, also known as the Dayton Peace Accord).

J. NATO has expanded six times and now numbers “at” twenty-eight members,⁷ the most recent two members (Albania and Croatia) having joined in April 2009. The expansion process is elaborated in Article 10 of the Treaty. Specifically, “any other European State” may be invited to join NATO. The invitation is made by unanimous agreement/consensus of the current members and is based on the invitees’ ability to further the principles of the Treaty and “contribute to the security of the North Atlantic area.”

K. To assist the candidate nation, NATO develops a Membership Action Plan (MAP). While not establishing criteria, MAP is a consultative process between NATO and the prospective member State to ascertain the State’s progress toward membership. MAP is divided into five areas dealing with political and economic issues, military and defense issues, resource issues, security issues, and legal issues. Each aspiring nation drafts an annual “national programme” on preparations for possible membership, setting objectives for its preparations, and containing specific information on steps being taken on the preparations. Participation in MAP does not imply a timeframe for or guarantee of NATO membership. For example, the Ukraine approach to join the MAP in 2008 was withdrawn in 2010 after a change of president. Decisions on membership have been, and will continue to be, “taken” on a case-by-case basis by the NAC at a NATO Summit. The Alliance has no precondition for stationing troops or nuclear weapons on the territory of new members. However, new members must accede to several key NATO status and technical agreements.

⁴ Iceland has no military, yet is a member of the NATO Alliance.

⁵ <http://www.defense.gov/news/newsarticle.aspx?id=44663>.

⁶ Article 4 of the NATO Treaty provides that “[t]he Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.”

⁷ http://www.nato.int/cps/en/natolive/nato_countries.htm.

L. The Alliance rests upon commonality of views and a commitment to work for unanimity/consensus. To enhance the consensus building process, NATO developed the “silence procedure.”⁸ The silence procedure is used in all committees and subordinate working groups at NATO Headquarters to reach consensus on NATO decisions and policies.

M. The NAC typically tasks the Military Committee to provide military guidance on an issue. The MC provides guidance to the SCs, who develop their input and report back to the MC. Then the IMS develops a document called an IMS Working Memorandum (IMSWM), which is sent to the MilReps for consideration and coordination with their respective capitals. After reviewing the IMSWM, each NATO Ally can either maintain silence (with or without providing comments), or formally express their disagreement by breaking silence. This is the so-called “silence procedure.” If silence is maintained, this means that the member State does not vehemently disagree with the content of the IMSWM. If all members maintain silence, then the IMSWM goes forward to the NAC as an MC Memorandum (MCM) of military advice. Silence is broken by a member nation sending a letter to the IMS indicating its objection and the rationale for this objection. When silence is broken, the cognizant working group typically meets again to attempt to achieve consensus.

N. After this subsequent attempt at consensus, the Chairman of the Military Committee may convene the MC to discuss the issue. If consensus is reached at the MC, the MCM is sent forward to the NAC as military advice. If consensus is not reached, however, the Chairman may send forward his own recommendation, called a Chairman’s Memorandum (CMCM), to the Secretary General as military advice, noting the different positions of Allies. Consensus is always the goal, but occasionally there is a lack of understanding, requiring a member to explain the importance of their position or perspective regarding an issue. Since the process may move quickly, or the Chairman may request approval “at the table,” members assign very senior and knowledgeable officers to the position of MilRep (as noted previously, usually three star flag officers) and Deputy MilRep (usually one star flag officers).

O. The NAC makes all policy level decisions at NATO, and only with full consensus of all of the NATO Allies.

II. THE U.S. DECISION-MAKING PROCESS

A. The formulation of the U.S. position at NATO involves interagency coordination between the Department of Defense (DoD), Department of State (DOS), and the Joint Staff. The U.S. Mission to NATO (i.e. the Ambassador’s staff) and the U.S. Military Delegation (MILDEL) to the NATO Military Committee (i.e. the U.S. MilRep’s staff) are physically located across the main corridor from one another in the NATO Headquarters building, and coordinate with each other on a daily basis. On issues within the cognizance of the European Union, coordination is established with the U.S. Mission to the EU (USEU), also located in Brussels, Belgium.

B. When the U.S. position is formulated and interagency guidance received by the U.S. Mission and MILDEL in Brussels, the U.S. planners begin to work the issue with the IMS and the other Allies’ staffs in Brussels to arrive at consensus. If this background work is successful, the issue is resolved by the document “passing silence.”

III. NATO RULES OF ENGAGEMENT

A. “With the exception of self-defence,” the NATO Rules of Engagement (ROE) “provide the sole authority to NATO/NATO-led forces to use force.”⁹ The NATO ROE are:

written as a series of prohibitions and permissions When issued as prohibitions, the rules are orders to commanders not to take the designated action(s). When issued as permissions, they define the limits of the threat or use of force, or of actions that might be construed as provocative, that commanders may take to accomplish their mission.¹⁰

⁸ Under the “silence procedure,” basic premises of a text are first negotiated in one or more working groups, after which a draft version is circulated. If no NATO member “breaks silence” by proposing an amendment (implying that the member State still has fundamental problems with parts of the text), all members are considered to have adopted the text (i.e., silence implies consent).

⁹ MC 362/1, NATO Rules of Engagement, 30 June 2003, at p. 2, ¶ 2. The NATO ROE are marked “NATO Unclassified, Releasable to PfP/EU/SFOR/KFOR/ISAF/Australia.”

¹⁰ *Id.* at p. 7, ¶ 15.

In contrast with the U.S. Standing ROE, which are generally considered *permissive*, NATO ROE may be considered by some to be more *restrictive* in nature.

B. International law, including the law of armed conflict, applies to all NATO military operations. With the different obligations of each NATO member to “relevant conventions and treaties, every effort will be made to ensure . . . that a common approach is adopted . . . for the purposes of military operations.”¹¹

C. NATO members must also adhere to their respective national laws. Each nation has two separate obligations under this provision. Each nation must issue instructions restricting and/or amplifying the ROE to their troops to ensure compliance with their respective national laws. “[N]ations must inform the NAC . . . and the Strategic Commander of any inconsistencies [i.e. caveats], as early as possible.”¹² While separate obligations may exist under other treaties and conventions, the unifying element in NATO is the commitment in the Preamble to the Washington Treaty to maintaining a common defense under the rule of law.

D. NATO defines “self-defence” as “the use of such necessary and proportional force, including deadly force, by NATO/NATO-led forces and personnel to defend themselves against attack or an imminent attack.”¹³ The definition is further refined by defining “necessary” as “indispensable,”¹⁴ “proportional” as “a response commensurate with the perception of the level of the threat posed,”¹⁵ “imminent” as “manifest, instant and overwhelming,”¹⁶ and “attack” as “the use of force against NATO/NATO-led forces and personnel.”¹⁷ NATO also employs the concept of “extended self-defence” to “defend other NATO/NATO-led forces and personnel from attack or imminent attack.”¹⁸

E. Guidance regarding the “use of force during peacetime operations and operations prior to the commencement of armed conflict” is contained in paragraphs 10 and 11 of the NATO ROE.¹⁹ Once an armed conflict has commenced in which NATO/NATO-led forces are involved as combatants, the NATO ROE recognize that “[c]are must be taken . . . to ensure that any ROE requested and authorized do not unduly restrict, beyond the restrictions imposed by international law, the commander’s ability to effectively carry out the mission and obtain Military Advantage.”²⁰ Annex A is entitled “Compendium of Rules of Engagement,” and lists “a menu of possible options.”²¹ Specific guidance on the use of ROE in each of the various war-fighting mediums are contained in Annexes B (Air), C (Land), and D (Maritime). There is also a glossary in Annex F that is helpful. Copies of the NATO ROE may be obtained from the Center for Law and Military Operations (CLAMO) via SIPRNET (see the CLAMO chapter for contact information).

¹¹ *Id.* at p. 3, ¶ 4.c.

¹² *Id.* at p. 3, ¶ 5.

¹³ *Id.* at p. 4, ¶ 7.

¹⁴ *Id.* at p. 4, ¶ 7.a.

¹⁵ *Id.* at p. 4, ¶ 7.b.

¹⁶ *Id.* at p. 4, ¶ 7.c.

¹⁷ *Id.* at p. 4, ¶ 7.d. Appendix 1 to Annex A of the NATO ROE, entitled Hostile Intent and Hostile Act, clarifies this guidance (pp. A-1-1 to A-1-2).

¹⁸ *Id.* at p. 4, ¶ 8.

¹⁹ *Id.* at pp. 5-6, ¶¶ 10-11.

²⁰ *Id.* at p. 6, ¶ 12.

²¹ *Id.* at p. 8, ¶ 15.

MULTINATIONAL OPERATIONS

Unprecedented levels of global connectedness provide common incentives for international cooperation and shared norms of behavior, and the growing capacity of some regional partners provides an opportunity for countries to play greater and even leading roles in advancing mutual security interests in their respective regions. In addressing the changing strategic environment, the United States will rely on our many comparative advantages, including the strength of our economy, our strong network of alliances and partnerships,

- U.S. Quadrennial Defense Review 2014

There are no words to express the abyss between isolation and having one ally. It may be conceded to the mathematician that four is twice two. But two is not twice one; two is two thousand times one.

- G.K. Chesterton, *The Man Who Was Thursday*

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I. INTRODUCTION

A. Doctrine. Doctrinally, military actions conducted by forces of two or more nations are defined as “multinational operations.”¹ Such actions are usually undertaken within the structure of either a formal alliance or an ad hoc coalition. An alliance is a relationship that results from a formal agreement (e.g., treaty) between two or more nations for broad, long-term objectives that further the common interests of the members. A coalition is an ad hoc arrangement between two or more nations for common action. Coalitions may be formed for a single occasion or a longer period, but usually address a narrow sector of common interest. They are less likely to provide the same degree of organizational maturity as alliances.

B. Military Operations. Both alliances and coalitions may be employed across the full spectrum of military operations, and may require coordination, not only with other multinational partners, but also with a variety of U.S. government agencies, host nation authorities, and intergovernmental and nongovernmental organizations.

¹ See JOINT CHIEFS OF STAFF, JOINT PUB. 3-16, MULTINATIONAL OPERATIONS (7 Mar. 2007/16 Jul 2013) [hereinafter JOINT PUB. 3-16].

C. Judge Advocates. Judge Advocates (JAs) need to be cognizant of differences in multinational partner laws, doctrine, organization, weapons, equipment and terminology: and the potential of those differences to impact on operations. Additionally, an understanding of cultural, political and religious considerations applicable to partner nations will benefit a JA operating in a multinational environment.

II. MISSION

A. Sources. The mission of a multinational force may derive from national channels or from international treaties, mandates, resolutions or agreements common to the contributing nations. Each nation will be driven by its own political considerations which may affect mission execution. Mission analysis for a multinational operation must consider the rules of engagement (ROE) of each troop contributing nation (TCN) and other national factors that may affect mission accomplishment. National differences in doctrine, training, capabilities and equipment may be overcome by informed force composition and mission assignment.

B. Coordination. When advising at any stage of a multinational operation it is imperative that JAs liaise and maintain close coordination with legal staff of partner forces and those employed within the allied/ coalition headquarters. A sound understanding of legal differences across the spectrum of operational functions is necessary in order to advise in relation to the legal aspects of the mission.

III. ORGANIZATION

A. Planning Multinational Operations

1. *Cohesion.* Perhaps the biggest challenge to any multinational operation is the requirement to protect the cohesion of the force. Political, practical, and legal considerations shape the nature of multinational action. Commanders must be clear about the terms² under which constituent national contingents will operate, as well as the possible impact upon the strength and cohesion of the multinational force.

2. *Legal Authority.* Judge Advocates must be conversant with and advise on the differing legal regimes applicable to multinational partners.³ Signatures and ratifications of treaties are published in the United Nations Journal and may be accessed electronically via the UN treaty database.⁴ Moreover, JAs must be aware that States parties to treaties may not interpret their obligations and responsibilities in exactly the same manner as the United States. If differing interpretations are understood and accommodated within the multinational force's plan, their potential to become a source of friction or negatively impact the cohesion of the multinational force can be minimized.

3. *Limitations.* Other factors which may limit the military capabilities of multinational partners include linguistic and communications issues, domestic political considerations, doctrine, organization, training, technology levels, and casualty tolerance. Indeed, it is not uncommon for nations to limit their role within a multinational operation on the basis of such factors—for example, participation may be restricted to the support of strictly defensive roles. However, multinational commanders may be able to reduce the impact of such differences by merging capabilities in order to balance weaknesses in one contingent with strengths in others.

4. *Procedures.* The rationalization, standardization, and cooperation procedures for formal alliances may assist with planning in this regard.⁵ Moreover, JAs should familiarize themselves with any bilateral agreements

² Where these terms restrict action, they are typically referred to as “caveats.” The North Atlantic Treaty Organization typically uses a “Transfer of Authority” (TOA) message procedure whereby troop contributing nations transfer national force elements to NATO command. The TOA message will stipulate the caveats under which the transferred forces can be employed.

³ The legal regime applicable to each state depends upon that State's treaty and customary international law obligations.

⁴ Available at <https://treaties.un.org>. A further useful reference tool, which also includes information relating to a State's customary international law behavior is the ICRC's Customary IHL database. Available at www.icrc.org/customary-ihl/eng/docs/home.

⁵ See CHAIRMAN OF THE JOINT CHIEFS OF STAFF, INSTR. 2700.01C, INTERNATIONAL MILITARY AGREEMENTS FOR RATIONALIZATION, STANDARDIZATION, AND INTEROPERABILITY BETWEEN THE UNITED STATES, ITS ALLIES AND OTHER FRIENDLY NATIONS (8 Feb. 2008).

between multinational partners, including status of forces agreements (SOFAs) or status of mission agreements (SOMAs), which may shape the legal landscape.

B. Command and Control, C-2

1. *Chain of Command.* Command relationships in multinational operations involve both national and multinational chains of command. U.S. policy dictates that the President, as Commander in Chief, always retains national command authority, but may place U.S. forces under the operational control (OPCON) of a multinational commander.⁶

2. *Command Structure.* While multinational operations within formal alliances lend themselves to an integrated command structure (i.e., where an integrated multinational headquarters supports the designated commander), a coalition operation is often characterized by a lead nation command structure which may or may not rotate. Less common is a parallel command structure where no single force commander is designated and consensus often stems from compromise. As exemplified by the C-2 structure for the Operation Desert Storm coalition, lead nation and parallel command structures may exist alongside one another and may evolve as the operation progresses.

C. Communications and Intelligence Sharing

We will not win the war on terror through military action. The sharing of information and intelligence will be vital to protecting our country.

- Former Secretary of State for Defense, William Cohen

1. *National Disclosure Policy.* The release of classified information to multinational partners is governed by national disclosure policy (NDP).⁷ Multinational partners frequently request access to U.S. information, but the security classification of such information may preclude this. Lack of multinational partner access to SIPRNET can be a major interoperability issue as these means are typically the default setting for passage of significant amounts of both classified and unclassified operational information.

2. *Standardization Agreements.* While NDP tends to be controlled by the Combatant Commands, JAs should be aware of the existence of international standardization agreements, such as those established within standing alliances (e.g., the North Atlantic Treaty Organization (NATO) standardization agreements (STANAG)). Such documents provide a useful starting point for policies concerning the ability to share classified information among multinational partners; however the unique nature of coalition operations means that their application may require modification based on the circumstances. Details of the intelligence sharing agreements between the United States, the United Kingdom, Canada, Australia and New Zealand are laid out in classified memoranda of understanding. Additionally the ABCA Coalition Intelligence Handbook provides guidance in relation to the planning and conduct of intelligence in support of ABCA coalitions.⁸

D. Military Justice

Jurisdiction over U.S. personnel suspected of committing criminal offenses is decided on a case-by-case basis in accordance with applicable international agreements with host nation authorities. It is U.S. policy to retain

⁶ It is important to note that the U.S command state OPCON encompasses three NATO command states: OPCOM, OPCON & TACOM.

⁷ See NATIONAL SECURITY DECISION MEMORANDUM (NSDM) 119, DISCLOSURE OF CLASSIFIED UNITED STATES MILITARY INFORMATION TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS (20 July 1971); NATIONAL DISCLOSURE POLICY (NDP) 1, NATIONAL POLICY AND PROCEDURES FOR THE DISCLOSURE OF CLASSIFIED MILITARY INFORMATION TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS (1 Oct. 1988); U.S. DEP'T OF DEFENSE, DIR. 5230.11, DISCLOSURE OF CLASSIFIED MILITARY INFORMATION TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS (16 June 1992); CHAIRMAN OF THE JOINT CHIEFS OF STAFF, INSTR. 5221.01B, DELEGATION OF AUTHORITY TO COMMANDERS OF COMBATANT COMMANDS TO DISCLOSE CLASSIFIED MILITARY INFORMATION TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS (1 Dec. 2003) (C1, 13 Feb. 2006) (delegating to the commanders of combatant commands the authority to disclose classified military information to foreign governments and international organizations in certain circumstances).

⁸ ABCA COALITION INTELLIGENCE HANDBOOK EDITION 5 (2013).

jurisdiction in all criminal cases to the fullest extent possible. This position is common to most nations willing to contribute forces to multinational operations, who will seek, as far as practicable, to retain exclusive criminal jurisdiction over their own forces.⁹ Foreign military commanders exercising operational or tactical control over U.S. forces do not administer discipline. The converse is also true; U.S. commanders exercising operational or tactical control over multinational forces do not administer discipline over those forces.

E. Exchange Personnel

The United States has a number of permanent individual exchange positions with other nations. Deployed exchange personnel must comply with their own domestic law. Thus an exchange officer's government may place conditions on involvement in certain operations if its domestic law or policy is more restrictive than that of the host unit. Exchange personnel are essential to promoting multinational interoperability and disseminating lessons learned from previous multinational operations. They can also be key to explaining to other multinational partners how the evolving nature of an operation may impact them, and therefore prevent misunderstanding and risk of weakening the strength and unity of the multinational effort.

F. Investigations and Claims

1. *Multinational incidents.* Incidents that give rise to investigations, including accidents and alleged war crimes, may involve members of more than one multinational partner force. Each multinational partner is likely to have its own national requirements for investigations and release of information and it may not be possible for all partners to adopt the same policy. While there is no simple solution, early discussion of the types of incidents to be investigated by each multinational partner, as well as the information that will be released, will help minimize the impact (both from a substantive context, and a procedural / administrative, point of view) of national policy differences.

2. *Claims in a multinational environment.* Each nation will also tend to have its own policies and procedures with regard to claims received by the force. JAs should be aware that differences may be due to domestic law (for example, where a SOFA removes the legal requirement to pay compensation, a multinational partner may lack the legal basis for making such payments). Different policies and the existence of multiple procedures may increase the potential for exploitation by the local population, for example "forum shopping" or, indeed, the submission of multiple claims in relation to the same incident. Alliance operations may generate common claims policies or procedures which multinational partners are requested to follow to the extent possible. In any event, maintaining an open dialogue and sharing claims related information between multinational force members will facilitate a more effective and economic claims regime within the area of operations.

G. Fiscal Law Considerations

Many multinational partners do not have the same degree of fiscal regulation as the United States. Multinational partners often make logistic requests of the United States. JAs must understand and be able to explain U.S. fiscal limitations, especially the operation of acquisition and cross-servicing agreements (ACSAs). In some circumstances, a multinational partner's greater fiscal flexibility may be used to achieve multinational force objectives that cannot be funded from U.S. sources.

IV. OPERATIONS

A. Detention Operations

1. *National Policies.* Multinational operations often feature the involvement of armed forces in the detention of individuals. Given the responsibilities of the Detaining Power under international humanitarian law (IHL) and national obligations under international human rights law (IHRL), detention is regarded as a national issue. In view of this, and heightened political sensitivities surrounding management and treatment of detainees,

⁹ Such was the position during Operation Iraqi Freedom, where Coalition Provisional Authority Order Number 17 provided for coalition force immunity from Iraqi criminal jurisdiction. Another example is the Military Technical Agreement signed between the International Security Assistance Force and Afghanistan.

detention policies are generally determined at a national level. The treatment and management of detainees has been of particular importance in recent operations to a number of multinational partners, including Australia, Canada and the United Kingdom.¹⁰

2 *Obligations.* A Nation's legal position in relation to detention will be shaped by its interpretation of its IHL and IHRL obligations. In relation to the application of IHL, nations may reach different conclusions based on their classification of the conflict. Even when there is consensus in this respect, nations may determine the status of detainees differently. IHRL is even more likely to impact nations differently owing to national positions regarding the extraterritoriality of human rights treaties; and the application of regional human rights systems and domestic law. National obligations under IHRL have the potential to impact on detention operations and may in fact shape the willingness of some multinational partners to detain civilians during overseas military operations.¹¹ European partners increasingly face complex human rights considerations in relation to security detention arising from decisions of the European Court of Human Rights, particularly with regard to the extra-territorial jurisdiction of the European Convention of Human Rights (ECHR) beyond the territorial space of Europe.¹²

3. *Transfer.* In the context of multi-national operations legal issues may arise in relation to the transfer of individuals from the effective control of one nation to that of another, owing to human rights responsibilities. Concerns regarding transfer between TCNs may be alleviated by the negotiation of an agreement establishing terms and procedures for the transfer of prisoners of war, civilian internees and/ or civilian detainees between multinational partners (as was done in Operation Iraqi Freedom).¹³ Concerns arising from potential execution of the death penalty, torture or ill-treatment by the receiving nation, have been particularly significant in recent multinational operations in relation to transfer to the host authorities.¹⁴ Both the UK¹⁵ and Canada¹⁶ faced legal challenges in their domestic courts in relation to their policy to transfer detainees to Afghan authorities. Furthermore, reports by the United States Assistance Mission in Afghanistan (UNAMA) led NATO to impose restrictions on transfers. Negotiation of agreements with the host nation containing assurances regarding humane treatment and use of the death penalty may alleviate some of the concern. The issue is whether such arrangements can adequately address any risk that detainees will be subject to torture or mistreatment on transfer. Accordingly, some nations monitor their transferred detainees within the Afghan system.

¹⁰ The United Kingdom's doctrinal approach to detainees is contained in Joint Doctrine Publication 1-10 Captured Persons (CPERS), 3d Edition, January 2015. Available at www.gov.uk/government/publications/jdp-1-10-second-edition-captured-persons-cpers

¹¹ During Operation IRAQI FREEDOM, the only coalition partners to establish detention facilities were the United States and United Kingdom, the latter establishing an detention facility in Basra.

¹² The watershed case of *Al Skeini*, *Al Skeini v the United Kingdom (2011) 53 EHRR 18*, confirmed this principle and has since been confirmed in the subsequent case of *Hassan*, *Hassan v the United Kingdom [2014] ECHR 9936*. While this is a rapidly developing area of law, article 1 of the European Convention on Human Rights provides that the rights apply to those within the jurisdiction of a State party and the UK courts, in particular, have recently confirmed that jurisdiction extends to any situation where a state agent (e.g a soldier) has control and authority over an individual (*Smith v Ministry of Defence [2014] AC 52*). Domestic courts have also considered detainee related issues such as the use of hooding (*Al Bazzouni v The Prime Minister and others*, [2011] EWHC 2401 (Admin), 3 October 2011), the legality of Detention in a non-international armed conflict (*Serdar Mohammed v Ministry of Defence [2014] EWHC 1369 (QB)*) and for the purpose of bringing civil law claims for unlawful imprisonment (*Al Saadoon v Ministry of Defence [2015] EWHC 715 (Admin)*).

¹³ An Arrangement for the Transfer of Prisoners of War, Civilian Internees, and Civilian Detainees Between the Forces of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and Australia (23 Mar. 2003) (on file with CLAMO).

¹⁴ Arising from UK detention in Iraq, the European Court of Human Rights case of *Al-Saadoon and Mufdhi v. The United Kingdom*, App. No. 61498/08, 2 March 2010 concluded that transfer to Iraqi authorities, when there were substantial grounds for believing that there was a real risk of the imposition of the death penalty, amounted to a violation of Art. 3 of the European Convention of Human Rights.

¹⁵ *Evans R (on application of) v Secretary of State for Defence* [2010] EWHC 1445 (Admin) 25 June 2010.

¹⁶ *Amnesty International Canada v. Canada (Chief of the Defence Staff)* 2008 FCA 401, [2009] 4 F.C.R. 149. Dec. 17, 2008. The Federal Court of Appeal upheld the judgment of the Supreme Court concluding that the Canadian Charter of Rights did not apply during the armed conflict in Afghanistan to the detention of non-Canadians by Canadian Forces or their transfer to Afghan authorities and that the applicable law was International Humanitarian Law.

4. *Standard Operating Procedures*. While detention is necessarily a matter of national concern, this does not detract from the desirability of a common and coordinated approach. The Copenhagen Process: Principles and Guidelines¹⁷ is an example of an effort to develop principles and good practices for states and international organizations who detain individuals during the course of non-international armed conflict and peace support operations. One of the challenges for multinational commands is the development of standard operating procedures and common standards that reflect detailed legal obligations. Potential areas that warrant consideration include the determination of a detainee's status, standards for the treatment and management of detained individuals, use of terminology and policies regarding transfer and personnel exploitation. Additionally, the oft heard refrain "we don't do detention" requires scrutiny and should not prevent the formulation of a plan in the event of circumstances demanding detention by a nation that takes such a stance. Detention within multinational operations is potentially complex and problematic. A clear understanding of national positions will ensure maximum cooperation and enable planning to minimize operational impact.

5. *International Committee for the Red Cross*. Engagement with the International Committee for the Red Cross (ICRC) is a central issue to consider in relation to detention. Even during multinational operations, detention facilities are usually administered by individual nations, such that the confidential reports provided by the ICRC tend to be directed to national governments.¹⁸ This does not, however, rule out the opportunity for a multinational commander to engage with the ICRC and, for instance, to report consolidated, force-wide, detainee-related information to the ICRC.

C. Use of Force

1. Self-Defense

a. While domestic laws of all nations recognize a right of self-defense, it is a concept that varies in meaning between countries. JAs must not assume that multinational partners share the U.S. understanding with regard to the use of force in self-defense. The right to self-defense is exercised in accordance with national laws which differ in terms of definition and scope of the right. Accordingly, the circumstances in which forces from different nations can act in self-defense may vary.

b. Regardless of the terms of the ROE or any SOFA, U.S. forces retain the right to use necessary and proportional force for unit self-defense in response to a hostile act or demonstration of hostile intent.¹⁹ Other nations use different criteria to determine when the right of self-defense is triggered and may apply different meaning to the same terminology. Different parameters with regard to self-defense may affect when the right to use lethal force in self-defense ends and the requirement for mission accomplishment ROE begins²⁰.

c. National self-defense rules may also differ with regard to who or what can be defended. U.S. forces must have specific authorization to use collective self-defense and defend multinational forces.²¹ Other nations' laws of self-defense may govern the defense of others, such that their soldiers retain that right unless it is specifically restricted. Self-defense rules may also differ with regard to the protection of property. For example, at all times, including when guarding property, UK forces must not use lethal force other than for the protection of human life unless explicitly authorized under ROE or in accordance with the law of armed conflict. Only when the potential loss or destruction of property causes an imminent threat to life, will self-defense rules apply. Mission accomplishment ROE may designate specified property as mission essential and stipulate what force can be used to protect it.

¹⁷ The Copenhagen Process on the Handling of Detainees in International Military Operations (The Copenhagen Process) was launched on Oct. 11, 2007 and concluded on Oct 19, 2012. Representatives of twenty-four countries participated. THE COPENHAGEN PROCESS PRINCIPLES AND GUIDELINES was adopted on Oct. 19, 2012. Available at um.dk/en/~media/UM/English-site/Documents/Politics-and-diplomacy/Copenhagen%20Process20Principles%20and%20Guidelines.pdf

¹⁸ Where a detention facility is administered by several nations, it is understood that the ICRC will provide reports to the facility commander, who passes the report up his national and multinational reporting chains.

¹⁹ CJCSI 3121.01B, *supra* note 11, encl. A, para. 1(f)(1).

²⁰ The terms 'hostile intent' and 'hostile act' (specifically defined) are used within NATO mission accomplishment ROE and apply to circumstances in which some nations cannot use lethal force in self-defense.

²¹ *Id.*, encl. A, para. 3(c).

d. While the U.S. ROE provide that unit commanders may limit individual self-defense by members of their unit, other nations consider individual self-defense to be inherent such that it cannot be restricted in any circumstances. Differences may also arise in relation to the use of warning shots and whether, and in what circumstances pursuit is permitted in self-defense. The practical impact of different national laws of self-defense may in some circumstances be addressed by provision within the mission accomplishment ROE but higher authority may be required to use force on that basis.

2. Rules of Engagement (ROE).

a. While an alliance may issue ROE that apply to the entire multinational force, it is rare for the ROE for any coalition operation to be contained within a single document. More commonly each contingent will receive ROE from their respective chain of command that reflect, in addition to common considerations such as international law and mandate; national, political and operational concerns and domestic law. National caveats may be declared to facilitate the application of multinational ROE. The U.S. Standing Rules of Engagement (SROE) provide that U.S. forces assigned to the operational or tactical control of a multinational force will follow the ROE of that force for mission accomplishment if authorized by the Secretary of Defense.²² When U.S. forces operate in conjunction with a multinational force, reasonable efforts are made to establish common ROE. If this is not possible, U.S. forces operate under the SROE.²³ The U.S. currently has combined ROE (CROE) with a number of nations and is continuing to work on CROE with additional nations.

b. Whether coalition partners operate under separate national ROE or one multinational ROE, there will be variations in their ability to use force which may be reflected in different rules or national caveats. Even when the terminology looks familiar, JAs must ensure that they understand the coalition partner's meaning in advance of a mission. For example, other countries may have a different approach from the United States in relation to the meaning of "hostile act" and "hostile intent." While the U.S. uses the term to define situations in which the use of lethal force is always permitted, the U.K. and other nations apply a different definition and require specific authorization to use force in response.²⁴ This approach is reflected within NATO ROE.²⁵ Where nations have different treaty obligations, for example in relation to weapon usage, constraints will be stipulated within national ROE which may also provide guidance in relation to interoperability with nations that do not have the same constraints.

c. It is essential for the ROE for each coalition partner to be understood and continually reviewed, as they are likely to be subject to change (particularly if the nature of the operation changes in the view of that coalition partner). Differences in terminology should be minimized, or where this is not possible, understood. Joint consultation while drafting the ROE can be beneficial, although it is accepted that this is typically the exception, not the rule. A clear understanding of national ROE positions will inform decisions in relation to force composition and mission assignment and minimize operational impact. Legal advice to commanders and ROE training for U.S. forces must address any issues arising from different national ROE. An agreed matrix showing the comparison of national ROE will be of value.

3. Military Objective / Targeting

a. States may come to different conclusions regarding whether certain objects are military objectives in accordance with Art. 52(2) of Additional Protocol I to the 1949 Geneva Conventions.²⁶ Differences of opinion often arise in relation to television and radio stations that are state-owned or may be used for propaganda purposes; symbols of the enemy regime such as palaces and statues; and civilian (non-uniformed) enemy regime officials.

²² CHAIRMAN OF THE JOINT CHIEFS OF STAFF, INSTR. 3121.01B, STANDING RULES OF ENGAGEMENT/STANDING RULES FOR THE USE OF FORCE FOR U.S. FORCES, encl. A, para. 1(f)(1) (13 June 2005) [hereinafter CJCSI 3121.01B].

²³ *Id.*, encl. A, para. 1(f)(2).

²⁴ U.K. Ministry of Defense, Joint Service Publication 398, 16 Sep. 13 Annex A, para 14. (partially classified document).

²⁵ North Atlantic Treaty Organization Rules of Engagement MC362/1, Part II.

²⁶ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977, 1125 U.N.T.S. 48 [hereinafter AP I]. Article 52(2) provides, in part, that "military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage."

Another area of diverse opinion amongst coalition partners is the question of when a civilian taking a direct part in hostilities can be lawfully targeted. In addition, some multinational partners may not view certain objects as politically acceptable targets despite their legality under international law. Such targets may be prohibited outright, or require high-level approval before engagement. This may affect not only the relevant multinational partner's ability to prosecute the target, but also whether it may provide support to other multinational forces who do so. For example, if the target falls outside of a State's permissible target set, that multinational partner may be prohibited from refueling strike aircraft, providing airborne early warning and control, or participating in the planning for that mission.

b. Despite the legality of an operation against a military objective, some multinational partners may have particular sensitivities that need to be considered if their support for the operation is to be maintained. Consultation in the planning process may help to avoid potential negative consequences for multinational force cohesion.

c. Multinational partners may also use different methodology when conducting collateral damage or proportionality assessments (i.e. the determination of whether the anticipated concrete and direct military advantage outweighs the expected incidental loss of civilian life, injury to civilians, damage to civilian objects, or combination thereof), or have different collateral damage thresholds and target sets.

4. *Anti-Personnel Landmines (APL)*

a. Unlike many other nations, the United States is not bound by the Ottawa Treaty, which prohibits States parties from developing, producing, acquiring, stockpiling, retaining or transferring all APL, either directly or indirectly, and from assisting, encouraging or inducing any of these activities.²⁷ However, in September 2014, President Obama declared that the U.S. would neither use APL or maintain stocks of APL outside the Korean peninsula, regardless if they were persistent or non-persistent. (See Chapter 2 *infra* for more details). Thus, outside the Korean peninsula, US APL policy is now in alignment with most of our allies.

b. These parameters depend upon national interpretation and policy, so are not necessarily the same for each State. The prohibition on assistance may impact a multinational partner's ability to be involved in air-to-air refueling, transport, or even mission planning. While several multinational partners have issued unclassified guidance on their national interpretation of their obligations, these documents provide insufficient detail for mission planning.²⁸ Accordingly, JAs should seek advice from multinational legal advisors regarding their nation's position.

5. *Cluster Munitions*

a. The Convention on Cluster Munitions (CCM)²⁹ prohibits party States from the use, production, stockpiling and transfer of cluster munitions and requires them to act to clear remnants and destroy stocks. The United States is not a signatory and is guided in its use of cluster munitions by the DoD Cluster Munitions Policy.³⁰

b. Military cooperation and engagement in operations by State parties with non-State parties is provided for within the CCM.³¹ Additionally, national positions may be affected by their domestic law giving effect

²⁷ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Landmines and on Their Destruction art. 1(1), Sept. 18, 1997, 36 I.L.M. 1507.

²⁸ See Landmines Act 1998 (UK) (the statute permits UK military members to participate in the planning of and conduct of military operations in which other coalition partners lawfully use APLs) *available at* www.legislation.gov.uk/ukpga/1998/33/contents; Anti-Personnel Mines Convention Implementation Act 1997 (Canada) (can participate in an operation with a State that uses APL but may not actively assist), *available at* <http://laws-lois.justice.gc.ca/eng/acts/A-11.5/FullText.html>; Declaration to the Ottawa Convention by Australia (assistance does not include permissible indirect support such as the provision of security for the personnel of a State not party to the Convention engaging in such activities). Copies of classified policies releasable to the United States are on file with the International and Operational Law Department, The Judge Advocate General's Legal Center and School.

²⁹ See Convention on Cluster Munitions, CCM/77 (30 May 2008), [hereinafter CCM], *available at* www.clusterconvention.org.

³⁰ See Robert M. Gates, Memorandum for Secretaries of the Military Dep'ts et al., SUBJECT: DoD Policy on Cluster Munitions and Unintended Harm to Civilians, 19 June 2008, *available at* www.defense.gov/news/d20080709cmpolicy.pdf.

³¹ CCM, *Supra* note 28, Art 23.

to the convention. In the event that use of cluster munitions is being considered in a multinational environment, JAs should seek advice from national legal advisers as to their nation's position.

6. *Riot Control and Riot Control Agents (RCA)*

a. The Chemical Weapons Convention (CWC) prohibits the use of RCA "as a method of warfare."³² The phrase does not enjoy universal definition and interoperability issues may arise in the event that States do not share the U.S. interpretation. The view adopted by the United Kingdom and Germany is that when troops are deployed in armed conflict, RCA cannot be used in offensive operations.³³ However ROE or domestic laws of those nations may permit the use of RCA in other circumstances such as a civil policing role. Other multinational partners may take a more restrictive view.

b. The use of military personnel in policing and riot control work is one that requires a careful assessment of a multinational partner's capabilities and legal authority to conduct. Consultation with multinational partners is essential to determine if their troops are permitted to participate in such operations, including in relation to developing (by providing resources or training) a host nation's capacity in these fields.

D. Reconstruction and Civil Affairs Efforts

Provincial Reconstruction Teams (PRTs) may be established in support of multinational operations, with multinational partners providing all or a portion of a PRT's personnel. Moreover, those personnel may be civilian, military, or both. According to the U.S. Center for Army Lessons Learned, "PRTs are intended to improve stability in a given area by helping build the host nation's legitimacy and effectiveness in providing security to its citizens and delivering essential government services."³⁴ While there is no alliance or coalition doctrine with respect to PRTs, documents such as the NATO-led International Security Assistance Force (ISAF) PRT Handbook provide guidance.³⁵

E. The American-British-Canadian-Australian-New Zealand (ABCA) Program

The American-British-Canadian-Australian-New Zealand (ABCA) Program³⁶ evolved from the World War II coalition, a security relationship between the United States and its Anglo-Saxon allies based on a common culture, historical experience, and language.³⁷ Although not a formal alliance, ABCA has become an interoperability standard-bearer. The ABCA nations have served together in ad hoc coalitions on several occasions. ABCA nations developed the Coalition Operations Handbook,³⁸ now in its fifth edition, to assist in the establishment of coalitions, and to "provide guidance to commanders and staff of organizations operating in a coalition environment . . . thereby helping the coalition commander to understand and develop solutions to create an effective fighting force."³⁹

V. CONCLUSION

³² Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction art. 1, Jan. 13, 1993, 32 I.L.M. 800.

³³ U.K. ROE may permit the use of RCA in circumstances other than offensive operations which include maintenance of security of designated service establishments or other military facilities, Military Aid to the Civil Power, and in assisting in crowd control for Non-combatant Evacuation Operations (NEO) scenarios. (JSP 398 A-9, para 26). The German position is in accordance with the German Chemical Weapons Convention Implementation Act (Amended version dated 11 Oct. 04) and reflected within the Joint Service Regulation (ZDv) 15/2 International Humanitarian Law in Armed Conflict Manual 471 (May 2013) (on file with CLAMO).

³⁴ See CENTER FOR ARMY LESSONS LEARNED, HANDBOOK 07-34, PROVINCIAL RECONSTRUCTION TEAM (PRT) PLAYBOOK (Sept. 2007) (providing a detailed analysis of the nature and roles of PRTs), available at usacac.army.mil/cac2/call/docs/07-34/07-34.pdf.

³⁵ See ISAF PRT HANDBOOK, EDITION 4, MAR. 09 available at

<https://www.cimicweb.org/Documents/PRT%20CONFERENCE%202010/PRT%20Handbook%20Edition%204.pdf>.

³⁶ ABCA expanded its membership in 2006 to include New Zealand.

³⁷ But see the dedication to the ABCA COALITION OPERATIONS HANDBOOK, 5th Edition, which describes the ABCA countries as "Five nations, divided by a common language."

³⁸ ABCA COALITION OPERATIONS HANDBOOK (1 Sep. 2010) (on file with CLAMO).

³⁹ *Id.*, at i.

A. Resolving Interoperability Issues

1. Interoperability issues may be successfully managed through:
 - a. early and effective communication to identify differences;
 - b. resolution of those differences where possible; and
 - c. where resolution is difficult or impossible, ensuring that differences are not overstated and that action is taken to ensure that they are factored into mission planning and execution.

2. The development of relationships between multinational partner legal advisors is an important aspect of this process. Operational and training experience is valuable and is enhanced by bilateral, multilateral, and institutional contacts. Indeed, the U.S. Army JAG Corps has established exchange officers in the United Kingdom and Canada. Moreover, multinational partner legal advisors sent to the United States on exchange or for training develop an understanding of U.S. military culture and ethos, as well as becoming acquainted with U.S. Army JAG Corps doctrine, training, and equipment.

B. Working in an Alliance or Coalition

*Our experience of operating as part of multinational coalitions in long-duration conflicts has demonstrated the importance of continually fostering long-term relationships with allies and partners.*⁴⁰

- Quadrennial Defense Review 2010

Close and trusted working relationships and liaison networks at all levels significantly enhance effective multinational operational planning. Such relationships and networks should be cultivated with actual and potential multinational partners. However, given that each operation will be different, a truly agile force will be required to adapt and exploit their key liaison appointments and requirements in order to exploit the opportunities and minimize the frictions that multinational operations present. Potential future multinational partners, including both traditional allies and less familiar partners, should maintain awareness of and ensure interoperability with each other's forces, and in particular identify which areas come within multinational control and which remain under national control. This requires forces to be organized, trained and resourced, in order to facilitate multinational partner interoperability.

⁴⁰ THE QUADRENNIAL DEFENSE REVIEW 2010, at 62.