

## A Judge Advocate's Guide to Operational Planning

*"No plan of operations extends with certainty beyond the first encounter with the enemy's main strength."*<sup>1</sup>

*Major Michael J. O'Connor\**

### I. Introduction

As staff officers, whether at brigade or higher headquarters, judge advocates (JAs) are frequently pulled into ad hoc meetings and planning sessions. Frequently, it starts with the executive officer or operations officer saying something like, "Hey Judge, get your stuff and go to the brigade conference room. We are doing some planning. We are going to start with some mission analysis (MA),<sup>2</sup> go into wargaming,<sup>3</sup> course of action development (COA DEV),<sup>4</sup> and then work the orders piece with future operations (FUOPs)."<sup>5</sup> This is the start to operational planning, and the JA must be well-versed in its terms and procedures to succeed as an effective advisor to the command. Hence, serving as a junior JA on a staff consisting of senior, post Command and General Staff College (CGSC) majors,<sup>6</sup> many

of whom have spent time as planners, can be an overwhelming experience.

Operational planning is the process of analyzing operational requirements, command intentions, and other factors to develop executable plans to accomplish the defined operational end-state or military objective.<sup>7</sup> Put simply, operational planning is the way a commander and his staff determine how to accomplish a particular task or achieve a specified military objective. From conducting a weapons range or unit urinalysis to complex, multi-echelon, joint combat operations, operational planning provides the means to align available forces, equipment, and capabilities in time and space in a concerted effort to obtain a desired end-state.

Over time, the Army has moved from the simple "sand table"<sup>8</sup> approach to plan and execute missions to an increasingly complex approach involving numerous power point presentations and slideology.<sup>9</sup> Unfortunately, from a training standpoint, many JAs on headquarters' staff frequently do not have the same foundational training—from West Point,<sup>10</sup> Reserve Officer Training Corps (ROTC),<sup>11</sup> the Officer Basic Course (OBC),<sup>12</sup> the Captains Career Course,<sup>13</sup>

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<sup>1</sup> 2 HELMUTH KARL BERNHARD GRAF VON MOLTKE, MILITAERISCHE WERKE pt. 2, at 33–40, in MOLTKE ON THE ART OF WAR: SELECTED WRITINGS (Daniel Hughes, ed. 1993). In the authors opinion, this idea can be applied to a JAs time with a brigade as - The best plan does not survive contact with the Brigade staff.

<sup>2</sup> See *infra* Part V.B.

<sup>3</sup> See *infra* Part V.C.

<sup>4</sup> See *infra* Part V.C.

<sup>5</sup> See *infra* Part III.C.1.

<sup>6</sup> U.S. DEP'T OF ARMY, ARMY COMMAND AND GENERAL STAFF COLLEGE, OFFICE OF THE REGISTRAR REG. 350-1, COMMAND AND GENERAL STAFF COLLEGE COURSE CATALOG 7 (Sept. 29, 2010), available at <http://www.cgsc.edu/ile/summary.asp> (last visited Aug. 6, 2014). Post-ILE (Intermediate Level Education) majors are field grade officers who have completed ILE or Command and General Staff College (CGSC), if attended in residence at Fort Leavenworth, Kansas. Intermediate Level Education is a military school for field grade officers with approximately thirteen years of commissioned service. The school's

purpose is to prepare all field grade officers with a warrior ethos and warfighting focus for leadership positions in Army, Joint, interagency, intergovernmental, and multi-national organizations executing full spectrum operations. The CGSC faculty also educates and trains branch officers attending the ILE credentialing course, Advanced Operations Course (AOC). Its purpose is to develop operations career field officers with a warfighting focus for battalion and brigade command capable of conducting full scale operations in Joint, interagency, and multinational environments, and educate officers so they have the requisite competencies to serve successfully as division through echelon-above-corps-level staff officers.

*Id.* See also U.S. ARMY OFFICE OF THE JUDGE ADVOCATE GEN., JAGC PUB. 1-1, PERSONNEL POLICIES sec. 7-7A1b, at 36 (1 Jan. 2014) (stating that

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"CGSC is the Army's preparatory course for successful service as staff officers in division through echelons-above-corps. Though CGSC is not a prerequisite for any position, it is excellent preparation for service in key positions at divisions, corps, and higher headquarters.") *Id.*

<sup>7</sup> OXFORD ENGLISH DICTIONARY 342 (7th ed. 2011). Military planning is defined as "[t]he devising of plans for military operations and other actions by military forces, to include the thorough coordination of such plans and activities with all concerned agencies."

<sup>8</sup> MERRIAM-WEBSTER DICTIONARY 296 (rev. ed. 2007). Sand table is defined as "a table bearing a relief model of a terrain built to scale for study or demonstration especially of military tactics."

<sup>9</sup> See generally NANCY DUARLE, SLIDE:OLOGY: THE ART AND SCIENCE OF CREATING GREAT PRESENTATIONS (O'Reilly Media, Inc., Aug. 8, 2008) (detailing the use and creation of effective power point presentations).

<sup>10</sup> See U. S. MILITARY ACADEMY AT WEST POINT, available at <http://www.usma.edu/dmi/SitePages/Home.aspx> (last visited May 15, 2014).

<sup>11</sup> See RESERVE OFFICER TRAINING CORPS HOMEPAGE, available at <http://www.goarmy.com/rotc/courses-and-colleges/curriculum.html> (outlining Reserve Officer Training Corps (ROTC) objectives and curriculum) (last visited May 15, 2014).

<sup>12</sup> See U.S. DEP'T OF ARMY, REG. 350-1, ARMY TRAINING AND LEADER DEVELOPMENT (RAR 4 Aug. 2011) (detailing officer training programs). See also U. S. ARMY TRAINING AND DOCTRINE COMMAND (TRADOC), REG. 350-10, INSTITUTIONAL LEADER TRAINING AND EDUCATION (12 Aug. 2012) [hereinafter TRADOC REG. 350-10]. See also Officer Basic Course, available at <http://usmilitary.about.com/library/milinfo/arofficerinfo/blcompanygrade.htm> (last visited May 15, 2014). It states:

to Intermediate Level Education<sup>14</sup>—as other staff officers. This article seeks to help JAs understand the basics of staff work with a focus on operational planning.

Overall, this article focuses on current operational planning theory and practices while offering practical information for JAs new to staff roles in operational units. Part II provides an overview and description of operational planning and its importance to the successful application of military power. Part III focuses on the key players involved in the planning process, their roles in various stages of mission planning and execution, and the role of primary and special staff officers. Part III also describes the Warfighting Functions (WFFs) involved in operations. Part IV describes campaign design, while Part V discusses Operational Planning and the Military Decision Making Process (MDMP). Part VI focuses on the role of JAs in the planning process. It also outlines Legal Analysis of the Operational Mission, which details the importance of legal authorities, both as enabling and limiting factors, to the conduct of the proposed mission, as well as the Operational Analysis of the Legal Mission, which examines operational factors, such as geography, unit disposition, and legal manning, in order to provide legal support to the command. Part VII discusses Legal Annexes and Operations Order reviews. Part VIII details the need for JAs to have continued involvement in the operations process. Finally, Part IX concludes with a discussion on the need for JAs to embrace their role in operational planning and to capitalize on their unique, law school-trained analytical skills to help staffs in the formation of plans.

## II. Planning Overview

*In preparing for battle, I have always found that plans are useless, but planning is invaluable.*<sup>15</sup>

Planning “is the art and science of understanding a situation, envisioning a desired future, and laying out effective ways of bringing about that future.”<sup>16</sup> It is one of the major steps in the operations process, along with preparing, executing and assessing, and serves as the foundation for staffing and conducting operations.<sup>17</sup> Planning incorporates the commander’s intent, situational awareness of the environment, and potential courses of action, both friendly and enemy, in order to prioritize efforts and task organized military forces to meet specified objectives.

Planning occurs at all levels, from the strategic to the tactical, and consists of three distinct parts: campaign design using Army Design Methodology (at the strategic level), operational planning using MDMP (at the operational level), and troop leading procedures (at the tactical level).<sup>18</sup> Campaign design is the overall approach to meeting the strategic and military goals of the command; operational planning is the process of changing desired goals, articulated in the campaign, into actionable tasks, which can be properly executed and measured. Troop Leading Procedures (TLP) is a small-unit planning model, typically for a company-sized element with no supporting staff, involving the commander, first sergeant and executive officer.<sup>19</sup> Due to its limited planning, TLP will not be discussed in this article. However, operational design and operational planning are discussed below.

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The Officer Basic Course (OBC) marks the beginning of an officer’s formal military professional development training following commissioning. The branch OBC prepares officers for their first duty assignment and provides instruction on methods for training and leading individuals, teams, squads and platoons. Additionally, the course provides officers with a detailed understanding of equipment, tactics, organization and administration at the company, battery or troop level.

*Id.*

<sup>13</sup> TRADOC REG. 350-10, *supra* note 12, at 33. The Captains Career Course has two phases. The branch phase consists of eighteen weeks of branch-specific technical and tactical training with integrated common core instruction. This training prepares officers to command and train at the company, battery, or troop level and to serve as staff officers at the battalion and brigade levels. The six-week staff process phase prepares officers to function as staff officers at battalion, brigade, and division levels. The course goals are to improve an officer’s ability to analyze and solve military problems, improve the ability to interact and coordinate as a member of a staff, improve communication skills, and understand Army organizations, operations, and procedures. *Id.*

<sup>14</sup> See *supra* note 12.

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<sup>15</sup> RICHARD NIXON, SIX CRISES (Richard Nixon Library ed., Touchstone Publishers 1990) (quoting Dwight D. Eisenhower).

<sup>16</sup> U.S. DEP’T OF ARMY, ARMY DOCTRINE PUB. 3-0, UNIFIED LAND OPERATIONS 10 (Oct. 2011) [hereinafter ADP 3-0].

<sup>17</sup> U.S. DEP’T OF ARMY, ARMY DOCTRINE PUB. 5-0, THE OPERATIONS PROCESS 2-5 (May 2012) [hereinafter ADP 5-0] (stating that “A plan is a continuous, evolving framework of anticipated actions that maximize opportunities and guide subordinates through each phase of the operation.”).

<sup>18</sup> See U.S. DEP’T OF DEF., JOINT PUB. 5-0, JOINT OPERATION PLANNING (11 Aug. 2011) [hereinafter JP 5-0]. For those assigned to Joint Commands, judge advocates will need to become familiar with the Joint Operations Planning Process (JOPP). The JOPP operates in a similar fashion to the Army planning model. *Id.*

<sup>19</sup> U.S. DEP’T OF ARMY, ARMY TACTICS, TECHNIQUES AND PROCEDURES (ATTP) 5-0.1, COMMANDER AND STAFF OFFICER GUIDE 5-1 (14 Sept. 2011) [hereinafter ATTP 5-0.1] (detailing troop leading procedures (TLP) and comparing it to the Military Decision Making Process (MDMP)).

### III. Key players

*The best executive is the one who has sense enough to pick good people to do what he wants done, and self-restraint to keep from meddling with them while they do it.*<sup>20</sup>

Planning the actions of a military organization involves various key players, depending on the position of the organization in the overall military hierarchy. From a squad level, involving a squad leader and two team leaders, to the joint staff, involving hundreds of planners, the level of responsibility and the complexity of the anticipated plan will dictate the scope of the planning effort and the amount of personnel involved. At the company level, planning would typically involve the company commander, first sergeant, executive officer (XO), and platoon leaders/platoon sergeants. Organizations above company level will involve the commander, XO, the operations officer, and other staff elements, involving subject matter experts (SMEs) in key areas and WFFs,<sup>21</sup> as discussed below.

The typical structure of a unit is:<sup>22</sup>

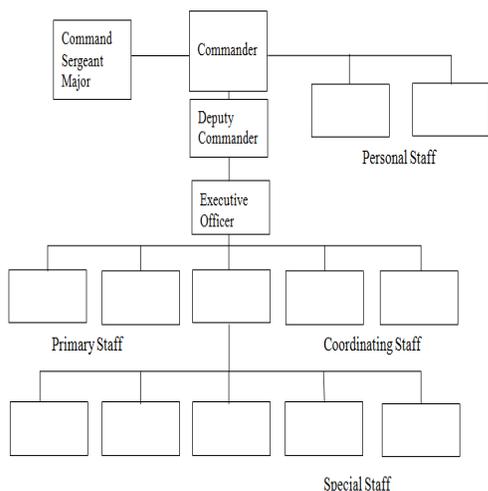


Figure 1. Staff Structure

### A. Commander

The commander is responsible for the actions of his unit. Through mission command, a commander exercises authority to employ forces to achieve stated objectives.<sup>23</sup> Commanders focus on mission command and execution of the plan. Essentially, the commander owns the plan.<sup>24</sup>

A commander will shape the initial planning effort by articulating his intent, which is based on a commander's evaluation of the tactical situation and his desired end-state.<sup>25</sup> The commander will then assess his available assets and forces and designate the key tasks needed to achieve the end-state as defined. The commander will then issue planning guidance which serves as the basis for staff planning efforts.

Throughout the planning process and into the execution phase, the commander will tailor the plan, approve changes, and prioritize efforts across the command. Future tailoring of the planning effort could occur in large meetings or smaller meetings between the commander, executive officer and the operations officer.

<sup>23</sup> ADP 3-0, *supra* note 16, at 10.

Commanders are the central figures in mission command. Under the mission command warfighting function, they perform three primary tasks to integrate all military functions and actions: Drive the operations process through their activities of understanding, visualizing, describing, directing, leading, and assessing operations; Develop teams, both within their own organizations and with joint, interagency, and multinational partners; and Inform and influence audiences, inside and outside their organizations.”

*Id.*

<sup>24</sup> ATTP 5-0.1, *supra* note 19, para. 2-27, at 2-4.

Commanders are responsible for all their staffs do or fail to do. A commander cannot delegate this responsibility. The final decision, as well as the final responsibility, remains with the commander. When commanders assign a staff member a task, they delegate the authority necessary to accomplish it. Commanders provide guidance, resources, and support. They foster a climate of mutual trust, cooperation, and teamwork.

*Id.*

<sup>25</sup> ADP 5-0 *supra* note 17, at 3-5.

The commander's intent links the mission and concept of operations. It describes the end-state and key tasks that, along with the mission, are the basis for subordinates' initiative. Commanders may also use the commander's intent to explain a broader purpose beyond that of the mission statement. The mission and the commander's intent must be understood two echelons down.

*Id.*

<sup>20</sup> Theodore Roosevelt, *available at* <http://theodorerooseveltclub.com/index.php/theodore-roosevelts-legacy/> (last visited June 5, 2014).

<sup>21</sup> See Part III.E (discussing war fighting functions (WFF)).

<sup>22</sup> ATTP 5-0.1, *supra* note 19, fig.2-1 (detailing command structure).

## B. Chief of Staff or Executive Officer<sup>26</sup>

The chief of staff (COS) at division or higher headquarters, or the XO at battalion or brigade, owns the planning effort. He is responsible for synchronizing and supervising staff efforts to meet the commander's needs. He sets the planning timeline and ensures staff compliance with meeting it. He also supervises the staff's involvement in planning and their production of planning products. Field Manual 5-0 states that "[t]he COS (XO) manages and coordinates the staff's work and provides quality control . . . [t]he COS (XO) must clearly understand the commander's intent and guidance because COSs (XOs) supervise the entire process."<sup>27</sup> The COS will interact with the staff and, in particular, the operations officer to ensure that the commander's intent is understood and incorporated into the planning process.<sup>28</sup>

## C. Operations Officer/S3

In *Animal Farm*, George Orwell wrote, "All animals are equal, but some animals are more equal than others."<sup>29</sup> On a staff, the Operations Officer (or the "S3" or simply "the 3") is "more equal than others." While assigned as a staff member, he is not equivalent to other staff members, particularly in the planning arena. The S3 has tasking authority, derived from the commander, over all other staff elements. He is also responsible for the majority of the

efforts within the organization and has a staff appropriate to that scope of responsibility.<sup>30</sup> These include an operations sergeant major,<sup>31</sup> future operations (FUOPS) personnel, current operations (CUOPS) personnel, battle captains, and other staff members.

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<sup>30</sup> ATTP 5-0.1, *supra* note 19, at 2-51.

The G-3 (S-3) has responsibilities for plans and operations. Overall, this officer prepares, coordinates, authenticates, publishes, reviews, and distributes written operation orders and plans. This includes the command [standard operating procedure (SOP)], plans, orders (including fragmentary orders and warning orders), exercises, terrain requirements, and products involving contributions from other staff sections. The G-3 (S-3) provides coordination, integrates reconnaissance and surveillance, and allocates resources.

*Id.*

<sup>31</sup> U.S. DEP'T OF ARMY, CENTER FOR ARMY LESSONS LEARNED PUB. 08-15, BATTLE STAFF NCO HANDBOOK 6 (Mar. 2008) (detailing job description for an operations sergeant major). See also *Job Description for Operations Sergeant*, available at [http://www.ehow.com/list\\_6556166\\_duties-s3-operation-sergeant.html](http://www.ehow.com/list_6556166_duties-s3-operation-sergeant.html) (last visited June 4, 2014).

While not discussed in detail in the text, the Operations Sergeant Major (Ops SGM) is a vital member of the Operations Section. The S3 Operation Sergeant is the senior non-commissioned officer, monitoring and supervising the performance of the enlisted staff. He assists the S3 Operations Officer. He prepares, authenticates and publishes the overall tactical Standard Operating Procedures from regiment through battalion level, and recommends priorities regarding allocation of resources. He monitors the army's surveillance activities and coordinates all aspects of maneuver, such as boundaries, locations of command posts, and areas for putting up quarters. He prepares operational records and reports, and ensures the implementation of administrative policies and procedures. The S3 unit ensures the readiness of the whole command. The S3 Operations Sergeant identifies internal and external training programs. He carries out training programs according to the proposed syllabus and exercises. He conducts training tests, inspections and evaluations, and is responsible for recording and compiling training records and reports. After the implementation of the training programs, he assesses the readiness of the units and reports results to the S3 Operations Officer. The S3 Operations Sergeant Major maintains statistics of the unit's capabilities and performance. He is involved in assigning, attaching and detaching teams and units. He documents the force and makes recommendations regarding organization and equipment. He recommends, establishes and equips unit forces with the proper unit members, and organizes the command unit's records.

*Id.*

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<sup>26</sup> ATTP 5-0.1, *supra* note 19, at 2-28.

Division and higher units are assigned a COS. Brigade and battalions are assigned an XO. They are responsible to coordinate and direct the work of the staff, to include: Establish and monitor the headquarters battle rhythm for effective planning support, decision-making, and other critical functions; Represent the commander when authorized; Formulate and disseminate staff policies; Ensure effective liaison exchanges with higher, lower, and adjacent units and other organizations as required; Supervise the sustainment of the headquarters and activities of the headquarters and headquarters battalion or company; Supervise staff training and integration programs; and In division through Army Service component command headquarters, the COS personally supervises the knowledge management, operations research and system analysis, red team, and special staff sections.

*Id.*

<sup>27</sup> *Id.* at B-2.

<sup>28</sup> Frequently, divisions and higher commands have a deputy commanding general (DCG) assigned who may supervise the planning effort, while the chief of staff (COS) or executive officer (XO) supervises the staff in non-planning related activities. Brigades may also have deputy commanding officers (DCOs) assigned.

<sup>29</sup> GEORGE ORWELL, *ANIMAL FARM* (Secker & Warburg, London, England 1945).

## 1. FUOPS and the Plans Cell (“The Planners”)<sup>32</sup>

There are two sets of planners on a staff: future operations and the plans cell. The plans cell focuses efforts on the long-range planning effort, while the (near) future operations focuses planning for the mid-range planning efforts.<sup>33</sup> While not specifically defined in regulation, these two areas vary based on proximity to the present time and the level of uncertainty (see Figure 2 below).<sup>34</sup> At a brigade, FUOPS and plans will usually be combined into one element.

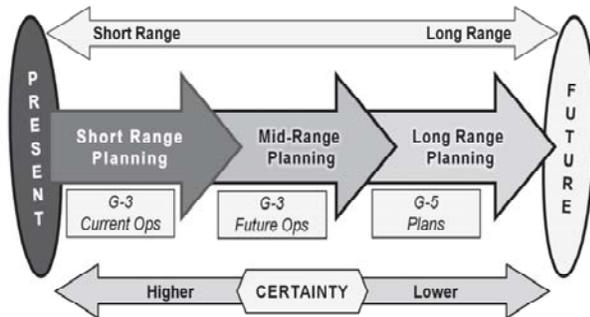


Figure 2. Certainty Diagram

<sup>32</sup> ATTP 5-0.1, *supra* note 18, at 3-41. The future operations (FUOPS) cell is responsible for planning operations in the mid-range planning horizon. It focuses on adjustments to the current operation—including the positioning or maneuvering of forces in depth—that facilitates continuation of the current operation. The cell consists of a core group of planners led by an assistant operations officer (the chief of future operations). All staff sections assist as required. Divisions and higher headquarters have a future operations cell. Battalion and brigade headquarters do not. *See also id.* 3-42, which provides,

In many respects, the future operations cell serves as a fusion cell between the plans and current operations integration cells. The future operations cell monitors current operations and determines implications for operations within the mid-range planning horizon. In coordination with the current operations integration cell, the future operations cell assesses whether the ongoing operation must be modified to achieve the current phase’s objectives. Normally, the commander directs adjustments to the operation, but the cell may also recommend options to the commander. Once the commander decides to adjust the operation, the cell develops the fragmentary order necessary to implement the change. The future operations cell also participates in the targeting working group since the same planning horizons normally concern them both. The future operations cell updates and adds details to the branch plans foreseen in the current operation and prepares any orders necessary to implement a sequel to the operation.

*Id.*

<sup>33</sup> *Id.* fig.3-2 (Defining mid-range as weeks to months in the planning horizon.).

<sup>34</sup> U.S. DEP’T OF ARMY, ARMY TECHNIQUES PUB. (ATP) 4-94, THEATER SUSTAINMENT COMMAND fig.2-2 (28 June 2013).

Working with the S3, FUOPS participates in operational planning through the MDMP. Logically, FUOPS is responsible for summarizing current situation reports (SITREPs)<sup>35</sup> of all units, working task organization, developing operational timeline, completing S3 mission analysis products, and consolidating other staff products for inclusion into the complete mission analysis. They monitor ongoing operations in the event that they impact future planned operations. They also continue to refine existing plans, based on updated information, and brief the commander as needed.

Upon completion and approval of a plan, FUOPs will coordinate with staff sections for ongoing estimates and reviews of products, such as fragmentary orders (FRAGOs) and operations orders (OPORDs),<sup>36</sup> and then conduct a “battle handover” to CUOPS. When the operational plan (OPLAN) enters the execution window, the OPLAN is transferred to the CUOPS, or the Tactical Operations Center (TOC) floor, to apply their execution matrix<sup>37</sup> and monitor the execution of the plan.

## 2. Current Operations Integration Cell and Current Operations Section (COIC and CUOPS)

The Current Operations Section is responsible for ongoing operations within the organization. Current Operations, through the battle captains<sup>38</sup> and assigned noncommissioned officers (NCOs), maintains the operational picture for the command, conducts information

<sup>35</sup> U.S. DEP’T OF ARMY, FIELD MANUAL 6-99, ARMY REPORTS AND MESSAGE FORMATS app. A (Aug. 2013), available at [http://armypubs.army.mil/doctrine/DR\\_pubs/dr\\_a/pdf/fm6\\_99.pdf](http://armypubs.army.mil/doctrine/DR_pubs/dr_a/pdf/fm6_99.pdf) (last visited May 15, 2014) (detailing types of reports including situation reports (SITREPs)).

<sup>36</sup> *See* Appendix A (Plans and Orders) (providing types of orders); *see also* Appendix B (Sample Army OPLAN/OPORD Format).

<sup>37</sup> U.S. DEP’T OF ARMY, ARMY DOCTRINE REFERENCE PUB. 5-0, THE OPERATIONS PROCESS (May 2012) [hereinafter ADRP 5-0].

An *execution matrix* is a visual and sequential representation of the critical tasks and responsible organizations by time. An execution matrix could be for the entire force, such as an air assault execution matrix, or it may be specific to a warfighting function, such as a fire support execution matrix. The current operations integration cell uses the execution matrix to determine which friendly actions to expect forces to execute in the near term or, in conjunction with the decision support matrix, which execution decisions to make.

*Id.* para.4-21.

*See also* U.S. DEP’T OF ARMY, FIELD MANUAL 101-5, STAFF ORGANIZATION AND OPERATIONS, at H-8 (31 May 1997) (stating “An execution matrix depicts when and where specific supporting actions must occur.”).

<sup>38</sup> U.S. DEP’T OF ARMY, FIELD MANUAL 3-21.20, THE INFANTRY BATTALION 9-15 (13 Dec. 2006) (describing duties and responsibilities of battle captains).

sharing with higher headquarters and subordinate units, and tracks execution of plans and orders. In addition, the COIC coordinates with neighboring headquarters to deconflict actions and synchronize efforts to the greatest extent possible.

Typically, the COIC consists of representatives from each of the staff elements. For example, the COIC, or TOC, has representatives from the S1, S2, Fires, etc., in order to support operations. They are also tasked with monitoring incoming orders, FRAGOs, etc., and disseminating the information to the commander and staff.<sup>39</sup>

#### D. Primary, Special, and Personal Staff

The staff of a battalion headquarters, or any higher echelon, consists of different types of staff officers: primary staff officers, also known as coordinating staff officers; special staff officers; and personal staff officers.<sup>40</sup> The role of the staff is to serve as SMEs advising the commander on matters in their particular area or warfighting function. Thus, ATTP 5-0.1 states, “All staff sections, to include personal and special staff, have common responsibilities to provide advice and support to the commander in their area of expertise,”<sup>41</sup> including staff analysis, assessment of operations, etc.

At the battalion or brigade, the primary staff consists of personnel (S1), intelligence (S2), operations (S3), logistics (S4), signal/communications (S6), inform and influence activities (IIA) (S7), and civil affairs (S9). Additionally, higher headquarters have a separate plans section (G5) and Resource Management (RM) (G8), among others. Special staff typically consists of the aviation officer, engineer, provost marshal officer (PMO), and other specialists.

<sup>39</sup> ADP 5-0, *supra* note 17, app. B, at B-4. “As soon as a unit receives a new mission (or when the commander directs), the current operations integration cell alerts the staff of the pending planning requirement.” *Id.* at B-16.

<sup>40</sup> ATTP 5-0.1, *supra* note 19, at 2-5.

<sup>41</sup> *Id.* at 2-30. Each staff section has specific duties and responsibilities by area of expertise.

However, all staff sections share a set of common duties and responsibilities: Advising and informing the commander; Building and maintaining running estimates; Providing recommendations; Preparing plans, orders, and other staff writing; Assessing operations; Managing information within area of expertise; Identifying and analyzing problems; Coordinating staff; Conducting staff assistance visits; Performing composite risk management; Performing intelligence preparation of the battlefield; Conducting staff inspections; Completing staff research; Performing staff administrative procedures; and Exercising staff supervision over their area of expertise.

*Id.*

Personal staff consists of the chaplain, safety officer, and JA, among others.<sup>42</sup> Despite their designation, all of these staff members are expected to use their expertise to support planning efforts.<sup>43</sup>

#### E. Warfighting Functions

In addition to fulfilling the staff functions specified above, the staff also comes together to make up different functional areas, called warfighting functions. A WFF is a “group of tasks and systems (people, organizations, information, and processes) united by a common purpose that commanders use to accomplish missions.”<sup>44</sup> There are six WFFs: (1) intelligence, (2) movement and maneuver, (3) sustainment, (4) fires, (5) protection, and (6) command and control.<sup>45</sup> Each WFF involves different members of the staff, from primary to special staff officers. For example, the sustainment WFF typically involves the personnel, logistics, financial management, engineer and Surgeon, while the protection WFF involves the Engineer (for force protection), the anti-terrorism/force protection officer, the PMO, and others.<sup>46</sup> Regardless of its composition, the WFF is responsible for synchronizing efforts and managing resources within the WFF. While doctrinally distinct, these areas frequently overlap and require varying degrees of legal support.

<sup>42</sup> *Id.* at 2-5 to 2-28 (discussing primary and special staff officers and their responsibilities).

<sup>43</sup> *Id.* para. 2-4, at 2-1.

[E]ach staff section provides control over its area of expertise within the commander’s intent. While commanders make key decisions, they are not the only decisionmakers. Trained, trusted staff members, given decision-making authority based on the commander’s intent, free commanders from routine decisions, enabling commanders to focus on key aspects of the operations. These staff members support and advise the commander by assisting the commander within their area of expertise.

*Id.*

<sup>44</sup> ADP 3-0, *supra* note 16, at 11.

<sup>45</sup> *Id.* at 9.

<sup>46</sup> U.S. DEP’T OF ARMY, ARMY DOCTRINE REFERENCE PUB. 3-0, UNIFIED LAND OPERATIONS ch. 3 (May 2012) (describing the composition of the WFFs).

## 1. Intelligence<sup>47</sup>

The intelligence WFF is tasked with leveraging information to provide situational understanding to the commander, as well as to analyze data and to offer predictions on future enemy courses of action.<sup>48</sup> The goal is to obtain as much information about the tactical situation and the enemy, while also denying the enemy access to information related to friendly forces. The intelligence WFF involves collection, analysis, and counter-intelligence functions, and develops the intelligence preparation of the battlefield (IPB), as discussed in Part IV.B. below.

Intelligence also provides support to force protection (FP).<sup>49</sup> While FP is tasked with developing base defense plans, improving base defenses, and running force protection programs and battle drills, intelligence provides “threat warnings” and analytics to help identify “inside-the-wire threats.”<sup>50</sup> Intelligence also works to identify trends, indicators, and behaviors related to “green-on-blue”<sup>51</sup> incidents to provide the force with warning signs to better protect the force.

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<sup>47</sup> For an introduction to this area, the author recommends reading the following in order: U.S. DEP’T OF ARMY, REG. 381-10, U.S. ARMY INTELLIGENCE ACTIVITIES (3 May 2007); U.S. DEP’T OF ARMY, REG. 381-20, THE ARMY COUNTERINTELLIGENCE PROGRAM (15 Nov. 1993); U.S. DEP’T OF DEF., DIR. 5240.1-R, PROCEDURES GOVERNING THE ACTIVITIES OF DoD INTELLIGENCE COMPONENTS THAT AFFECT US PERSONS (25 Apr. 1988); U.S. DEP’T OF DEFENSE, DIR. (DoDD) 5200.27, ACQUISITION OF INFORMATION CONCERNING PERSONS AND ORGANIZATIONS NOT AFFILIATED WITH THE DEPARTMENT OF DEFENSE (7 Jan. 1980); U.S. DEP’T OF DEFENSE, DIR. (DoDD) 5205.7, SPECIAL ACCESS PROGRAM (SAP) POLICY (1 July 2010); and U.S. DEP’T OF DEFENSE, JOINT PUB. 2-01.3, JOINT INTELLIGENCE PREPARATION OF THE OPERATIONAL ENVIRONMENT (16 June 2009). See also UNITED STATES ARMY OFFICE OF THE JUDGE ADVOCATE GEN., THE JUDGE ADVOCATE GEN.’S LEGAL CENTER AND SCH. (TJAGLCS), INTELLIGENCE LAW COURSE INFORMATION, available at <https://www.jagcnet2.army.mil/8525736A005BC8F9/0/84843E08984787C18525735500653845?opendocument&noly=1> (last visited May 15, 2014).

<sup>48</sup> AR 381-10, *supra* note 47, at 3.

<sup>49</sup> *Id.*

<sup>50</sup> See *id.*; AR 381-20, *supra* note 47.

<sup>51</sup> See generally U.S. DEP’T OF ARMY REG. 381-12 THREAT AWARENESS AND REPORTING PROGRAM (4 Oct. 2012); *Insider Threats in Partnering Environments: A Guide for Military Leaders*, GA 90-01-031 (FOUO), Center for Army Lessons Learned (CALL)(June 2011), available at <https://call2.army.mil/toc.aspx?document=6744>

## 2. Movement and Maneuver<sup>52</sup>

The movement and maneuver WFF has distinct responsibilities, based on force projection, depending on the phase of the operation. Prior to the operation, the movement WFF is responsible for the mobilization and deployment of a combat-capable force.<sup>53</sup> This includes identifying training and deployment requirements, scheduling movement of personnel, and conducting reception, staging, onward movement, and integration (RSOI)<sup>54</sup> operations.

During operations, movement WFF is responsible for employment of forces. This involves movement and maneuver, terrain access and denial operations, terrain occupation, and employment of direct fires.<sup>55</sup> This WFF is directly tasked with employing forces to take and hold territory while denying the enemy freedom of movement.<sup>56</sup>

Following completion of the mission, the movement and maneuver WFF has the task of redeploying the force to home station.<sup>57</sup> In addition to redeployment, the movement and maneuver WFF is responsible for the management of the Army Force Generation (ARFORGEN) cycle within the unit. The ARFORGEN cycle focuses on resetting and training the unit to prescribed standards so that it may return to a ready and available status for future operations.<sup>58</sup>

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<sup>52</sup> For an introduction to this area, the author recommends reading the following in order, ADP 3-0, *supra* note 16; ADP 5-0, *supra* note 17; U.S. DEP’T OF ARMY, FIELD MANUAL 3-93, THEATER ARMY OPERATIONS (15 July 2010) [hereinafter FM-3-93]; and U.S. ARMY TRAINING AND DOCTRINE COMMAND (TRADOC), TRADOC PAM. 525-3-6, THE UNITED STATES ARMY FUNCTIONAL CONCEPT FOR MOVEMENT AND MANEUVER (13 Oct. 2010) [hereinafter TRADOC PAM. 525-3-6], available at <http://www.tradoc.army.mil/tpubs/pams/tp525-3-6.pdf>.

<sup>53</sup> See ADP 3-0, *supra* note 16.

<sup>54</sup> U.S. DEP’T OF DEF., JOINT PUB. 3-35, DEPLOYMENT AND REDEPLOYMENT OPERATIONS, at VI-6 (31 Jan. 2013) [hereinafter JP 3-35], available at [http://www.dtic.mil/doctrine/new\\_pubs/jp3\\_35.pdf](http://www.dtic.mil/doctrine/new_pubs/jp3_35.pdf) (detailing Reception, Staging, Onward Movement, and Integration (RSOI)).

<sup>55</sup> FM 3-93, *supra* note 52.

<sup>56</sup> TRADOC PAM. 525-3-6, *supra* note 52.

<sup>57</sup> JP 3-35, *supra* note 54, at VI-6.

<sup>58</sup> U.S. DEP’T OF ARMY, REG. 525-29, ARMY FORCE GENERATION (ARFORGEN) para. 1-17 (14 Mar. 2011).

The ARFORGEN process is the structured progression of unit readiness over time to produce trained, ready, and cohesive units prepared for operational deployment in support of (ISO) the combatant commander (CCDR) and other Army requirements. The ARFORGEN process is the Army’s core process for force generation, executed with supporting-to-supported relationships, that cycles units through three force pools: RESET, Train/Ready, and Available. Each of the three force pools contains a balanced force capability to provide a sustained flow of forces for current commitments and to hedge against unexpected contingencies. ARFORGEN establishes the basis to plan and execute Army-wide unit resourcing. As a model,

### 3. Sustainment<sup>59</sup>

The Sustainment WFF incorporates the Combat Service Support responsibility to “feed, fuel, and arm” the force.<sup>60</sup> It extends the capability of the combat force and provides systems to resupply the force with supplies and personnel. It also supports the health of the force, including the mental, medical, and spiritual health of personnel.<sup>61</sup> Sustainment activities include logistics, resource management, the Commanders’ Emergency Response Program (CERP), religious support, personnel matters, and health support.<sup>62</sup>

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ARFORGEN supports the Army’s planning, programming, budgeting, and execution (PPBE) process. As a process, it synchronizes the Army’s efforts to provide land forces and other capabilities required by our Nation.

*Id.* See also *id.* para. 1-7, at 1 (“The Army is transforming its units into modular theater armies and theater subordinate commands, corps and division headquarters, brigade combat teams (BCTs), and multifunctional and functional support brigades (BDEs) based on standardized organizational designs for the Active Army (AA) and Reserve Component (RC).”). *Id.* The ARFORGEN cycle typically involves reset, train and ready periods. For active army units, the reset period is six months while the train and ready is twenty-four months, followed by a twelve-month period of availability, i.e., available to deploy or be tasked. For reserve army units, the reset period is twelve months while the train and ready is thirty-six months, followed by a twelve-month period of availability, i.e., available to deploy or be tasked. See *id.* fig.1-2, at 7. The reset period consists of manning units, fielding new equipment, conducting individual and institutional training, and reintegrating Soldiers. The train and ready period consists of continuing to man units and field equipment, conducting collective unit training, and participating in a Mission Rehearsal Exercise (MRE) at a Combined Training Center, such as the National Training Center, Fort Irwin, or the Joint Military Readiness Center, Fort Polk. The available period consists of actions to prepare to deploy or actual deployment of units if ordered. See *id.*

<sup>59</sup> For an introduction to this area, the author recommends reading the following: U.S. DEP’T OF ARMY, FIELD MANUAL 1-04, LEGAL SUPPORT TO THE OPERATIONAL ARMY 4-2 (Mar. 2013) [hereinafter FM 1-04]; U.S. DEP’T OF ARMY, ARMY DOCTRINE REFERENCE PUB. 4-0, SUSTAINMENT (July 2012) [hereinafter ADP 4-0]; U.S. DEP’T OF ARMY, ARMY TACTICS, TECHNIQUES AND PROCEDURES (ATTP) 4-0.1. ARMY THEATER DISTRIBUTION (20 May 2011); U.S. DEP’T OF ARMY, FIELD MANUAL 1-01, GENERATING FORCE SUPPORT FOR OPERATIONS (2 Apr. 2008); U.S. DEP’T OF ARMY, FIELD MANUAL 1-05, RELIGIOUS SUPPORT (18 Apr. 2003); U.S. DEP’T OF ARMY, FIELD MANUAL 3-04.111 AVIATION BRIGADES (7 Dec. 2007); U.S. DEP’T OF ARMY, FIELD MANUAL 3-05, ARMY SPECIAL OPERATIONS FORCES (1 Dec. 2010); U.S. DEP’T OF ARMY, FIELD MANUAL 3-28, CIVIL SUPPORT OPERATIONS (20 Aug. 2010); U.S. DEP’T OF ARMY, FIELD MANUAL 3-34, ENGINEER OPERATIONS (4 Aug. 2011); U.S. DEP’T OF ARMY, FIELD MANUAL 3-35, ARMY DEPLOYMENT AND REDEPLOYMENT (21 Apr. 2010); U.S. DEP’T OF ARMY, FIELD MANUAL 3-93, THEATER ARMY OPERATIONS (12 Oct. 2011); U.S. DEP’T OF ARMY, FIELD MANUAL 4-90, BRIGADE SUPPORT BATTALION (31 Aug. 2010); U.S. DEP’T OF ARMY, FIELD MANUAL 4-92, CONTRACTING SUPPORT BRIGADE (12 Feb. 2010); U.S. DEP’T OF ARMY, FIELD MANUAL 4-94, THEATER SUSTAINMENT COMMAND (12 Feb. 2010); and U.S. DEP’T OF ARMY, ARMY TECHNIQUES PUBLICATION (ATP) 4-93.2, SUSTAINMENT BRIGADE (Aug. 2013) [hereinafter ATP 4-93.2], available at <http://armypubs.army.mil/doctrine>.

<sup>60</sup> ADP 4-0, *supra* note 59, at 4.

<sup>61</sup> See generally ADP 4-0, *supra* note 59.

<sup>62</sup> See *id.*

At a Combat Arms brigade, such as a Stryker Brigade Combat Team, the majority of the sustainment functions are handled by the Brigade Support Battalion (BSB), while the planning efforts related to the operational mission will be handled at both the brigade and BSB.<sup>63</sup> Legal planners should engage the sustainment planners, such as the BDE S4, early in the process and attend their logistics synchronization meetings, if possible.

### 4. Fires<sup>64</sup>

The Fires WFF involves the employment of lethal and non-lethal effects against approved targets. The Fires WFF is “the related task and systems that provide collective and coordinated use of Army indirect fires, air and missile defense, and joint fires through the targeting process.”<sup>65</sup> Joint Publication 3-09, Fires, states, “Fires are the use of weapons systems to create a specific lethal or nonlethal effect on a target,”<sup>66</sup> while “[j]oint fires are fires delivered during the employment of forces from two or more components in coordinated action to produce desired effects in support of a common objective.”<sup>67</sup>

Lethal fires, such as mortars, rockets, and artillery, are employed against authorized enemy targets to destroy enemy personnel, equipment or infrastructure or to conduct shaping operations in support of the movement and maneuver WFF. By contrast, nonlethal fires or effects can include targeting of combatant and non-combatants. Non-lethal effects involve the use of a variety of means, including information operations, electronic warfare, and psychological operations, against identified targets. For example, information operations could target the local population with efforts and messages directed at building confidence in their government or at encouraging the local population to turn from the enemy or vote in an election, for example.

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<sup>63</sup> See U.S. DEP’T OF ARMY, FIELD MANUAL 4-90, BRIGADE SUPPORT BATTALION 40 (31 Aug. 2010). See also ATP 4-93.2, *supra* note 59, at 32.

<sup>64</sup> For an introduction to this area, the author recommends reading the following: U.S. DEP’T OF ARMY, FIELD MANUAL 27-10, THE LAW OF LAND WARFARE (July 1956); U.S. DEP’T OF ARMY, ARMY DOCTRINE PUB. 3-09, FIRES (Aug. 2012 ) [hereinafter ADP 3-09]; U.S. ARMY TRAINING AND DOCTRINE COMMAND (TRADOC), TRADOC PAM. 525-73, CONCEPT FOR NON-LETHAL CAPABILITIES IN ARMY OPERATIONS (1 Dec. 1996); U.S. DEP’T OF ARMY, FIELD MANUAL 6-20-10, TACTICS, TECHNIQUES, AND PROCEDURES FOR THE TARGETING PROCESS (8 May 1996); U.S. DEP’T OF ARMY, FIELD MANUAL 3-05.40, CIVIL AFFAIRS OPERATIONS (29 Sept. 2006); U.S. DEP’T OF ARMY, FIELD MANUAL 3-05.401, CIVIL AFFAIRS TACTICS, TECHNIQUES, AND PROCEDURES (5 July 2007); and U.S. DEP’T OF ARMY, FIELD MANUAL 3-13, INFORM AND INFLUENCE ACTIVITIES (25 Jan. 2013) [hereinafter FM 3-13], available at <http://armypubs.army.mil/doctrine>.

<sup>65</sup> ADP 3-0, *supra* note 16, at 1.

<sup>66</sup> U.S. DEP’T OF DEF., JOINT PUB. 3-09, JOINT FIRE SUPPORT, at I-1 (30 June 2010), available at [http://www.dtic.mil/doctrine/new\\_pubs/jp3\\_09.pdf](http://www.dtic.mil/doctrine/new_pubs/jp3_09.pdf) (last visited June 4, 2014).

<sup>67</sup> *Id.* at I-2.

## 5. Protection<sup>68</sup>

The protection WFF focuses on protecting the combat force from enemy actions and to mitigate risks to U.S. personnel.<sup>69</sup> “Protection determines the degree to which potential threats can disrupt operations and counters or mitigates those threats. Emphasis on protection increases during preparation and continues throughout execution. Protection is a continuing activity; it integrates all protection capabilities to safeguard bases, secure routes, and protect forces.”<sup>70</sup>

Frequently, the protection WFF is consolidated into a protection cell led by the PMO and the engineer. The protection cell “is generally responsible for integrating or coordinating the tasks and systems that fall under the protection warfighting function. Protection cells help craft protection strategies that are reflected in the concept of protection included in the base order and appropriate annexes and appendixes.”<sup>71</sup> The protection WFF includes engineer activities, anti-terrorism and force protection, personnel recovery, operations security (OPSEC), and chemical, biological, radiological, and nuclear (CBRN) activities.<sup>72</sup>

## 6. Command and Control/Mission Command<sup>73</sup>

While a specified WFF, mission command is a function that unifies and synchronizes the other WFF. “Through command and control, commanders integrate all warfighting functions to accomplish the mission.”<sup>74</sup> Mission command is the exercise of authority and direction by the commander

using mission orders to enable disciplined initiative within the commander’s intent to empower agile and adaptive leaders in the conduct of unified land operations.<sup>75</sup> Mission command involves the processes and system to execute operations and to control the force. Army Doctrine Reference Publication 6-0, states that mission command involves “tasks and systems that support commanders in exercising authority and direction.”<sup>76</sup> The Mission Command WFF incorporates the commander’s use of the operations process, communication and information management systems, inform and influence activities (IIA), and other activities, tasks, and systems that allow for “directing and leading subordinates”<sup>77</sup> and the employment and control of a military unit.<sup>78</sup>

All of these areas require legal support in different ways.<sup>79</sup> For example, the Fires WFF focuses on the employment of lethal and non-lethal effects and targeting. For the legal planner, this will require knowledge of the Rules of Engagement, Targeting, Collateral Damage Assessments (CDA)<sup>80</sup> and Estimates (CDE),<sup>81</sup> and IIA.<sup>82</sup> The Sustainment WFF focuses on sustaining a force capable of performing the assigned mission, including personnel support, logistics, medical, and legal support. For the legal planner, this involves conducting an analysis on how to provide legal support to the command throughout the area of operations. Ultimately, the legal planner has to provide support across WFF; but in order to do that, JAs must understand operational design, planning, and mission analysis.

<sup>68</sup> For an introduction to this area, the author recommends reading the following: U.S. DEP’T OF ARMY, ARMY DOCTRINE REFERENCE PUB. 3-37, PROTECTION (31 Aug. 2012) and U.S. DEP’T OF ARMY, ARMY TECHNIQUES PUB. 5-19, RISK MANAGEMENT (22 Apr. 2014), available at <http://armypubs.army.mil/doctrine>.

<sup>69</sup> U.S. DEP’T OF ARMY, FIELD MANUAL 3-37, PROTECTION 1-1 (30 Sept. 2009), available at <http://www.fas.org/irp/doddir/army/fm3-37.pdf> (last visited June 4, 2014).

<sup>70</sup> *Id.* para. 5-1.

<sup>71</sup> *Id.* para. 5-2.

<sup>72</sup> *See id.*

<sup>73</sup> For an introduction to this area, the author recommends reading the following in order: U.S. DEP’T OF ARMY, ARMY DOCTRINE REFERENCE PUB. 6-0, MISSION COMMAND (28 Mar. 2014) [hereinafter ADRP 6-0]; U.S. DEP’T OF ARMY, FIELD MANUAL 6-0, MISSION COMMAND: COMMAND AND CONTROL OF ARMY FORCES (11 Aug. 2003) (superceded by U.S. DEP’T OF ARMY DOCTRINE PUB. 6-0, MISSION COMMAND (May 2012) [hereinafter ADP 6-0]; U.S. DEP’T OF ARMY, REG. (AR) 600-20, ARMY COMMAND POLICY (18 Mar. 2008); U.S. DEP’T OF DEF., JOINT PUB. 1, DOCTRINE FOR THE ARMED FORCES OF THE UNITED STATES (2 May 2007) [hereinafter JP-1] (incorporating C1, 20 Mar. 2009); U.S. DEP’T OF DEF., JOINT PUB. 3-0, JOINT OPERATIONS (11 Aug. 2011); and ATTP 5-0.1, *supra* note 19. These publications are, available at <http://armypubs.army.mil/doctrine>.

<sup>74</sup> ADP 3-0, *supra* note 16, at 3. *See also Mission Command WFF*, Ctr. for Army Lessons Learned (CALL), available at <http://usacac.army.mil/cac2/call/thesaurus/toc.asp?id=33287>.

<sup>75</sup> *Mission Command*, *supra* note 74, at 1.

<sup>76</sup> ADRP 6-0, *supra* note 73, at 1-2.

<sup>77</sup> *Id.*

<sup>78</sup> *Mission Command*, *supra* note 74, at iv. The Mission Command System involves (1) personnel, (2) facilities and equipment, (3) networks, (4) information systems, and (5) processes and procedures. *See also id.* at 8 (“Although staffs perform many tasks, they use knowledge and information management practices to provide commanders the information they need to create and maintain their understanding and make effective decisions.”) In order to meet these requirements, staff members must understand the systems that the command uses to communicate, such as Command Post of the Future (CPOF), transverse, BFT, etc. *Id.*

<sup>79</sup> *See infra* Part VI (discussing the legal support provided to each WFF).

<sup>80</sup> ADP 3-09, *supra* note 64, at 15.

<sup>81</sup> *Id.*

<sup>82</sup> *See* Part III.A.

#### IV. Campaign Design

Operational design consists of command and staff efforts to develop and implement actions, strategies and provide instructions to subordinate units to meet strategic and operational objectives.<sup>83</sup> Design is a “bridge between the strategic end-state and the execution of tactical tasks.”<sup>84</sup> Specifically, operational design consists of (1) the specific goals (strategic, operational and tactical), (2) the desired end-state, and (3) an operational concept to meet these goals.<sup>85</sup> It involves problem framing, formulating the design, and then refining the design as situations change.<sup>86</sup> For example, an operational design could consist of a desired end-state, such as a stable, secure Afghanistan; specific strategic goals, such as a legitimate government, capable security forces, etc., and operational goals, such as decimation of enemy forces in the area and an increase in the operational capability of security forces in a particular province.

##### A. Problem Framing<sup>87</sup>

The first step in operational design is framing the problem. It involves an assessment of the operational area, the anticipated mission and timeline, and the overall purpose of the operation. Utilizing the campaign plan or design of a higher headquarters, the unit should determine the objectives that must be achieved and the effects needed to advance the plan within their operating area, as well as to synchronize, or “nest,” their efforts within the larger plan.<sup>88</sup>

In conducting an assessment of the operational area, a commander focuses on the geographical data, historical trends and analysis, mission variables, commonly called METT-TC,<sup>89</sup> enemy information (critical capabilities,

critical requirements, critical vulnerabilities, and centers of gravity),<sup>90</sup> as well as the human and societal facts that might impact the operation. Planners review the operational and mission variables, as well as civil considerations, involving human and societal factors. These areas are analyzed by looking at political, military, economic, social, information, infrastructure, physical environment and time (PMESII-PT) (pronounced pem-e-SEE) (which applies to operational variables), METT-TC (which applies to mission variables, including mission, enemy, terrain, and troops available) and ASCOPE (defined as areas, structures, capabilities, organizations, people, and events and pronounced A scope),<sup>91</sup> which involves the political, military, economic and other societal and infrastructure factors, known as civil considerations.<sup>92</sup>

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(discussing mission variables). Mission variables include: mission, enemy, terrain and weather, troops and support available, time available, and civil considerations, commonly called mission, enemy, terrain, and troops available (METT-TC). *Id.*

When commanders and staff receive a specific mission, or identify a particular problem, they can draw relevant information from their ongoing analysis of their OE (using operational variables) to further complement their analysis of mission variables. Use of the mission variables, combined with the knowledge of the operational variables, enables leaders to understand the threat, act effectively, and anticipate the consequences of their operations before and during mission execution.

*Id.*

<sup>90</sup> *Id.* at 1-3 n.75 (describing centers of gravity). See also ADP 3-0, *supra* note 16 (stating that COG is “the set of characteristics, capabilities, and sources of power from which a system derives its moral or physical strength, freedom of action, and will to act.”) Note this description does not only apply to an adversary, but rather any system, such as an economic or political system. *Id.* See also Colonel Dale C. Eikmeier, *A Logical Method for Center-of-Gravity Analysis*, MIL. REV., Sept.–Oct. 2007, available at [http://challenge2050.files.wordpress.com/2013/08/ends-ways-means\\_-militaryreview\\_20071031\\_art009.pdf](http://challenge2050.files.wordpress.com/2013/08/ends-ways-means_-militaryreview_20071031_art009.pdf) (last visited May 15, 2014) (describing center of gravity analysis in operational planning). See also Richard G. Pierce & Robert C. Coon, *Understanding the Link Between Centers of Gravity and Mission Accomplishment*, MIL. REV., June–Aug. 2011, available at <http://www.carlisle.army.mil/usawc/dmspo/Publications/Center%20of%20Gravity%20Article.pdf> (last visited May 15, 2014) (describing center of gravity and articulating need to review approaches to mission accomplishment by attacking enemy centers of gravity).

<sup>91</sup> FMI 3-42.1, *supra* note 89, at 1-3 (defining PMESII-PT as Political, Military, Economic, Social, Infrastructure, and Information-Physical Environment and Time) and *id.* at 1-8 (defining Ascope as Areas, Structures, Capabilities, Organizations, People, and Events). *Id.* at 1-3 PMESII-PT is used to understand the “operational environment,” in which operations will take place. *Id.* Field Manual Instruction 3-42.1 also states that “During intelligence preparation of the battlefield (IPB), the commander and staff analyze civil considerations from several perspectives—the population, the insurgents, and the counterinsurgents—to determine the effects on friendly and enemy courses of action.” *Id.* at 1-8. See also *The Targeting Process: D3A and F3EAD*, SMALL WARS J. (July 16, 2011), available at <http://smallwarsjournal.com/blog/journal/docs-temp/816-gomez.pdf> (defining targeting considerations).

<sup>92</sup> FMI 3-42.1, *supra* note 89.

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<sup>83</sup> ADP 5-0, *supra* note 17, paras. 2-46 to 2-48 (discussing the Design and the Military Decision Making Process Interface). See also U.S. DEP’T OF THE ARMY, OPERATIONAL LAW HANDBOOK (2013) [hereinafter OPLAW HANDBOOK].

<sup>84</sup> See ADP 3-0, *supra* note 16, at 9. See also *id.* at 9-10 (stating “Operational art—the creative expression of informed vision to integrate ends, ways, and means across the levels of war—is fundamental to the Army’s ability to seize, retain, and exploit the initiative while concurrently creating and preserving the conditions necessary to restore stability.”). *Id.*

<sup>85</sup> See *id.*

<sup>86</sup> T.C. Greenwood, *War Planning for Wicked Problems, Where Joint Doctrine Fails*, ARMED FORCES J. (Dec. 2009), available at <http://www.armedforcesjournal.com/?s=com/?s=Greenwood> (last visited Aug. 28, 2014).

<sup>87</sup> U.S. DEP’T OF ARMY, ARMY TACTICS, TECHNIQUES AND PROCEDURES (ATTP) 5-0, OPERATIONS 24 (15 Mar. 2010) (“It identifies what the command must accomplish, when and where it must be done and, most importantly, why—the purpose of the operation.”).

<sup>88</sup> ATTP 5-0.1, *supra* note 19, at 4-4 to 4-6.

<sup>89</sup> U.S. DEP’T OF ARMY, FIELD MANUAL INSTR. (FMI) 3-42.1, TACTICS IN COUNTERINSURGENCY 1-6 (12 Mar. 2009) [hereinafter FMI 3-42.1]

During problem framing, all staff officers are expected to contribute to the assessment. Staff members review higher headquarters' orders and design and contribute relevant information from their WFF. Judge advocates can expect to contribute information on legal authorities in the area of operations (AOR), the rules of engagement, targeting information, as well as information in areas of PMESII, including political structures, legal entities, and legal systems that might assist the commander in developing an operational approach to meet mission requirements.

## B. Formulating the Design

Once the initial assessment has been conducted, the commander gives guidance on the operational approach to be taken.<sup>93</sup> The operational approach varies depending on the mission. For counterinsurgency (COIN) missions, the operational approach could focus on displacing insurgents and marginalizing their effect on the local populace. For direct combat operations, the operational approach would be to close with and destroy the enemy through direct engagement of an enemy force, destruction of enemy capabilities, and securing territory.

Finally, the design develops lines of operation (LOOs) and lines of effort (LOEs) that serve as a basis for tactical plans, thereby "putting troops to task" to meet the commander's intent towards particular centers of gravity.<sup>94</sup> For example, if a center of gravity is the populace, the operational approach could be to directly engage the populace, with IIA efforts,<sup>95</sup> community "outreach" and key

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<sup>93</sup> ADRP 5-0, *supra* note 37, at 1-4.

<sup>94</sup> ADP 3-0, *supra* note 16, at 6-72. It states:

Commanders use both lines of operations and lines of effort to connect objectives to a central, unifying purpose. Lines of operations portray the more traditional links between objectives, decisive points, and centers of gravity. However, lines of operations do not project the operational design beyond defeating enemy forces and seizing terrain. Combining lines of operations and lines of effort allows commanders to include nonmilitary activities in their operational design. This combination helps commanders incorporate stability tasks that set the end-state conditions into the operation. It allows commanders to consider the less tangible aspects of the operational environment where the other instruments of national power dominate. Commanders can then visualize concurrent and post-conflict stability activities. Making these connections relates the tasks and purposes of the elements of full spectrum operations with joint effects identified in the campaign plan. The resulting operational design effectively combines full spectrum operations throughout the campaign or major operation.

*Id.*

<sup>95</sup> *See id.*

leader engagements (KLEs),<sup>96</sup> while simultaneously targeting insurgents and undermining their support mechanisms, such as community and financial support. For the JA practicing rule of law, it may focus on creating and bolstering institutional legal systems to eliminate "shadow courts."<sup>97</sup>

## C. Lines of Effort<sup>98</sup>

Lines of effort are derived from a commander's desired end-state, or those specified in the orders of a higher headquarters. Working backwards from the desired end-state, planners attempt to develop strategic lines that will achieve the end-state. Once the strategic lines are created, planners break down these lines into objectives, or milestones, which should be obtained en route to the end-

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<sup>96</sup> *Id.*

<sup>97</sup> *See generally* U.S. ARMY OFFICE OF THE JUDGE ADVOCATE GEN., RULE OF LAW HANDBOOK: A PRACTITIONER'S GUIDE FOR JUDGE ADVOCATES (2011). *See also* Stephanie Nijssen, *The Taliban's Shadow Government in Afghanistan* (Sept. 2011), available at [https://www.cimicweb.org/Documents/CFC%20AFG%20Governance%20Archive/CFC\\_AFG\\_Shadow\\_Governance\\_September11.pdf](https://www.cimicweb.org/Documents/CFC%20AFG%20Governance%20Archive/CFC_AFG_Shadow_Governance_September11.pdf) (last visited June 20, 2014). Shadow courts are quasi-judicial courts run by the Taliban. It states

The Taliban has offered an alternative to GIROA's justice system, which the . . . is often viewed with mistrust. The Taliban drafted a new Constitution of the Islamic Emirate of Afghanistan in December 2006 and also makes use of mobile courts. The mobile courts appoint an individual, frequently a religious leader, to serve as the judge. This judge makes decisions on criminal matters after which the Taliban will offer assistance in implementing any sentence which is determined."

*Id.*

<sup>98</sup> CENTER FOR ARMY LESSONS LEARNED, available at <http://usacac.army.mil/cac2/call/thesaurus/toc.asp?id=33845>.

Lines of effort has replaced "logical lines of operations." A line of effort links multiple tasks and missions using the logic of purpose and "cause and effect" to focus efforts toward establishing operational and strategic conditions. Lines of effort are essential to operational design when positional references to an enemy or adversary have little relevance. In operations involving many nonmilitary factors, lines of effort may be the only way to link tasks, effects, conditions, and the desired end-state. Lines of effort are often essential to helping commanders visualize how military capabilities can support the other instruments of national power. Commanders use lines of effort to describe how they envision their operations creating the more intangible end-state conditions. These lines of effort show how individual actions relate to each other and to achieving the end-state. Ideally, lines of effort combine the complementary, long-term effects of stability or civil support tasks with the cyclic, short-term events typical of offensive or defensive tasks.

*Id.*

state, i.e., in furtherance of the LOEs.<sup>99</sup> Commanders use these objectives to plan actions, through the planning process, that meet the stated objectives.

For example, in Figure 3, below, planners may determine that governance is a LOE in a greater COIN<sup>100</sup> campaign. The lead action officer for governance will frequently be the Non-Lethal Effects Chief,<sup>101</sup> with the JA, PMO, Department of State (DOS) representative, etc., in support.<sup>102</sup> These planners would then evaluate the elements of adequate governance and how to best create or improve

<sup>99</sup> *Id.*

<sup>100</sup> FM 3-42.1, *supra* note 89.

<sup>101</sup> ATP 5-0.1, *supra* note 19, at 2-11. The Non-Lethal Effects Chief, usually the S5 or S7, is the lead for non-lethal targeting, including using Inform and Influence Activities (IIA), PSYOPs, Military Deception, Civil Affairs, etc. *Id.* Paragraph 2-12 states:

G-5 (S-5) is the principal staff officer for all matters concerning civil-military operations (CMO). The G-5 (S-5) establishes the civil-military operations center, evaluates civil considerations during mission analysis (identifying the civil centers of gravity), and prepares the groundwork for transitioning the AO from military to civilian control. The G-5 (S-5) advises the commander on the military's effect on civilians in the AO, relative to the complex relationship of these people with the terrain and institutions over time. The G-5 (S-5) is responsible for enhancing the relationship between Army forces and the civil authorities and people in the AO. The G-5 (S-5) is required at all echelons from battalion through corps, but authorized only at division and corps. Once deployed, units below division level may be authorized an S-5.

*Id.* See also *id.* at 2-13 (describing the duties of the S7).

The ACOS, G-7 (S-7) is the principal staff officer for all matters concerning information operations, including current operations, plans, and IO-related targeting. . . . Synchronizing and coordinating offensive and defensive IO with the overall operation; Assessing the effects of offensive and defensive IO throughout the operations process; recommending IO adjustments as required; Coordinating and synchronizing tactical IO with theater-strategic and operational-level IO; Coordinating IO elements and related activities for the COS (XO); Integrating intelligence from the G-2 (S-2) into IO; Coordinating the attachment of the 1st IOC(L) Field Support Team and other specialized IO teams; Monitoring execution of IO tasks to ensure delivery of massed information effects when needed. G-7 (S-7) responsibilities related to targeting include: Participating in targeting meetings and [R]ecommending IO effects to influence adversary perceptions, decisions, and actions. The G-7 (S-7) has the following staff planning and supervisory responsibilities: Establishing and supervising an IO cell; Coordinating IO with other agencies (such as the US Information Agency, US Agency for International Development, and US ambassador.

*Id.*

<sup>102</sup> *Id.*

these elements. Once the overall elements of governance have been determined, planners would then dissect the LOE into smaller objectives that would further the LOE. For governance, the objectives could be (1) establishing a district center, (2) holding successful elections, (3) having town meetings or shuras, etc. The objectives, based on the LOE elements, can be numerous; in addition, they can be narrow or broad depending on the intent of the commander. The commander could directly task subordinate units to carry out specific actions or could provide his command intent and the overall LOE, thus empowering his subordinate commanders to determine the actions necessary to meet that intent. See the example below:<sup>103</sup>

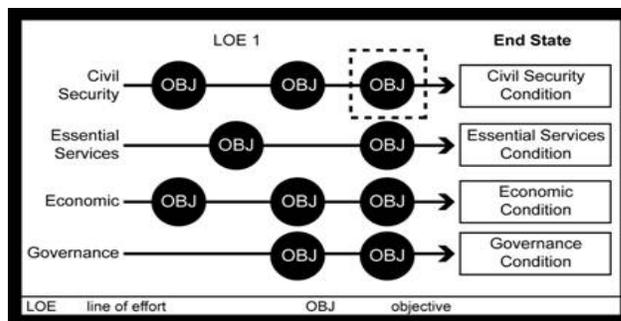


Figure 3. Sample Modified Box Method Using Lines of Effort

#### D. Lines of Operation

Lines of operation are the tactical-level actions that support the LOEs; LOOs involve aligning available forces and synchronizing their efforts to advance objectives along specified LOEs.<sup>104</sup> Lines of operation are nested with the LOEs to advance command objectives.<sup>105</sup> For example, if a LOE is to protect the populace, then the LOOs could involve orders to subordinate units to develop plans to attack enemy strongholds, displace insurgents, establish checkpoints, conduct joint patrols with host nation forces, etc. For planners, LOOs are the foundation for specific plans to achieve LOEs.

<sup>103</sup> *Id.*

<sup>104</sup> ADRP 5-0, *supra* note 37, at 5-10.

<sup>105</sup> *Id.*

E. Measures of Effectiveness and Measures of Performance

Once the LOEs and LOOs have been determined, the staff element responsible for the particular LOE will create measures of effectiveness (MOEs) and measures of performance (MOPs).<sup>106</sup> These are assessment tools to evaluate proposed concept of operations (CONOPs)<sup>107</sup> relative to the LOEs. Once plans are developed and executed, MOEs will help to determine whether objectives have been performed as instructed, and whether the successful achievement of the objective has been effective in advancing the LOE.<sup>108</sup> These MOEs can exist at various levels, from strategic to tactical, to inform the appropriate commander of the progress toward a particular LOE. Figure 4 is a sample of measures of effectiveness:

Measures of Effectiveness: The Need to Measure Progress		
Strategic Level Criteria	Operational Level Criteria	Tactical Level Criteria
Accountable to the American people for defining and measuring progress towards defeating terrorism and meeting national security goals. Examples: <ul style="list-style-type: none"> <li>Prevention of the insurgency from receiving aid or resources from other international groups.</li> <li>A functioning national government.</li> <li>Amount of international support and aid to reconstruction.</li> <li>Number of nations contributing manpower to coalition forces.</li> </ul>	Accountable to the strategic level for measuring operational success and providing linkage to strategic goals. Examples: <ul style="list-style-type: none"> <li>Host-nation security forces trained and equipped.</li> <li>Denial of the merging of insurgent forces with terrorist groups.</li> <li>Amount and distribution of— <ul style="list-style-type: none"> <li>Electricity.</li> <li>Liquid propane gas.</li> <li>Gasoline.</li> <li>Functioning provincial governments.</li> </ul> </li> </ul>	Responsible to the operational level for measuring tactical success and providing linkage to operational goals. Examples: <ul style="list-style-type: none"> <li>Number of insurgent forces in the AO neutralized.</li> <li>Reduced attacks on coalition forces in the AO.</li> <li>Reduced civilian-on-civilian violence in the AO.</li> <li>Host-nation security force recruitment goals met.</li> <li>Host-nation security force training goals met.</li> <li>Number of reliable human intelligence walk-ins.</li> <li>Amount of unexploded explosive ordnance cleared.</li> <li>Functioning neighborhood and district advisory councils.</li> </ul>

Figure 4. Sample Measures of Effectiveness

<sup>106</sup> *Id.*

<sup>107</sup> See Appendix A.

<sup>108</sup> ADRP 5-0, *supra* note 37, at 5-10.

A *measure of effectiveness* is a criterion used to assess changes in system behavior, capability, or operational environment that is tied to measuring the attainment of an end-state, achievement of an objective, or creation of an effect (JP 3-0). MOEs help measure changes in conditions, both positive and negative. MOEs help to answer the question "Are we doing the right things?" MOEs are commonly found and tracked in formal assessment plans.

*Id.* Thus, MOPs are used to determine how well a task has been completed, while MOEs are measures of the effect of that task, or other tasks, on the desired end-state. *Id.*

Upon establishment of LOOs, MOEs, and MOPs, the campaign design is ready to serve as a foundation for actual operational planning efforts using the MDMP.

V. Operational Planning using the Military Decision Making Process

Once a command has received the campaign design, operational-level planners will develop plans to meet the objectives of the design. These plans can be short-range or longer-range operations depending on the complexity of the overall operation. In order to facilitate planning, multi-echelon, concurrent or otherwise, the Army follows a standardized process, known as the military decision making process,<sup>109</sup> which provides a step-by-step process for conducting staff planning.

Since 1972, MDMP has provided an established framework, and "common language," for planning that allows staff efforts to be synchronized between echelons of command and across WFF. The MDMP consists of seven steps: (1) receipt of mission, (2) mission analysis, (3) course of action (COA) development, commonly called COA DEV, (4) COA analysis/war gaming, (5) COA comparison, (6) COA approval, and (7) Orders production. The figure below details the steps of MDMP, key inputs, and the key outputs for the staff.<sup>110</sup>

<sup>109</sup> *Id.* at 2-11; U.S. DEP'T OF ARMY, FIELD MANUAL 5-0, ARMY PLANNING AND ORDERS PRODUCTION 3-1 (20 Jan. 2005) [hereinafter FM 5-0] (superseded by ADRP 5-0, *supra* note 37). The MDMP is an

established and proven analytical planning process . . . that establishes procedures for analyzing a mission, developing, analyzing, and comparing courses of action against criteria of success and each other, selecting the optimum course of action, and producing a plan or order." MDMP "is an iterative planning methodology that integrates the activities of the commander, staff, subordinate headquarters, and other partners to understand the situation and mission; develop and compare courses of action; decide on a course of action that best accomplishes the mission; and produce an operation plan or order for execution.

*Id.*

<sup>110</sup> ATTP 5-0.1, *supra* note 19, fig.4-1, at 4-3. See also Christopher R. Paparone, *U.S. Army Decisionmaking: Past, Present and Future*, MIL. REV., July–Aug. 2001 (detailing the history of military planning and the development of the MDMP process).

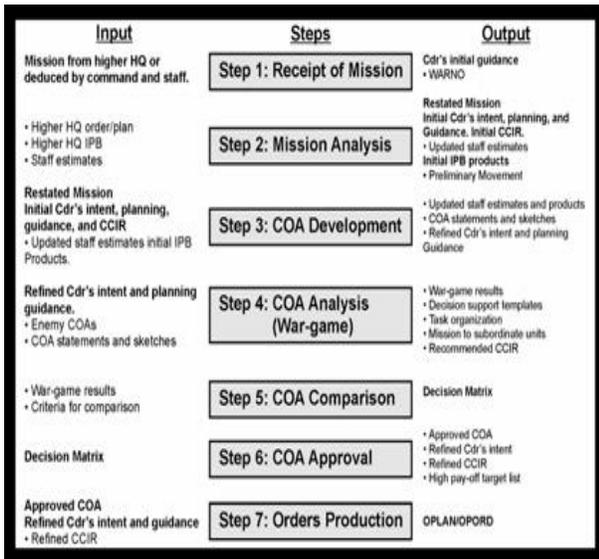


Figure 5. MDMP Steps with Key Input and Key Output

### A. Receipt of Mission

Upon receipt of the mission, the FUOPS cell notifies the XO and S3. Concurrently, planners begin by preparing the initial IPB.<sup>111</sup> The IPB focuses on analyzing the threats, battlefield environment, battlefield effects, and potential enemy courses of action within the geographical area of operations, all of which serves as the foundation for further planning. The IPB is led by the Intelligence Officer (S2) and his staff. Staff officers contribute to the IPB within their areas of expertise. Following the IPB, the FUOPS Cell issues a Warning Order (WARNO) to the unit and subordinate units. The IPB will serve as the foundation for mission analysis that follows.

### B. Mission Analysis in Detail

Planners conduct an analysis of the mission as articulated by the commander in his initial guidance. Using the commander's guidance and the IPB, staff officers begin mission analysis by developing initial staff estimates.<sup>112</sup> The initial staff estimate contains

an assessment of the situation and an analysis of those courses of action a commander is considering that best accomplishes the mission. It includes an evaluation of how factors in a staff section's functional area influence each [course of action (COA)] and includes conclusions and a recommended COA to the commander.<sup>113</sup>

This staff estimate also includes a review of the tasks that must be accomplished, critical facts and assumptions, available assets and resources, and any constraints on mission accomplishment.

### 1. Specified, Implied, and Essential Tasks

Specified tasks are those that have been directed by higher headquarters; this can occur through an order<sup>114</sup> or during collaborative planning sessions. They can also be requirements by regulation. Implied tasks are tasks that are required to complete specified tasks.<sup>115</sup> An example of a specified task is an order that states "Occupy area XX." Implied tasks related to that specified task could be maneuver by road from point YY to area XX, set up security, etc. Essential tasks are those specified and implied tasks that must be performed to complete the assigned mission.<sup>116</sup> For a legal planner, a specified task could be "all operations will comply with the LOAC," with an implied task being "train soldiers on LOAC" or "JAG reviews all CONOPs for compliance with the LOAC."

### 2. Critical Facts and Assumptions

All plans and decisions rely on their underlying facts. Facts are statements of truth, or believed to be true at the time that they are made.<sup>117</sup> In mission analysis, facts form the foundation for understanding the operational area and informing the decision-maker. Facts are constantly reviewed to ensure their continued validity and their relevance to planning efforts. By contrast, an assumption is a "supposition on the current situation or a presupposition on

<sup>111</sup> ATP 5-0.1, *supra* note 18, at 4-4 ("Staff officers carefully review the reference sections . . . of the higher headquarters' OPLANs and OPORDs to identify documents (such as theater policies and memoranda) related to the upcoming operation.").

<sup>112</sup> ADRP 5-0, *supra* note 37, para. 3-37, at 3-10. "A staff estimate is an assessment of the situation and an analysis of those courses of action a commander is considering that best accomplishes the mission. It includes an evaluation of how factors in a staff section's functional area influence each COA and includes conclusions and a recommended COA to the commander." *Id.*

<sup>113</sup> *See id.* Using their specialized WFF knowledge, planners provide initial input regarding the initial commander's intent and proposed COAs. *Id.*

<sup>114</sup> ATP 5-0.1, *supra* note 19, at 12-3 (detailing types of orders and formats). *See also* OPLAW HANDBOOK, *supra* note 81, at 460-62 (discussing reviews of orders). *See also* Appendix A (illustrating types of orders).

<sup>115</sup> ATP 5-0.1, *supra* note 19, at 4-8.

<sup>116</sup> JP 5-0, *supra* note 18, at IV-8 and IV-9 (discussing specified tasks, implied tasks, and mission statements and providing a sample). Specified tasks can be included in the mission statement. *Id.*

<sup>117</sup> *Id.* at IV-10.

the future course of events.”<sup>118</sup> Since the operational area is ever evolving, assumptions complement facts in contributing to the commander’s understanding of the environment, mission, threats, and other operational variables. Throughout the planning process, staff members should be working to validate assumptions, by determining them to be true and therefore facts, or to invalidate assumptions and replace them with valid facts or assumptions.

### 3. Assets and Resources

Planners review the task organization of the unit, its current capabilities, supporting or supported relationships,<sup>119</sup> and potential shortfalls. In addition to the capabilities organic to the unit in question, planners also evaluate the capabilities of higher headquarters, subordinate and adjacent units, civilian agencies, as well as joint and coalition partners.<sup>120</sup> They review command and operational relationships to evaluate assets, resources and levels of support across the area of operations. This can include assets that can be tasked or requested, or even ones that can “assist” without tasking, such as assets from other agencies (for instance, DOS, United States Agency for International Development (USAID), etc. Staff officers also review capability shortfalls and provide recommended solutions to the commander.<sup>121</sup> For example, a brigade JA could conduct mission analysis, determine the need for a third attorney, and provide a “sourcing solution”<sup>122</sup> to the brigade commander.

### 4. Constraints

During mission analysis, staff officers identify all applicable constraints and develop viable options to meet mission objectives while complying with the constraints.<sup>123</sup> Simply put, constraints are limitations on a commander’s authority and thus restrict independent action by a commander.<sup>124</sup> They are either directive or restrictive. For example: “Conduct an assault on Objective Alpha no later than a specified time” is directive, while “No houses will be entered or searched during nighttime” or “No fires beyond phase line delta” are restrictive. Common examples include

rules of engagement (ROE)/rules on the use of force (RUF), law of war (LOW) limitations, limitations on targeting and weapon systems, and detainee handling requirements.

In addition to their individual staff estimates, planners conduct mission analysis and produce the following: a proposed mission statement, initial commander’s intent, initial planning guidance, updated IPB, essential elements of friendly information (EEFIs), and commander’s critical information requirements (CCIRs), as demonstrated in Figure 5 above.<sup>125</sup> While EEFI consists of information that, if compromised, would jeopardize the mission,<sup>126</sup> CCIRs are elements of information that directly impact the mission and consist of priority information requirements (PIR) and friendly force information requirements (FFIRs).<sup>127</sup> The

<sup>125</sup> *Id.* at IV-4.

The primary inputs to mission analysis are: the higher headquarters’ planning directive; other strategic guidance; and the commander’s initial planning guidance . . . . The primary products of mission analysis are staff estimates, the mission statement, a refined operational approach, the commander’s intent statement, updated planning guidance, and the commander’s critical information requirements (CCIRs).

*Id.*

<sup>126</sup> ADRP 6-0, *supra* note 73, at 9.

<sup>127</sup> *Id.* at 8.

Commanders determine information requirements and set information priorities by establishing commander’s critical information requirements. Commanders and staff interpret information received to gain understanding and to exploit fleeting opportunities, respond to developing threats, modify plans, or reallocate resources. Staffs use information and knowledge management practices to assist commanders in collecting, analyzing, and disseminating information. This cycle of information exchange provides the basis for creating and maintaining understanding.

*Id.* See also KEITH W. WILSON (MAJOR), THE OPERATIONS PROCESS: A GUIDE TO THE MDMP FOR BRIGADE AND BATTALION STAFFS (n.d.), available at <http://www.benning.army.mil/mcoe/dot/mc3/reserve/content/pdf/A%20Guide%20to%20the%20MDMP.pdf>.

Information requirements are all information elements the commander and staff require to successfully conduct operations; that is, all elements necessary to address the factors of METT-TC (FM 6-0). Some IRs are of such importance to the commander that they are nominated to the commander to become a commander’s critical information requirement (CCIR).

*Id.* See also U.S. DEP’T OF DEF., JOINT PUB. 2-0, JOINT INTELLIGENCE 16 (22 Oct. 2013) (defining PIR). Priority information requirements (PIR) consist of “those intelligence requirements stated as a priority for intelligence support that the commander and staff need to understand the adversary or the operational environment.” *Id.* See also ADRP 5-0, *supra* note 37, at 1-6 (defining friendly force information requirements (FFIR)). Similar to essential elements of friendly information

<sup>118</sup> See U.S. DEP’T OF DEF., JOINT PUB. 1-02, DEPARTMENT OF DEFENSE DICTIONARY OF MILITARY AND ASSOCIATED TERMS (8 Nov. 2010 (as amended 15 February 2014) (defining assumptions). If an assumption is not necessary to the decision-making process, it should be discarded. *Id.*

<sup>119</sup> See *supra* Part V.A.6.a.

<sup>120</sup> ATP 5-0.1, *supra* note 19, at 4-8 and 4-16.

<sup>121</sup> *Id.*

<sup>122</sup> FM 1-04, *supra* note 59. The typical sourcing solution is to request a third attorney, either active duty or an activated Reserve judge advocate, through the Personnel, Plans, and Training Office (PPTO).

<sup>123</sup> JP 5-0, *supra* note 18, at IV-10.

<sup>124</sup> *Id.*

products are presented to the commander for approval during the mission analysis briefing.

### C. COA DEV/Wargaming and Approval

Upon completion of mission analysis, the commander receives briefings on the analysis and issues refined guidance to the staff. The staff incorporates the stated intent into planning efforts and begins to develop COAs, which are simply proposed solutions to the overall “problem set.”<sup>128</sup>

Staff members “war-game” the COAs to assess their viability.<sup>129</sup> Formally called COA analysis and comparison, the XO runs the war game to review available assets, align forces against objectives, and determine the supportability of the each COA. When there are COAs that cannot be supported or that fail to adequately meet the commander’s intent, they are discarded. For the JA, the war game is a chance to work as a staff officer and apply critical thinking to proposed COAs. In addition, JAs must be involved to ensure that the staff “does not go down the rabbit hole” by pursuing a COA without supporting legal authority.

When the staff completes the war-game, or COA comparison, the surviving COAs are packaged for a COA briefing to the commander. At that briefing, the commander assesses the COAs, staff recommendations, and his understanding of higher headquarters guidance, and selects the most appropriate COA to meet his intent.<sup>130</sup> The commander makes a decision, and the S3/FUOPS, with staff input and reviews, develops the approved COA into an order for the unit to execute.<sup>131</sup>

Upon issuance of an order, CUOPS monitors execution of the operation, while staff planners may potentially begin or resume other planning efforts.<sup>132</sup> Staff planners also monitor the operation execution within their WFF, update their running estimates, and prepare to conduct post-operation assessments. With this understanding of general staff responsibilities in the MDMP, this article now turns its focus on the specific role of JAs in the planning process.

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(EEFI), FFIR consist of “information the commander and staff need to understand the status of friendly force and supporting capabilities.” *Id.*

<sup>128</sup> ATTP 5-0.1, *supra* note 19, 4-14.

<sup>129</sup> *Id.* at 4-22 to 4-25 (detailing the war gaming process).

<sup>130</sup> *Id.* at 4-34.

<sup>131</sup> See Appendix A (providing various types of orders and plans).

<sup>132</sup> See ATTP 5-0.1, *supra* note 19, at 4-39.

### VI. Judge Advocates in the Planning Process/MDMP

Judge advocates must be involved in the planning process for two reasons. First, JAs advise commanders and must therefore remain operationally aware and relevant.<sup>133</sup> While not initially conversant in all of these Army acronyms, JAs are particularly suited to conduct planning utilizing MDMP. While the methodology and terminology may seem foreign to JAs, the underlying processes are also used in analyzing legal issues. Comparatively, the steps of MDMP and standard legal analysis follow:

<u>MDMP</u>	<u>Legal Analysis (i.e., a UCMJ case)</u>
1. Receipt of mission	1. Receive report of misconduct
2. Mission analysis	2. Conduct factual analysis
3. COA Development	3. Identify potential offenses
4. COA Analysis	4. Analyze offenses
5. COA Comparison	5. Compare possible offenses, review lesser included offenses
6. COA Approval	6. Determine most appropriate charges (supported by the evidence) commander briefed makes decision
7. Orders production	7. Prepare charge sheet

Similar to reviewing a case file or investigation, legal planners must review all available information pertaining to operations. This review should include review of higher headquarters’ policies and orders, the IPB (discussed above), base order, and all annexes to ensure that sufficient legal authority supports the contemplated COAs. In the event that a COA does not have sufficient legal authority, the legal planner should provide alternatives or the means to request the required authority.

For mission analysis, legal planners should pay particular attention to two areas: operations and sustainment. Legal tasks, specified and implied, can be contained in any part of the order or cited authorities. However, they are most frequently found in the operations annex and the sustainment annex. The operations portion is where the legal authorities and limitations, to include the rules of engagement and detainee handling information, to military operations are contained. Sustainment is where the plan for legal support to the organization is contained. These areas are discussed below.

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<sup>133</sup> FM 1-04, *supra* note 59, para. 6-10. “Judge advocates support the design process by developing an understanding of the operational environment and collaborating with the commander and other staff sections to assist in framing the environment and the problem.” *Id.*

## A. Operations—Legal Analysis of the Operational Mission (“Authorities Law”)

“Judge, what are my authorities?”<sup>134</sup>

Because orders and policies provide the authority to conduct military actions, operational law could easily be viewed as “authorities” law.<sup>135</sup> Commanders want to bring all elements, including military, civilian and interagency, to bear on a particular mission. However, the commander must understand his specified and inherent command authorities, the limitations of those authorities, and the means to request the appropriate authorities to affect his battle plan. For example, in coalition operations, a commander may want to direct actions of coalition forces, share intelligence, arm coalition or security forces, or spend money to support coalition activities. Without the proper authorities, the commander will overstep his bounds, undermine his command and control, and jeopardize his battle plan (along with getting relieved from command). JAs can assist their commanders by being involved early in the planning process and coordinating for the authorities that the battle plan may require or to identify the impermissible activities so that the plan can be adjusted accordingly.

Since the battle plan can encompass many functional areas, legal planners should be prepared to analyze the entirety of the operational environment, to include analysis in cooperation with the staff officers of different WFF. This requires reviews of annexes, and the authorities on which they are based, to ensure that the proposed actions are legally permissible. The areas of particular focus are discussed below.

### 1. Intelligence

Support to intelligence operations includes legal reviews of “special programs,”<sup>136</sup> routine intelligence operations, and counter-intelligence (CI) operations. Given their unique capabilities of intelligence operations, legal planners must employ a multi-dimensional approach to legal support.<sup>137</sup> Legal planners need to be familiar with the fiscal authorities related to intelligence collection, counter-intelligence authorities, commander’s force protection authorities, labor

<sup>134</sup> This is a common question posed to operational judge advocates.

<sup>135</sup> See Lieutenant Colonel Bryan Hernandez, *Tips on Planning at the Strategic Level for Judge Advocates*, JAGCNET.ARMY.MIL (24 Mar. 2009), available at [www.jagcnet.army.mil](http://www.jagcnet.army.mil).

<sup>136</sup> See generally U.S. DEP’T OF DEFENSE, DIR. (DODD) 5205.7, SPECIAL ACCESS PROGRAM (SAP) POLICY (1 July 2010); and U.S. DEP’T OF DEFENSE, JOINT PUB. 2-01.3, JOINT INTELLIGENCE PREPARATION OF THE OPERATIONAL ENVIRONMENT (16 June 2009).

<sup>137</sup> Ensure legal personnel have the appropriate clearances and are read onto all of the programs available to the command.

law, and a host of other authorities across the spectrum of legal practice that can be impacted by intelligence collection activities.

Examples of common contributions by JAs during mission analysis include the following:

- a. Only certified interrogators can conduct interrogations
- b. Special programs in effect
- c. CI activities robust and require legal oversight
- d. Detainee transfer requests within 24 hours (requires Brigade Commander signature)
- e. Small rewards program in effect

### 2. Movement and Maneuver

Legal support in this area is dependent on the phase of the operation. Prior to the operation, legal support will focus on the training and readiness requirements as directed by higher headquarters. This will include current LOW, law of armed conflict (LOAC) training, ROE training, and legal readiness processing (wills, powers of attorney, etc.). During the operation, legal support will focus on ROE and compliance with the LOW/LOAC. It can also focus on refresher training of these areas, investigations, and the requirement to report violations.

Examples of common contributions by JAs during mission analysis include the following:

- a. Soldier Readiness Program (SRP) must include legal readiness and ROE/LOAC training
- b. Restricted travel near X
- c. No Escalation of Force (EOF) with laser pointers
- d. Movement restricted within 25 km of border
- e. Claims card are required for all vehicles

### 3. Sustainment

Legal support to sustainment requires review of authorities to conduct various activities in support of operations. Primarily in the areas of fiscal and administrative law, these issues require working with other staff sections, including the S1, S4, and the Resource Management Officer (RMO).<sup>138</sup> Legal planners must identify contracting requirements, timelines, and fiscal limitations on planned activities such as contracting for security or food services. In addition, depending on the type

<sup>138</sup> An example of this could be the resource management annex which will highlight the approval thresholds for various “pots of money.” To a lesser extent, sustainment mission analysis requires the legal planner to review authorities related to the provision of medical care (MED ROE or Medical Rules of Eligibility), chaplaincy, and rear detachment activities (including family readiness groups).

of mission, sustainment, coupled with operations, could involve humanitarian assistance (HA), funding and equipping other forces through security force assistance, exercise support, and other areas.

In addition to the support to Logistics, planners must also provide support to the personnel management system. Along with unit leaders, legal personnel must identify “legal non-deployables” and give that information to the S1. This information is critical for the commander to understand the actual force capability at his disposal.

Personnel support also requires the planner to identify requirements related to personnel management. From Line of Duty (LOD) and Army Regulation (AR) 15-6 investigations to combat injury or death battle drills, planners must provide analysis of authorities and requirements related to serious injuries and combat and non-combat related deaths, and other personnel matters. Legal planners must anticipate events and draft appropriate AR 15-6 investigation policies that should be incorporated into the final order. For example, planners must identify the commander’s serious incident report (SIR)<sup>139</sup> requirements and make sure that they are distributed to subordinate units.

Examples of common JA contributions for mission analysis include the following:

- a. Contracts above \$XXX go to the Joint Acquisition Review Board (JARB)
- b. Humanitarian assistance requires CG approval
- c. AR 15-6s require O4 Investigating Officer (IO) for GoB Killed in Action (KIA) cases
- d. MED ROE (Rules of Eligibility) in effect
- e. Money as a Weapons System (MAAWS) in effect

#### 4. Fires

In order to support the Fires WFF, planners must understand the targeting process. The targeting process, involves deciding on targets, detecting them, delivering the effect, and assessing the outcome of that effort.<sup>140</sup> Planners must understand the restrictive measures, LOW/LOAC, ROE, and other limitations on the employment of force. Legal planners should be involved in Fires and Non-Lethal Effects Working Groups to provide legal guidance to the use of fires, including the ROE.

Legal planners should work with the fire support officer (FSO), IIA officer, and FIRES cell to ensure that effects are legally permissible and carried out in accordance with policy

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<sup>139</sup> See FM 6-99 *supra* note 35.

<sup>140</sup> ADP 3-09, *supra* note 64, at 3-1 (describing targeting and mission planning relationship).

and law. Legal planners must be able to work with the FSO to evaluate target selection, the weapon system to be employed, and other factors related to the employment of effects. In order to properly advise on targeting and fires, legal advisors must know the authorities for all available weapon systems, and limitations on employment authority.

Examples of common JA contributions for mission analysis include the following:

- a. Indirect fires limited to Troops in Contact (TIC) or approved concept of operations (CONOP)
- b. Battle damage assessments required unless not tactically feasible
- c. No fire zones are in effect in Area Y
- d. All structures, including grape huts, are to be considered civilian and occupied until established otherwise
- e. Fires within 300M of a structure require O6 approval

#### 5. Protection

Support to the protection WFF includes legal reviews of proposed building projects, safety investigations, force protection activities, and use of force issues. Legal planners need to be familiar with the various authorities related to anti-terrorism and force protection activities, detainee operations, safety, and fiscal issues related to force protection. Depending on the nature of the operation, legal planners will have to provide advice on the ROE/RUF, “installation-type” law, including searches, base policies, and authorities related to Department of Defense (DOD) and non-DOD personnel residing on military installations.

This can include reviewing base defense plans and policies, conducting investigations into “inside the wire” allegations and incidents, and providing legal support to safety investigations as appropriate. In addition, legal personnel should be familiar with the operations of the Base Defense Operations Center (BDOC) as well as take part in battle drills.

Examples of common JA contributions for mission analysis include the following:

- a. Detainees require two escorts each
- b. Released detainees must be returned to point of capture or home
- c. Detainees must be moved to temporary holding facility (THF, pronounced TIFF) within 24 hours
- d. Non-lethal munitions are authorized
- e. RCAs are only authorized in rear areas

#### 6. Command and Control/Mission Command

The most important element of mission command is command relationships. Because command and control (C2)

relationships are used to direct the employment of forces and to influence the operational environment, it is vital that judge advocates understand command relationship and how C2 is exercised within an organization.

### 7. Command Relationships

There are several types of C2: operational control (OPCON), tactical control (TACON), and administrative control (ADCON) being particularly important. Understanding the type of command authority that goes with the particular relationship is vital to the JA. These relationships will dictate authority over operations, tactical employment of troops, responsibility for sustainment, responsibility for life support, Uniform Code of Military Justice (UCMJ) authority, etc.

### 8. Operational Control and Tactical Control

A commander with OPCON has the authority to “organiz[e] and employ[] commands and forces, assign[] tasks, designat[e] objectives, and giv[e] authoritative direction over all aspects of military operations and joint training necessary to accomplish the mission.”<sup>141</sup> The most important element of OPCON is the authority of a commander to “plan for, deploy, direct, control, and coordinate the actions of subordinate forces.”<sup>142</sup> Notably, OPCON also provides the “authority to organize and employ commands and forces as the commander considers necessary to accomplish assigned missions.” However, the delegation of OPCON over forces does not automatically provide ADCON over those forces.

Contained within a commander’s operational control is tactical control, defined as is “controlling and directing the application of force or tactical use of combat support assets.”<sup>143</sup> Additionally, TACON is limited in duration and scope, usually limited to a particular approved CONOP or mission. This type of control is directive in nature, such as, “Unit X will move to point X and establish a security checkpoint.” When TACON is exercised, the granting unit retains all other types of control.

### 9. Administrative Control

Administrative control refers to the provision of supplies, services and support.<sup>144</sup> Thus, ADCON includes:

<sup>141</sup> JP-1, *supra* note 73, at V-6.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> JP 5-0, *supra* note 19, at 6.

resourcing and equipping the force, administration, personnel management, logistics, unit and individual training, mobilization, military discipline, and other readiness functions.<sup>145</sup> Sometimes, ADCON may also be referred to as “Title 10 authority.” This type of control can be split among different organizations. For JAs, ADCON is very important for the exercise of UCMJ, the authority (for a commander) to appoint and approve AR 15-6, LOD, and financial liability investigation of property loss (FLIPL) investigations, and other administrative and training requirements.<sup>146</sup>

### 10. Attached and Assigned

Another consideration in understanding command relationships is the designation of units. Units can be organic, assigned or attached to their higher headquarters. Organic units, “are assigned to and form[] an essential part of a military organization,” are part of the unit’s headquarters, are on the Modified Table of Organization and Equipment (MTOE),<sup>147</sup> and are under the OPCON of the parent unit. Similar to organic units, assigned units are used for situations that are “relatively permanent, and/or where such organization controls or administers the unit or personnel for the primary functions of the unit.”<sup>148</sup> Assigned units are also under the OPCON of the unit. By contrast, attached units are temporary additions to the higher headquarters to perform a specific task or for a specific duration.<sup>149</sup> An example of an attached unit would be a

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ADCON is the direction or exercise of authority over subordinate or other organizations with respect to administration and support, including organization of Service forces, control of resources and equipment, personnel management, logistics, individual and unit training, readiness, mobilization, demobilization, discipline, and other matters not included in the operational missions of the subordinate or other organizations. ADCON is synonymous with administration and support responsibilities identified in Title 10, USC. This is the authority necessary to fulfill Military Department statutory responsibilities for administration and support.

*Id.*

<sup>145</sup> *Id.* at 6 (detailing Title 10 responsibilities).

<sup>146</sup> See U.S. DEP’T OF ARMY, REG. 220-1, ARMY UNIT STATUS REPORTING AND FORCE REGISTRATION-CONSOLIDATED POLICIES (15 Apr. 2010), available at [http://www.apd.army.mil/pdffiles/r220\\_1.pdf](http://www.apd.army.mil/pdffiles/r220_1.pdf). This includes providing “legal non-deployable” information to the Unit Status Report (USR). *Id.*

<sup>147</sup> See U.S. DEP’T OF ARMY, REG. 71-32, FORCE GENERATION AND DOCUMENTATION (1 July 2013), available at [http://www.apd.army.mil/pdffiles/r71\\_32.pdf](http://www.apd.army.mil/pdffiles/r71_32.pdf).

<sup>148</sup> ADRP 5-0, *supra* note 37, glossary.

<sup>149</sup> See Charles T. Barry, Jr., *Understanding OPCON* (3 May 2010), available at [http://www.army.mil/article/38414/Understanding\\_OPCON/](http://www.army.mil/article/38414/Understanding_OPCON/). See also <http://www.fas.org/man/dod-101/army/unit/overview.htm>. U.S. DEP’T OF DEF., JOINT PUBLICATION 0-2, UNIFIED ACTION ARMED FORCES (UNAAF) (10 July 2001) [hereinafter JP 0-2].

deployed unit that receives a platoon of military police to support a particular operation. Upon completion of the operation, the military police platoon would be “released” from the unit and return to the control of their parent unit. During the period of attachment, “the commander of the unit that receives the attachment is responsible for the sustainment and logistics support that is beyond the capability of the attached unit.”<sup>150</sup> Attachment orders must specify whether or not UCMJ authority is part of the attachment (see discussion above related to ADCON).

### 11. Support Relationships

There are other types of relationships that are used to coordinate and prioritize command efforts. These relationships are support relationships.<sup>151</sup> They do not have command authority, like ADCON and OPCON discussed above. Instead, a higher headquarters creates support relationships where one unit (supporting unit) is tasked to support the efforts of another unit (supported unit). This allows for making one unit the “lead” with other units in support.

There are several types of support relationships: general support; general support reinforcing; reinforcing; and direct support.<sup>152</sup> Field Manual 3-0 states that “support relationships are graduated” based on the level of coordination and support that is required for a particular mission. The designation of a support relationship does not alter ADCON. For planners, support relationships are important to understand where assets are coming from and what other units are involved in operations.

### 12. Direct Liaison Authorized (DIRLAUTH)<sup>153</sup>

When DIRLAUTH is used, it means that a commander has granted permission or authority to a subordinate, either on his staff or a subordinate unit, to coordinate with entities outside the organization. Frequently, the commander will limit the authority to certain entities, such as coordination with a higher or neighboring unit. Therefore, DIRAUTH is a coordination tool, and does not have command authority, i.e., decision-making authority.

An example of the complexity of command relationships is reflected in the employment of Security Force Assistance Teams (SFATs).<sup>154</sup> These are small units of advisors whose primary mission is to assist the development of national security forces, in countries such as Afghanistan.<sup>155</sup> Further, SFATs are usually part of one brigade tasked with providing a large number of SFATs. Once deployed, the SFATs are routinely attached to the battle space owner (BSO),<sup>156</sup> which is a different brigade with whom they often have no habitual relationship.

In the usual case of SFATs, the supported brigade has OPCON, the brigade’s subordinate battalion has TACON, and ADCON can be split between the supported brigade and the organic brigade. For example, ADCON would specify that personnel replacements would come from the organic brigade, while deployed awards, evaluations, UCMJ authority, and other “in theater” personnel actions would be handled by the supported brigade.

A similar example is the employment of combat arms, or conventional, battalions with Special Forces in support of

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Organic assets are assigned to and forming an essential part of a military organization. Organic assets are those listed in the unit’s MTOE, and are in this command relationship when conducting missions in support of their own unit.

Assigned is to place units or personnel in an organization where such placement is relatively permanent, and/or where such organization controls or administers the unit or personnel for the primary functions of the unit. As in organic, units will have this relationship when C2 is exercised by their parent headquarters.

Attached is the placement of units or personnel in an organization where such placement is relatively temporary. The commander of the unit that receives the attachment is responsible for the sustainment and logistics support that is beyond the capability of the attached unit.

*Id.*

<sup>150</sup> *Id.*

<sup>151</sup> JP 0-2, *supra* note 14 at III-9 (discussing support relationships).

<sup>152</sup> *Id.*

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<sup>153</sup> FM 1-04, *supra* note 59, at 4-8 (detailing relationships between judge advocates at different echelons). It states that “[u]nder Title 10, U.S. Code, section 806(b) (2010), the [Staff Judge Advocate (SJA)] or legal officer of any command is entitled to communicate directly with the SJA or legal officer of a superior or subordinate command, or with [The Judge Advocate General (TJAG)].” *Id.* Essentially, Judge Advocates (JAs) s have direct liaison authorized (DIRLAUTH)-like authority given through the technical channel via regulation.

<sup>154</sup> U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-13-381, SECURITY FORCE ASSISTANCE: MORE DETAILED PLANNING AND IMPROVED ACCESS TO INFORMATION NEEDED TO GUIDE EFFORTS OF ADVISOR TEAMS IN AFGHANISTAN 3 (Apr. 4, 2013), available at <http://www.gao.gov/assets/660/654289.pdf> (last visited May 15, 2014). See generally COMMANDER’S HANDBOOK FOR SECURITY FORCE ASSISTANCE, JOINT CENTER FOR SECURITY FORCE ASSISTANCE (14 July 2008), available at <http://usacac.army.mil/cac2/Repository/Materials/SFA.pdf> (last visited June 4, 2014).

<sup>155</sup> See Pete Escamilla & Eric Lopez, *Securing the Security Force Assistance Advisors in Afghanistan*, SMALL WARS J. (Sept. 10, 2013), available at <http://smallwarsjournal.com/jml/art/securing-the-security-force-assistance-advisors-in-afghanistan> (discussing SFATs and the threats against them).

<sup>156</sup> DOCTRINE UPDATE 2-12, COMBINED ARMS CTR. 5 (3 Apr. 2012), available at <http://usacac.army.mil/cac2/adp/Repository/Army%20Doctrine%20Update%202-12.pdf> (last visited June 4, 2014) (defining BSO).

village stability operations (VSO).<sup>157</sup> The battalion would be OPCON to the Special Operations Task Force (SOTF), with TACON to the supported A Company, with ADCON split between the SOTF and the originating brigade. The SOTF would be responsible for most ADCON functions, primarily supply, with the brigade providing personnel replacement and some other personnel functions.

Mission analysis requires knowledge of operational considerations, including command relationships, proposed task organization (TASKORG), WFFs, and applicable authorities and their impacts on the proposed mission. With this knowledge, planners can develop legally supported courses of action that can be war-gamed and approved. Legal planners can also use this knowledge to understand the nature and expanse of the operation that will require legal support. As legal planners conduct mission analysis of the proposed operation, they must also examine how the legal assets will be used to support operations.

#### B. Sustainment—Operational Analysis of the Legal Mission (Legal Support to Operations)

*“Judge, how are we going to court-martial guys downrange?”<sup>158</sup>*

While conducting mission analysis on the operational mission, legal planners must also conduct an operational analysis of the legal mission. The previous section focused on the authorities to conduct operations. This section focuses on the capabilities required to support operations. In other words, legal planners must analyze how they are going to meet the legal needs of the unit while it conducts operations. This section sets forth an analysis of the supported unit, its operational requirements, its location in relation to other units capable of providing legal support, as well as forecasting or planning for future operations and events that may occur.

Legal support planning follows the same steps as operational mission planning. First, planners receive the mission. The mission is dictated by the commander and the orders that he has been given. As such, planners should review the orders and policies from their higher headquarters. For the legal mission, planners should review all orders, including subsequently published FRAGOs and policies that apply to their unit. Policies covering topics such as the ROE, targeting, detainee operations, and AR 15-

<sup>157</sup> See Colonel Ty Connett & Colonel Bob Cassidy, *Village Stability Operations: More than Village Defense*, U.S. ARMY JOHN F. KENNEDY SPECIAL WARFARE CTR. & SCH., available at [http://www.soc.mil/swcs/swmag/archive/SW2403/SW2403VillageStabilityOperations\\_MoreThanVillageDefense.html](http://www.soc.mil/swcs/swmag/archive/SW2403/SW2403VillageStabilityOperations_MoreThanVillageDefense.html) (last visited June 4, 2014) (describing how Special Operations Forces conduct VSO).

<sup>158</sup> This is a common question posed to operational JAs.

6 investigation requirements are particularly important to determine that amount of legal support that will be required.

Upon receipt of the mission, planners should go into mission analysis. Legal planners should prepare a staff estimate for legal support, one for operational issues, or combine the two into one staff estimate. Practically, since legal support may be briefed independent of the operational mission analysis, it is best to conduct a separate staff estimate solely for the legal support plan.

Planners must evaluate and determine facts and assumptions that relate to legal support. These facts and assumptions provide the basis for determining how limited legal assets will be employed to provide support to operations, and support to the force. These should include things like location of units, personnel and staffing requirements, and ongoing legal missions, such as Rule of Law and claims.

Examples of facts and assumptions include the following:

- a. TOC requires 24 hour support
- b. BDE will be dispersed over the entire Kandahar region
- c. Claims have remained consistent and require a JA in support
- d. Civil Affairs/CERP projects require legal reviews

Once the underlying facts and assumptions are complete, planners should develop their lists of specified, implied, and essential tasks. Many tasks are included in the operations annex and the legal support appendix of the sustainment annex.<sup>159</sup> These tasks are requirements that the legal section must satisfy or be prepared to support. For example, the operations annex may have tasks such as “all targeting packets must comply with ROE,” which has an implied task that they will be legally reviewed prior to submission. Planners should also include reporting and investigating requirements since they will require legal support.

Examples of tasks could include the following:

- a. Ensure all plans, orders, target lists, policies, and procedures comply with applicable law and policy, including the law of war and ROE
- b. Component commanders will ensure that a JA reviews all target lists to ensure compliance with the LOW and ROE, and that a JA is a member of the component’s targeting cell
- c. Each subordinate brigade will have a Single Member Foreign Claims Commission appointed by the U.S. Army Claims Service.

<sup>159</sup> OPLAW HANDBOOK, *supra* note 83, at 464–69 (providing an example).

- d. Provide support and services in all legal disciplines and operational law

After determining the legal requirements, planners must review the assets and resources available. Planners should review the unit strength, assigned and authorized positions of manning documents, and personnel replacement forecasts with the S1. Assets can include legal and non-legal assets. For example, a claims mission will require both types of assets. A claims mission requires a JA to adjudicate the claims, paralegal support, as well as pay agents in the field and possibly a security detail.

Planners should also determine available assets that are not contained within the organic unit. These will include centralized legal assistance offices, Trial Defense Services, other in-theater and garrison legal support, as well as SMEs from other agencies, such as USAID and DOS for Rule of Law missions. When reviewing assets, or capabilities, it is important to identify shortfalls and research possible sources of additional assets and capabilities.<sup>160</sup>

Examples of assets could include the following:

- a. District HQ has a DoS Rule of Law SME
- b. Two inbound 27Ds will bring unit to 100%
- c. DIV prepared to support with personnel during leave period, if needed
- d. Third attorney augmentation available (takes three months to source)<sup>161</sup>

Using the facts, assumptions, tasks, and resources, legal planners should evaluate any area that constrains the legal mission. Constraints could be based on requirements, logistics, geography, personnel staffing, and even the experience of personnel. Identifying these constraints, and viewing the legal team as a legal office, helps to identify means to address and overcome these limitations.

Planners should consider what authorities or policies could be needed to facilitate the mission. For example, the commander may want to put specific AR 15-6 reporting requirements and SIRs in place. Additionally, it could be useful to obtain a delegation of authority from the commander to the XO to appoint AR 15-6 investigating officers.

Examples of constraints could include the following:

- a. AR 15-6 policy requires O4 IOs for death investigations

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<sup>160</sup> See FM 1-04, *supra* note 59. “When faced with situations where the brigade legal section cannot provide the proper breadth of service, the brigade judge advocate should use the brigade chain of command and JAGC technical channels to address shortfalls.” *Id.*

<sup>161</sup> For example only. Sourcing timeline is determined by timeliness of submission and availability of assets.

- b. Courts-martial will only be held at Forward Operating Base (FOB) X
- c. Trial Defense Service (TDS) only available at Camp Victory
- d. Legal assistance is limited within the brigade (support available at HHQ)

Once mission analysis is complete, legal planners should continue following the MDMP and develop courses of action to support operations. These COAs will vary in their complexity depending on mission. For a brigade, the COAs could be as simple as having a consolidated versus geographically dispersed legal office, requesting additional manning, while also planning support for the rear detachment. By comparison, for a division or corps, the COAs could include conducting split operations, establishing dispersed legal offices, requesting TASKORG changes to add legal assets, and a host of other issues.<sup>162</sup> These COAs should also be war-gamed to assess their viability and then a proposed legal support plan should be presented to the commander for approval.

## VII. Legal Annex Development and OPORD Review

The final step of the MDMP is orders production, which turns an approved course of action into an order for units to execute. Staff planners, with FUOPS, prepare portions of orders along their WFF. The legal planner must prepare two parts of the order: the ROE, Appendix 11 of the Operations Annex, and the Legal Support Appendix, Tab C, Appendix 2 of the Sustainment Annex.<sup>163</sup> After the draft order has been produced, all staff sections review the document before it is provided to the Commander. The Legal Support Appendix and the process to legally review an OPORD are discussed below (for a discussion on ROE, refer to the Operational Law Handbook<sup>164</sup>).

### A. Legal Support Appendix (Sustainment Annex)

The Legal Support Appendix (LSA) is the JA’s opportunity to turn a concept of support into an actual order from the commander. A standard order includes the following sections: mission, execution, concept, tasks, coordinating instructions, administration, and command and control. Subsequent orders and FRAGOs will also contain these sections but reference the base order. Judge advocates should follow this format to lay out the legal support plan and requirements to subordinate units.

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<sup>162</sup> These COAs could include support to detainee operations, Rule of Law efforts, etc.

<sup>163</sup> U.S. DEP’T OF ARMY, FIELD MANUAL 6-0, COMMANDER AND STAFF ORGANIZATION AND OPERATIONS (May 2014).

<sup>164</sup> *Id.*

For the legal planner, the mission section should include a general statement regarding the provision of legal support. This section can also include particular focus areas of legal support that are relevant to the operation. For example, “On order, the Brigade Operational Legal Team, 2nd CAB provides direct legal support to operations, including, but not limited to targeting, the ROE, detainee operations, and provides legal support to commander and his staff on all matters related to Operation X.”

The execution section should include a scheme of support, which details how the legal section is going to execute their mission. This section should also include the location of all legal assets within the TASKORG of the originating command. The execution section can also include tasks to subordinate units, such as provide office space, computer, etc., for assigned paralegals or “provide one officer or senior NCO to serve as claims pay agent.”

The task section should include specific guidance on functional areas that are involved in the operation. Legal tasks will include compliance with international law, claims, handling of confiscated weapons, detainee policies, military justice, and a host of other issues. This section should provide detailed instructions and references on these issues.

Coordinating instructions can be used to specify responsibilities for assisting in the legal support mission. They can include requirements for staff sections or subordinate units to inform and coordinate certain activities with the legal office, including appointing Summary Court-Martial Officers (SCMO), initiating FLIPLs, and reviewing SIRs prior to submission. In addition, they can be used to address logistical matters related to legal operations. For example, coordinating instructions can detail that one battalion could coordinate with another battalion to assist with soldiers visiting TDS, Legal Assistance, etc., at their FOB.

The administration section of the order is the place to specify reporting requirements. This section should incorporate AR 15-6 reporting requirements, senior leader misconduct notification, sexual assault reporting requirements, and other requirements specified in regulation or policy. This section should also be used for other JA-specific reports that must be filed, such as reports on claims and Military Justice Online (MJO).

By utilizing orders, JAs can ensure that legal requirements and a support plan become prescriptive in nature. The use of a support plan, incorporated into an order, can address possible areas of contention with subordinate units to avoid problems during operations. Once a commander issues such an order, subordinate leaders and units are required to comply. This places command emphasis on the order. Since orders are a commander’s exercise of his authority, all staff officers, particularly the JA, must ensure the order is proper.

## B. Reviewing OPORDS<sup>165</sup>

Staff planners review the orders of higher headquarters during the mission analysis phase of operational planning. When conducting OPORD review, staff planners should review these again and reconcile the current proposed order with the higher orders. The JA should review the higher order, current order, and all appropriate policies and ensure that they are providing sufficient legal basis for the order. The current order will be derivative of the higher order, but will also provide greater specificity in terms of tasks.

Judge advocates should begin their review with a review of authorities. There are two types of authorities contained in orders that form the basis for an OPORD: authority to conduct the mission and authority to order units. The authority to conduct a particular mission is based on the orders of a higher headquarters, domestic policy, and domestic and international law, such as the LOAC. The authority to order units derives from a commander’s authority over his forces. To ensure proper authority, JAs must understand the TASKORG and delineated command relationships.<sup>166</sup>

Following the review of general authorities, JAs should review the specific authorities contained in the reference section. These references will provide the framework for the operation and should be thoroughly reviewed. The JA should then review the proposed mission and mission statement for compliance with the regulatory and legal authorities contained in the references. For example, in a humanitarian assistance mission, JAs would ensure that the commander’s authority meets the stated mission, including the provision of supplies, who can receive assistance, interagency support, and allocation of funds.

After reviewing the base order, JAs should review the individual annexes. Judge advocates must pay particular attention to the operations and sustainment annexes, but other annexes should also be reviewed. It is important to ensure that there is sufficient authority for the proposed actions within each annex. Upon completion of the orders review, staff officers work with the XO, S3, and FUOPS to address any outstanding issues. Then, FUOPS obtains the commander’s approval and publishes the order through operations channels.

## VIII. Continuing Involvement in the Operations Process

The conclusion of the planning effort and the review and issuance of an OPORD does not end the involvement of

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<sup>165</sup> For a discussion, see *id.* at 462–64.

<sup>166</sup> Judge advocates must also ensure that the Uniform Code of Military Justice (UCMJ) jurisdictional memo, and supporting assignment and attachment orders, reflects that TASKORG.

staff officers. In particular, JAs must continue to be involved in the other phases of the operations process. Also, JAs must continue to advise during the execution phase of the operation. This includes advising on targeting, detainee issues, the ROE, and a host of other issues across all WFFs. The JA continues to be involved in the assessment's phase, including updating estimates, conducting assessments, and running battle drills.

#### A. Running Estimate

Throughout the planning and execution phases of operations, staff members should continually assess the current operational environment and its relationship to the original staff estimate. This ongoing assessment, known as the running estimate,<sup>167</sup> is conducted throughout the process and results in a continually evolving operational picture. It is not a "snapshot in time," but rather an analysis of trends as they relate to the ongoing execution. It is intended to provide the decision-maker, the commander, with information to assist in his decision-making process.

The legal running estimate should be focused on legal issues as they impact operations. This is not simply an opportunity to show statistics; instead, it requires ongoing activities, trend analysis of events and an evaluation of their effects on operations. Examples include the following:

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<sup>167</sup> ATTP 5-0.1, *supra* note 19, at 6-1.

A *running estimate* is the continuous assessment of the current situation used to determine if the current operation is proceeding according to the commander's intent and if planned future operations are supportable (FM 5-0). The commander and each staff section maintain a running estimate. In their running estimates, the commander and each staff section continuously consider the effects of new information and update the following: Facts, Assumptions, Friendly force status, Enemy activities and capabilities, Civil considerations, and Conclusions and recommendations.

*Id.* See also *id.* at 6-2.

The base running estimate addresses information unique to each functional area. It serves as the staff section's initial assessment of the current readiness of equipment and personnel and of how the factors considered in the running estimate affect the staff's ability to accomplish the mission. Each staff section identifies functional area friendly and enemy strengths, systems, training, morale, leadership, and weather and terrain effects, and how all these factors impact both the operational environment and area of operations. Because the running estimate is a picture relative to time, facts, and assumptions, each staff section constantly updates the estimate as new information arises, as assumptions become facts or are invalidated, when the mission changes, or when the commander requires additional input. Running estimates can be presented verbally or in writing.

*Id.*; see also Appendix D (Sample Deployment Staff Estimate).

1. ROE changes ("There have been five times, all following civilian casualties (CIVCAS), where indirect fire was restricted. The restriction lasted for 72 hours. In the event of CIVCAS in any province, we can expect to have restrictions.")<sup>168</sup>
2. Increase in amount of detainees
3. Increase in releases of detainees by review boards (increases need for escorts, thereby decreasing combat power)
4. Claims have increased in X province (could affect outreach in the area, but proves that IA activities regarding the community centers is reaching the population)
5. Court-martial in A Company (will require air travel to Kandahar, involving 10 members of 1st Platoon, reducing A Company to 75% of combat power; also involves 3 other senior leaders from other battalions, who are serving as court-martial members)

#### B. Assessments

Regardless of the WFF, staffs must continue to assess the outcome of operations. One of the most critical assessments is using the MOPs/MOEs discussed in Part IV.E. above to evaluate progress toward the campaign's desired end-state. This is the area where statistics, assessments, staff oversight and trackers come into play. For MOPs, this could involve mission back-briefs,<sup>169</sup> after action reviews (AARs),<sup>170</sup> reporting requirements, staff visits, and, in the case of contracted projects, such as CERP<sup>171</sup> and Civil Affairs projects, inspections by the contracting representative or engineer. Regarding MOEs, it focuses on the effect of the unit's efforts to advance a particular LOE. For example, governance MOEs can involve number of civilian trials, visits to district centers, availability of attorneys, etc. which can be measured with empirical data. Frequently, the JA may work with Civil Affairs, Rule of Law personnel, and Law Enforcement Professionals (LEPs)<sup>172</sup> to measure these data points. Also, JAs should consider incorporating subjective questions regarding local populace opinions and support for

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<sup>168</sup> A helpful tool is to use a Stoplight Chart in the concept of operations (CONOPs) and in the COIC to demonstrate current ROE in effect. See Appendix E (Sample ROE Stoplight Chart).

<sup>169</sup> ATTP 5-0.1, *supra* note 19, at 8-2.

<sup>170</sup> See U.S. DEP'T OF ARMY, REG. 11-33, ARMY LESSONS LEARNED PROGRAM (ALLP) (17 Oct. 2006), available at [http://www.apd.army.mil/pdffiles/r11\\_33.pdf](http://www.apd.army.mil/pdffiles/r11_33.pdf) (last visited June 4, 2014) (detailing AARs and their value).

<sup>171</sup> OPLAW HANDBOOK, *supra* note 83, at 238-40; see also Appendix C (Sample NEO Quad Chart).

<sup>172</sup> See Timothy Hsia, *Law-Enforcement Professional and the Army*, ARMY COMBINED ARMS CTR. (July 2008), available at [http://usacac.army.mil/cac2/call/docs/11-20/ch\\_6.asp](http://usacac.army.mil/cac2/call/docs/11-20/ch_6.asp) (last visited June 4, 2014) (discussing LEP program).

governmental efforts into Civil Affairs or Human Terrain Team (HTT)<sup>173</sup> assessments and surveys.

Simultaneous with conducting assessments along the MOPs/MOEs, JAs should also be assessing the quality of legal support provided to the command. Operations process for legal support involves planning support, preparing and executing the legal mission, and assessing the provision of legal support.

Assessments can also include analysis of AR 15-6 investigation findings and publishing that information to the unit via FRAGO or other command means. As an example: “Of 30 negligent discharges, 20 occurred with M249s, an open bolt weapon” would be helpful to unit leaders to identify training requirements, and, in the process, potentially reduce legal requirements, including initiating and reviewing AR15-6 investigations and processing general officer memorandums of reprimand (GOMORs).

### C. Battle Drills

Another helpful assessment tool is the battle drill.<sup>174</sup> At the headquarters level, battle drills are established procedures that detail the actions a staff will take in response to a given situation. It is used to test command and legal systems and to improve command responsiveness. Judge advocates should review the organization’s battle drills and insert legal requirements as appropriate. This can involve actual actions to be taken by legal personnel, notification requirements or other areas based on legal requirements. For example, a Troops in Contact (TIC) battle drill would involve notification of the JA to provide advice, if needed, on ROE and targeting, while a LOAC violation battle drill would involve notification of a JA, initiating SIRs, notifying Criminal Investigation Division (CID) and higher headquarters, and providing forces to secure the scene, if needed.

Legal planners should also consider developing internal battle drills for legal support. For example, JAs and paralegals could develop battle drills on the steps to take when notified of a servicemember’s death, either combat- or non-combat-related. This could include coordinating for a SCMO, an AR 15-6 IO, drafting appropriate appointment memorandums, sending out information and forms, and scheduling a time to conduct in-briefs for the appointed officers.

By using running estimates, assessments, and battle drills, JAs can identify shortcomings in the operational plan in terms of authorities and provide a means to overcome the limitations. These will also identify limitations in operational processes and procedures and allow for future efforts to address them. Combined, these can provide valuable lessons learned for future operational planning.

### IX. Conclusion

Operational planning can be an uncomfortable area for JAs. Like walking into a court hearing for the first time, it can cause anxiety. However, JAs possess finely honed analytical skills that serve them well in mastering the planning process and becoming an active planner in an operational headquarters. Ultimately, by understanding the planning process, JAs will be able to better advise their commanders, interact on equal footing with the staff, and, ultimately, become a “force enabler” in support of the command’s mission.

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<sup>173</sup> See generally HUMAN TERRAIN TEAM HANDBOOK (Sept. 2008), available at <http://www.vho.org/aaargh/fran/livres9/humterrainhandbo.pdf> (last visited June 4, 2014). Human Terrain Teams (HTTs) consist of five to nine personnel deployed to support field commanders. *Id.* These teams fill the socio-cultural knowledge gap in the commander’s operational environment and interpret key events in his operating area. *Id.*

<sup>174</sup> ATTP 5-0.1, *supra* note 19, at 3-5 (discussing typical battle drills).

## Appendix A

### Plans and Orders

#### TYPES OF PLANS<sup>175</sup>

**“A plan is a design for a future or an anticipated operation.** Plans come in many forms and vary in scope, complexity, and length of planning horizons. Strategic plans cover the overall conduct of a war. Operational or campaign plans cover a series of related military operations aimed at accomplishing a strategic or operational objective within a given time and space. Tactical plans cover the employment of units in operations, including the ordered arrangement and maneuver of units in relation to each other and to the enemy in order to use their full potential.

**An operation plan is any plan for the preparation, execution, and assessment of military operations.** An OPLAN becomes an OPORD when the commander sets an execution time. Commanders may begin preparation for possible operations by issuing an OPLAN.

**A service support plan is a plan that provides information and instructions covering service support for an operation.** Estimates of the command’s operational requirements are the basis for a service support plan. The service support plan becomes a service support order when the commander sets an execution time for the OPLAN that the service support plan supports.

A *supporting plan* is an operation plan prepared by a supporting commander or a subordinate commander to satisfy the requests or requirements of the supported commander’s plan (JP 5-0).

A *contingency plan* is a plan for major contingencies that can reasonably be anticipated in the principal geographic sub-areas of the command (JP 1-02). Army forces prepare contingency plans as part of all operations. Contingency plans may take the form of branches or sequels. Operations never proceed exactly as planned. Commanders prepare contingency plans to gain flexibility. Visualizing and planning branches and sequels are important because they involve transitions—changes in mission, type of operation, or forces required for execution. Unless conducted (planned, prepared, executed, and assessed) efficiently, transitions can reduce tempo, slow momentum, and give up the initiative.

A *branch* is a contingency plan or course of action (an option built into the basic plan or course of action) for changing the mission, disposition, orientation, or direction of movement of the force to aid success of the current operation, based on anticipated events, opportunities, or disruptions caused by enemy actions. Army forces prepare branches to exploit success and opportunities, or to counter disruptions caused by enemy actions (FM 3-0). Although commanders cannot anticipate every possible threat action, they prepare branches for the most likely ones. Commanders execute branches to rapidly respond to changing conditions.

*Sequels* are operations that follow the current operation. They are future operations that anticipate the possible outcomes—success, failure, or stalemate—of the current operation (FM 3-0). A counteroffensive, for example, is a logical sequel to a defense; exploitation and pursuit follow successful attacks. Executing a sequel normally begins another phase of an operation, if not a new operation. Commanders consider sequels early and revisit them throughout an operation. Without such planning during current operations, forces may be poorly positioned for future opportunities, and leaders unprepared to retain the initiative. Branches and sequels have execution criteria. Commanders carefully review them before execution and update them based on assessment of current operations.

#### TYPES OF ORDERS

An *order* is a communication that is written, oral, or by signal, which conveys instructions from a superior to a subordinate. In a broad sense, the terms “order” and “command” are synonymous. However, an order implies discretion as to the details of execution, whereas a command does not (JP 1-02). Combat orders pertain to operations and their service support. Combat orders include—

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<sup>175</sup> See *id.* at 12-2 to 12-5.

- OPORDs.
- Service support orders.
- Movement orders.
- Warning orders (WARNOs).
- Fragmentary orders (FRAGOs).

## OPERATION ORDERS

An *operation order* is a directive issued by a commander to subordinate commanders for the purpose of effecting the coordinated execution of an operation (JP 1-02). Traditionally called the five paragraph field order, an OPORD contains, as a minimum, descriptions of the following:

- Task organization.
- Situation.
- Mission.
- Execution.
- Administrative and logistic support.
- Command and signal for the specified operation.

OPORDs always specify an execution date and time

## SERVICE SUPPORT ORDERS

**A *service support order* is an order that directs the service support of operations, including administrative movements.** Service support orders form the basis for the orders of supporting commanders to their units. They provide information on combat service support (CSS) to supported elements. Service support orders are issued with an OPORD. They may be issued separately, when the commander expects the CSS situation to apply to more than one OPLAN/OPORD. At division and corps levels, a service support order may replace an OPORD's service support annex. In those cases, paragraph 4 of the OPORD refers to the service support order. Staffs at brigade and lower levels may cover all necessary CSS information in paragraph 4 of the OPORD. The service support order follows the same format as the OPORD. It is usually in writing and may include overlays, traces, and other annexes.

The logistics officer has primary coordinating responsibility for preparing, publishing, and distributing the service support order. Other staff officers, both coordinating and special, prepare parts of the order concerning their functional areas.

## MOVEMENT ORDERS

A *movement order* is an order issued by a commander covering the details for a move of the command (JP 1-02). Movement orders usually concern administrative moves (see FM 3-90). Normally, these movements occur in the communications zone or rear area. The logistics officer has primary coordinating staff responsibility for planning and coordinating movements. This includes preparing, publishing, and distributing movement orders. Other coordinating and special staff officers assist the logistics officer. These may include the operations officer, provost marshal, transportation officers, and movement control personnel.

When conducting ground movements in the rear area of the combat zone where enemy interference is expected, a movement order may become an annex to an OPORD or service support order. (Under the North Atlantic Treaty Organization (NATO), this annex is called the movement annex.) The operations officer plans and coordinates these tactical movements.

## WARNING ORDERS

The *warning order* is a preliminary notice of an order or action, which is to follow (JP 1-02). WARNOs help subordinate units and staffs prepare for new missions. They increase subordinates' planning time, provide details of the impending operation, and detail events that accompany preparation and execution. The amount of detail a WARNO includes depends on the information and time available when it is issued and the information subordinate commanders need for proper planning and preparation. The words "warning order" precede the message text. With the commander's (or chief of staff's or executive officer's) approval, a coordinating or special staff officer may issue a WARNO.

A WARNO informs recipients of tasks they must do now or notifies them of possible future tasks. However, a WARNO does not authorize execution other than planning unless specifically stated. A WARNO follows the OPORD format.

It may include some or all of the following information:

- Series numbers, sheet numbers and names, editions, and scales of maps required (if changed from the current OPORD).
- The enemy situation and significant intelligence events.
- The higher headquarters' mission.
- Mission or tasks of the issuing headquarters.
- The commander's intent statement.
- Orders for preliminary actions, including intelligence, surveillance, and reconnaissance (ISR) operations.
- Coordinating instructions (estimated timelines, orders group meetings, and the time to issue the OPORD).
- Service support instructions, any special equipment needed, regrouping of transport, or preliminary unit movements.

## **FRAGMENTARY ORDERS**

A *fragmentary order* is an abbreviated form of an operation order (verbal, written, or digital) usually issued on a day-to-day basis that eliminates the need for restating information contained in a basic operation order. It may be issued in sections. It is issued after an operation order to change or modify that order or to execute a branch or sequel to that order (JP 1-02). FRAGOs include all five OPORD paragraph headings. After each heading, state either new information or "no change." This ensures that recipients know they have received the entire FRAGO. Commanders may authorize members of their staff to issue FRAGOs in their name.

FRAGOs differ from OPORDs only in the degree of detail provided. They address only those parts of the original OPORD that have changed. FRAGOs refer to previous orders and provide brief and specific instructions. The higher headquarters issues a new OPORD when there is a complete change of the tactical situation or when many changes make the current order ineffective."

## Appendix B

### Sample Army OPLAN/OPORD Format<sup>176</sup>

#### [CLASSIFICATION]

Place the classification at the top and bottom of every page of the OPLAN or OPORD. Place the classification marking (TS), (S), (C), or (U) at the front of each paragraph and subparagraph in parentheses. Refer to AR 380-5 for classification and release marking instructions.

**Copy ## of ## copies**  
**Issuing headquarters**  
**Place of issue**  
**Date-time group of signature**  
**Message reference number**

The first line of the heading is the copy number assigned by the issuing headquarters. Maintain a log of specific copies issued to addressees. The second line is the official designation of the issuing headquarters (for example, 1st Infantry Division). The third line is the place of issue. It may be a code name, postal designation, or geographic location. The fourth line is the date or date-time group that the plan or order was signed or issued and becomes effective unless specified otherwise in the coordinating instructions. The fifth line is a headquarters internal control number assigned to all plans and orders in accordance with unit standard operating procedures (SOPs).

#### **OPERATION PLAN/ORDER [number] [(code name)] [(classification of title)]**

Number plans and orders consecutively by calendar year. Include code name, if any.

**(U) References:** List documents essential to understanding the OPLAN or OPORD. List references concerning a specific function in the appropriate attachments.

(a) List maps and charts first. Map entries include series number, country, sheet names, or numbers, edition, and scale.

(b) List other references in subparagraphs labeled as shown.

**(U) Time Zone Used Throughout the OPLAN/OPORD:** State the time zone used in the area of operations during execution. When the OPLAN or OPORD applies to units in different time zones, use Greenwich Mean (ZULU) Time.

**(U) Task Organization:** Describe the organization of forces available to the issuing headquarters and their command and support relationships. Refer to Annex A (Task Organization) if long or complicated.

**1. (U) Situation.** The situation paragraph describes the conditions of the operational environment that impact operations in the following subparagraphs:

a. (U) **Area of Interest.** Describe the area of interest. Refer to Annex B (Intelligence) as required.

b. (U) **Area of Operations.** Describe the area of operations (AO). Refer to the appropriate map by its subparagraph under references, for example, "Map, reference (b)." Refer to the Appendix 2 (Operation Overlay) to Annex C (Operations) as required.

(1) (U) **Terrain.** Describe the aspects of terrain that impact operations. Refer to Annex B (Intelligence) as required.

(2) (U) **Weather.** Describe the aspects of weather that impact operations. Refer to Annex B (Intelligence) as required.

[page number]

[CLASSIFICATION]

<sup>176</sup> ATTP 5-0.1, *supra* note 19.

[CLASSIFICATION]

**OPLAN/OPORD [number] [(code name)]—[issuing headquarters] [(classification of title)]**

Place the classification and title of the OPLAN or OPORD and the issuing headquarters at the top of the second and any subsequent pages of the base plan or order.

c. (U) **Enemy Forces.** Identify enemy forces and appraise their general capabilities. Describe the enemy's disposition, location, strength, and probable courses of action. Identify known or potential terrorist threats and adversaries within the AO. Refer to Annex B (Intelligence) as required.

d. (U) **Friendly Forces.** Briefly identify the missions of friendly forces and the objectives, goals, and missions of civilian organizations that impact the issuing headquarters in following subparagraphs:

(1) (U) **Higher Headquarters Mission and Intent.** Identify and state the mission and commander's intent for headquarters two levels up and one level up from the issuing headquarters.

(a) (U) **Higher Headquarters Two Levels Up.** Identify the higher headquarters two levels up the paragraph heading (for example, Joint Task Force-18).

1. (U) **Mission.**

2. (U) **Commander's Intent.**

(b) (U) **Higher Headquarters.** Identify the higher headquarters one level up in the paragraph heading (for example, 1st [U.S.] Armored Division).

1. (U) **Mission.**

2. (U) **Commander's Intent.**

(2) (U) **Missions of Adjacent Units.** Identify and state the missions of adjacent units and other units whose actions have a significant impact on the issuing headquarters.

e. (U) **Interagency, Intergovernmental, and Nongovernmental Organizations.** Identify and state the objective or goals and primary tasks of those non-Department of Defense organizations that have a significant role within the AO. Refer to Annex V (Interagency Coordination) as required.

f. (U) **Civil Considerations.** Describe the critical aspects of the civil situation that impact operations. Refer to Appendix I (Intelligence Estimate) to Annex B (Intelligence) as required.

g. (U) **Attachments and Detachments.** List units attached to or detached from the issuing headquarters. State when each attachment or detachment is effective (for example, on order, on commitment of the reserve) if different from the effective time of the OPLAN or OPORD. Do not repeat information already listed in Annex A (Task Organization).

h. (U) **Assumptions.** List assumptions used in the development of the OPLAN or OPORD.

**2. (U) Mission.** State the unit's mission—a short description of the who, what (task), when, where, and why (purpose) that clearly indicates the action to be taken and the reason for doing so.

**3. (U) Execution.** Describe how the commander intends to accomplish the mission in terms of the commander's intent, an overarching concept of operations, schemes of employment for each warfighting function, assessment, specified tasks to subordinate units, and key coordinating instructions in the subparagraphs below.

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[CLASSIFICATION]

[CLASSIFICATION]

**OPLAN/OPORD [number] [(code name)]—[issuing headquarters] [(classification of title)]**

a. (U) Commander's Intent. *Commanders develop their intent statement personally. The commander's intent is a clear, concise statement of what the force must do and conditions the force must establish with respect to the enemy, terrain, and civil considerations that represent the desired end state. It succinctly describes what constitutes the success of an operation and provides the purpose and conditions that define that desired end state. The commander's intent must be easy to remember and clearly understood two echelons down.*

b. (U) Concept of Operations. *The concept of operations is a statement that directs the manner in which subordinate units cooperate to accomplish the mission and establishes the sequence of actions the force will use to achieve the end state. It is normally expressed in terms of decisive, shaping, and sustaining operations. It states the principal tasks required, the responsible subordinate units, and how the principal tasks complement one another. Normally, the concept of operations projects the status of the force at the end of the operation. If the mission dictates a significant change in tasks during the operation, the commander may phase the operation. The concept of operations may be a single paragraph, divided into two or more subparagraphs, or if unusually lengthy, summarize here with details located in Annex C (Operations). If the concept of operations is phased, describe each phase in a subparagraph. Label these subparagraphs as "Phase" followed by the appropriate Roman numeral, for example, "Phase I." If the operation is phased, all paragraphs and subparagraphs of the base order and all annexes must mirror the phasing established in the concept of operations. The operation overlay and graphic depictions of lines of effort help portray the concept of operations and are located in Annex C (Operations).*

c. (U) Scheme of Movement and Maneuver. *Describe the employment of maneuver units in accordance with the concept of operations. Provide the primary tasks of maneuver units conducting the decisive operation and the purpose of each. Next, state the primary tasks of maneuver units conducting shaping operations, including security operations, and the purpose of each. For offensive operations, identify the form of maneuver. For defensive operations, identify the type of defense. For stability operations, describe the role of maneuver units by primary stability tasks. If the operation is phased, identify the main effort by phase. Identify and include priorities for the reserve. Refer to Annex C (Operations) as required.*

(1) (U) Scheme of Mobility/Counter-mobility. *State the scheme of mobility/counter-mobility including priorities by unit or area. Refer to Annex G (Engineer) as required.*

(2) (U) Scheme of Battlefield Obscuration. *State the scheme of battlefield obscuration, including priorities by unit or area. Refer to Appendix 9 (Battlefield Obscuration) to Annex C (Operations) as required.*

(3) (U) Scheme of Reconnaissance and Surveillance. *Describe how the commander intends to use reconnaissance and surveillance to support the concept of operations. Include the primary reconnaissance objectives. Refer to Annex L (Reconnaissance and Surveillance) as required.*

**(Note:** *Army forces do not conduct reconnaissance and surveillance within the United States and its territories. For domestic operations, this paragraph is titled "Information Awareness and Assessment" and the contents of this paragraph comply with Executive Order 12333.)*

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**OPLAN/OPORD [number] [(code name)]—[issuing headquarters] [(classification of title)]**

d. (U) Scheme of Intelligence. Describe how the commander envisions intelligence supporting the concept of operations. Include the priority of effort to situation development, targeting, and assessment. State the priority of intelligence support to units and areas. Refer to Annex B (Intelligence) as required.

e. (U) Scheme of Fires. Describe how the commander intends to use fires to support the concept of operations with emphasis on the scheme of maneuver. State the fire support tasks and the purpose of each task. State the priorities for, allocation of, and restrictions on fires. Refer to Annex D (Fires) as required.

f. (U) Scheme of Protection. Describe how the commander envisions protection supporting the concept of operations. Include the priorities of protection by unit and area. Include survivability. Address the scheme of operational area security, including security for routes, bases, and critical infrastructure. Identify tactical combat forces and other reaction forces. Use subparagraphs for protection categories (for example, air and missile defense and explosive ordnance disposal) based on the situation. Refer to Annex E (Protection) as required.

g. (U) Stability Operations. Describe how the commander envisions the conduct of stability operations in coordination with other organizations through the primary stability tasks. (See FM 3-07.) If other organizations or the host nation are unable to provide for civil security, restoration of essential services, and civil control, then commanders with an assigned AO must do so with available resources, request additional resources, or request relief for these requirements from higher headquarters. Commanders assign specific responsibilities for stability tasks to subordinate units in paragraph 3i (Tasks to Subordinate Units) and paragraph 3j (Coordinating Instructions). Refer to Annex C (Operations) and Annex K (Civil Affairs Operations) as required.

h. (U) Assessment. Describe the priorities for assessment and identify the measures of effectiveness used to assess end state conditions and objectives. Refer to Annex M (Assessment) as required.

i. (U) Tasks to Subordinate Units. State the task assigned to each unit that reports directly to the headquarters issuing the order. Each task must include who (the subordinate unit assigned the task), what (the task itself), when, where, and why (purpose). Use a separate subparagraph for each unit. List units in task organization sequence. Place tasks that affect two or more units in paragraph 3j (Coordinating Instructions).

j. (U) Coordinating Instructions. List only instructions and tasks applicable to two or more units not covered in unit SOPs.

(1) (U) Time or condition when the OPORD becomes effective.

(2) (U) Commander's Critical Information Requirements. List commander's critical information requirements (CCIRs).

(3) (U) Essential Elements of Friendly Information. List essential elements of friendly information (EEFIs).

(4) (U) Fire Support Coordination Measures. List critical fire support coordination or control measures.

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[CLASSIFICATION]

**OPLAN/OPORD [number] [(code name)]—[issuing headquarters] [(classification of title)]**

- (5) (U) Airspace Coordinating Measures. List critical airspace coordinating or control measures.
- (6) (U) Rules of Engagement. List rules of engagement. Refer to Appendix 11 (Rules of Engagement) to Annex C (Operations) as required.
- (Note:** For operations within the United States and its territories, title this paragraph "Rules for the Use of Force").
- (7) (U) Risk Reduction Control Measures. State measures specific to this operation not included in unit SOPs. They may include mission-oriented protective posture, operational exposure guidance, troop-safety criteria, and fratricide avoidance measures. Refer to Annex E (Protection) as required.
- (8) (U) Personnel Recovery Coordination Measures. Refer to Appendix 2 (Personnel Recovery) to Annex E (Protection) as required.
- (9) (U) Environmental Considerations. Refer to Appendix 5 (Environmental Considerations) to Annex G (Engineer) as required.
- (10) (U) Themes and Messages. List information themes and messages.
- (11) (U) Other Coordinating Instructions. List in subparagraphs any additional coordinating instructions and tasks that apply to two or more units, such as the operational timeline and any other critical timing or events.

**4. (U) Sustainment.** Describe the concept of sustainment, including priorities of sustainment by unit or area. Include instructions for administrative movements, deployments, and transportation—or references to applicable appendixes—if appropriate. Use the following subparagraphs to provide the broad concept of support for logistics, personnel, and Army health system support. Provide detailed instructions for each sustainment sub-function in the appendixes to Annex F (Sustainment) listed in Table E-2.

- a. (U) Logistics. Refer to Annex F (Sustainment) as required.
- b. (U) Personnel. Refer to Annex F (Sustainment) as required.
- c. (U) Army Health System Support. Refer to Annex F (Sustainment) as required.

**5. (U) Command and Signal.**

- a. (U) Command.
- (1) (U) Location of Commander. State where the commander intends to be during the operation, by phase if the operation is phased.
- (2) (U) Succession of Command. State the succession of command if not covered in the unit's SOPs.
- (3) (U) Liaison Requirements. State liaison requirements not covered in the unit's SOPs.

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**OPLAN/OPORD [number] [(code name)]—[issuing headquarters] [(classification of title)]**

b. (U) Control.

(1) (U) Command Posts. Describe the employment of command posts (CPs), including the location of each CP and its time of opening and closing, as appropriate. State the primary controlling CP for specific tasks or phases of the operation (for example, "Division tactical command post will control the air assault").

(2) (U) Reports. List reports not covered in SOPs. Refer to Annex R (Reports) as required.

c. (U) Signal. Describe the concept of signal support, including location and movement of key signal nodes and critical electromagnetic spectrum considerations throughout the operation. Refer to Annex H (Signal) as required.

**ACKNOWLEDGE:** Include instructions for the acknowledgement of the OPLAN or OPORD by addressees. The word "acknowledge" may suffice. Refer to the message reference number if necessary. Acknowledgement of a plan or order means that it has been received and understood.

[Commander's last name]

[Commander's rank]

The commander or authorized representative signs the original copy. If the representative signs the original, add the phrase "For the Commander." The signed copy is the historical copy and remains in the headquarters' files.

**OFFICIAL:**

[Authenticator's name]

[Authenticator's position]

Use only if the commander does not sign the original order. If the commander signs the original, no further authentication is required. If the commander does not sign, the signature of the preparing staff officer requires authentication and only the last name and rank of the commander appear in the signature block.

**ANNEXES:** List annexes by letter and title. Army and joint OPLANs or OPORDs do not use Annexes I and O as attachments and in Army orders label these annexes "Not Used." Annexes Q, T, W, X, and Y are available for use in Army OPLANs or OPORDs and are labeled as "Spare." When an attachment required by doctrine or an SOP is unnecessary, label it "Omitted."

Annex A – Task Organization

Annex B – Intelligence

Annex C – Operations

Annex D – Fires

Annex E – Protection

Annex F – Sustainment

Annex G – Engineer

Annex H – Signal

Annex I – Not Used

Annex J – Inform and Influence Activities

Annex K – Civil Affairs Operations

Annex L – Reconnaissance and Surveillance

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[CLASSIFICATION]

**OPLAN/OPORD [number] [(code name)]—[issuing headquarters] [(classification of title)]**

Annex M – Assessment  
Annex N – Space Operations  
Annex O – Not Used  
Annex P – Host-Nation Support  
Annex Q – Spare  
Annex R – Reports  
Annex S – Special Technical Operations  
Annex T – Spare  
Annex U – Inspector General  
Annex V – Interagency Coordination  
Annex W – Spare  
Annex X – Spare  
Annex Y – Spare  
Annex Z – Distribution

**DISTRIBUTION:** *Furnish distribution copies either for action or for information. List in detail those who are to receive the plan or order. Refer to Annex Z (Distribution) if lengthy.*

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[CLASSIFICATION]

Appendix C

Sample NEO<sup>177</sup> Quad Chart<sup>178</sup>

Legal Mission Analysis (NEO)	
Facts / Assumptions	Specified / Implied Tasks
<p>(A) Atlantis is permissive environment                      (B) RUF is in effect                      (C) NEO of AMCITS only                      (D) Entry into territory of X authorized                      (E) TOC requires 24 hour support                      (F) BDE will be dispersed over the entire region                      (G) Claims will require a Judge Advocate in support                      Civil Affairs/CERP projects require legal reviews.                      Non-lethal munitions are authorized</p>	<p>(I) All participants cleared through legal/SRP prior to deployment                      (I) All personnel received LOAC/RUF training prior to deployment                      Advise commanders on RUF during operation                      Establish claims operation</p>
Constraints / Limitations	Assets
<p>(C) Entry into Neighboring Countries is restricted (requires DOS coordination)                      (C) NEO of 3<sup>rd</sup> Parties is restricted                      (C) Asylum can only be approved by CTF CDR                      RCAs are only authorized for FP                      Humanitarian Assistance requires CG approval                      Movement restricted within 25 km of border</p>	<p></p>

<sup>177</sup> Non-Combatant Evacuations Operations.

<sup>178</sup> Developed by author.

**Appendix D**

**Sample Deployment Staff Estimate<sup>179</sup>**

Staff Section: BDE SJA		Prepared By:	DTGL:
Facts: <ul style="list-style-type: none"> <li>- Current ROE in effect</li> <li>- Rules of Engagement not affected by Security Agreement</li> <li>- Change in ROE card – Detention Authority</li> <li>- US CENTCOM General Order Number 1A in effect</li> <li>- MNC-I General Order Number 1 in effect</li> <li>- Brigade Commander approval authority for Micro-grants of \$5,000 or less</li> </ul>		Assumptions (RFI):	
Tasks (Specified/Implied/Essential)	S	I/E	LOCATION IN THE ORDER
<ul style="list-style-type: none"> <li>- Provide support and services in all legal disciplines and operational law</li> <li>- Supervise and conduct ROE/LOW/GO #1/Code of Conduct training in train-the-trainer format (Phase I)</li> <li>- Reporting requirements: provide flash report within one hour: suspected/known ROE violations; detention of civilians; friendly fire incidents; completed investigations (Phase IV)</li> <li>- AR 15-6 Investigations required: Class A accidents; Friendly Fire incidents; Blue/Green – Green/Blue; Non-combat death/serious injury of foreign nationals; Potential LOW violations; Loss of sensitive items; Negligent discharge; ROE violations; (Phase IV)</li> <li>- Brigade appointed Program Manager and Pay Agent for each pot of money</li> <li>- Battalion appointed Pay Agent and PPO at each battalion for each pot of money</li> <li>- Brigade must provide pre-approved micro-reward payment criteria describing criteria under which reward will be approved</li> </ul>	X X X X X X X X		Annex I, App. 5, (2) Annex I, App. 5, (4) Annex I, App. 5, (5) Annex I, App. 5, (5) Annex I, App. 5 (3) 5 Annex I, App. 5 (Tab K)
Constraints	Assets Available	Issues/Outstanding Key RFIs	
<ul style="list-style-type: none"> <li>- Public works and infrastructure;</li> <li>- Religious/cultural sites</li> <li>- Warrant process</li> <li>- Cerp/ I Cerp/ Rewards/ Micro-Grants approval limits</li> <li>- Mosque Entry</li> </ul>			

<sup>179</sup> Created by 3-2 Stryker Brigade Combat Team Legal Section.

## Appendix E

### Sample ROE Stoplight Chart

ROE	Status	Comments
ROE #1: Declared Hostile		
ROE #2: Self Defense		.
ROE #3: Entry into Land and Airspace		
ROE #4: Entry into Neighboring Country's Land and Airspace		Requires DOD approval
ROE #5: Indirect Fires		Restricted within 100M of structures
ROE #6: Warning Shots		Not authorized
ROE #7: Defense of Third Parties		