

Center for Law and Military Operations (CLAMO) Report
The Judge Advocate General's Legal Center and School

Legal Team Trends at the Combat Training Centers

Introduction

The Combat Training Centers (CTCs) are designed to provide realistic combat training to units. The Judge Advocate General's Corps (JAGC) assigns both judge advocates (JAs) and enlisted paralegals to the CTCs.¹ These JAs and paralegals mentor, coach, and teach the legal teams rotating through the CTCs and are in a unique position to capture legal team training challenges during unit rotations. They then analyze these challenges and spot trends that may need to be addressed by JAGC leaders for the benefit of future CTC rotations. More importantly, the CTCs strive to spot problematic issues before they materialize in current and/or future operations.

This note is based on information gathered from the legal teams assigned as observer controllers (O/Cs) at the CTCs and addresses several challenges and trends they noted. This article is intended to assist leaders and those deploying to the CTCs in devising home station training strategies to prepare legal teams for their CTC rotations and for their deployments in support of real-world operations.

Legal Teams as Staff Officers

According to JAGC doctrine, legal teams must be present in the tactical operations center (TOC), have access to the commander, and have the training, mobility, secure communications and equipment to provide the right answers at the right time and place.² To best improve the skills required in today's legally complex operational environment, legal teams must arrive at the CTC prepared to further perfect the skills they have gained already through home station integration and training.

Legal Team Presence in the TOC

While placement of the legal team in the TOC during CTC rotations is generally not a problem, the location of the team within the TOC is frequently an issue. Legal teams often begin an exercise with their assigned space located near the periphery of the TOC or in a location which hampers staff coordination and access to decision-makers by the JA. When this issue arises, it is always corrected by the unit no later than the mid-point of the exercise with little or no O/C coaching. Judge advocates need to be sensitive to this issue and strive for a location in the TOC that enhances information-sharing and access to the commander. In addition, O/Cs have observed that some Reserve Component (RC) Offices of the Staff Judge Advocate (OSJA) may not designate JAs to cover the brigade combat teams (BCTs) prior to arriving at the CTC, because the OSJAs ordinarily drill as a consolidated legal team. The BCT commanders and staffs, therefore, may not be accustomed to having direct JA support. Considering they will soon follow their active duty counterparts by transforming to modular BCTs, JA O/Cs recommend RC OSJAs designate specific JAs to cover BCTs as soon as possible, and use future drill weekends to build working relationships at the brigade level.

Access to Subordinate Commanders and Other Decision-Makers

Although the legal teams can locate their office in an area of the brigade TOC that fosters access to the commander and staff, they still may be hampered in their access to commanders at the battalion level and below. This results from consolidating paralegals at the brigade level, and subsequently failing to identify critical tasks that the paralegal performs at the battalion level and training another Soldier to conduct those tasks (e.g., reviewing detention packets, receiving claims, coordinating legal assistance, and handling command discipline issues). Thus, brigade operational law teams (BOLTs) must ensure that they have a designated Soldier at the battalion level responsible for legal actions and trained to spot issues that the BOLT may need to address. Similarly, JAs must ensure that paralegals deploying with their battalions to forward operating bases (FOBs) at a different location than their brigade have systems in place that assist the paralegal in enhancing the

¹ The Joint Readiness Training Center (JRTC), at Fort Polk, Louisiana, has three JAs and one enlisted paralegal. The National Training Center (NTC), at Fort Irwin, California, has two JAs and one paralegal. The Combat Maneuver Training Center (CMTC), at Hohenfels, Germany, has one JA. Finally, the Battle Command Training Program (BCTP), at Fort Leavenworth, Kansas, has three JAs.

² U.S. DEP'T OF ARMY, FIELD MANUAL 27-100, LEGAL OPERATIONS para. 5.5.4 (Mar. 2000) [hereinafter FM 27-100].

information flow of legal issues from the battalion commander to the BOLT JA. About one-third to one-half of BOLTs actually attempt to employ this configuration at the CTCs; O/Cs who have observed paralegals operating at the battalion have found it to be highly effective. In these cases, the BOLT JAs and senior noncommissioned officers must work to train junior paralegals at the battalions so that they can participate fully in battalion TOC operations. With training, these paralegals can spot issues for the commander and address those issues with the BOLTs.

Training

The clear strength of the BOLTs deploying to the CTCs is their exceptional knowledge and ability in the core legal disciplines. When asked, legal teams provide the correct legal answer nearly every time, even when confronted with complex questions and situations. Reserve component legal teams, in particular, excel at court-martial advocacy, but often need to work harder to learn the procedural aspects of the military discipline system. Recently, to prepare for deployment, RC legal teams have trained at active duty SJA offices to learn the administrative processing details of military legal actions.

Although the BOLTs' legal skills are excellent, their knowledge of staff officer skills is one of the primary weaknesses of JAs and enlisted paralegals who rotate through the CTCs. Many legal teams lack understanding of basic staffing processes and are unable to speak staff or Army "language." Much of the training that JAs and paralegals receive is focused on the technical legal aspects of military operations; therefore, many do not understand the military decision making process (MDMP).³ Consequently, they fail to develop the required products at the required time. Moreover, JAs often do not participate in the intelligence preparation of the battlefield (IPB) process⁴ and fail to provide the products required to support the decision-making process at the brigade and battalion level.⁵ Many junior JAs find themselves in an environment where they must interact with other staff sections and think proactively. These legal teams risk becoming compartmentalized and reactive, simply waiting in their cells for the phone to ring.

Similarly, many JAs and paralegals do not know how to write a legal annex, how to format the annex, and which information should be in the annex. If the legal teams are not familiar with how to draft a legal annex, they should contact the legal O/Cs prior to their rotation for sample formats.

In addition, commanders and fellow staff members value officers who embody military values. Impressions are often formed before a JA has an opportunity to give legal advice. Therefore, legal teams must be familiar with and adhere to basic military protocol at all times. To be effective, legal teams must present themselves as knowledgeable staff officers and Soldiers who add value to the team. Not only must the legal team's military bearing be above reproach, but their workspace should present an organized and military appearance. Moreover, a continuing issue is the legal teams' unfamiliarity with basic Soldier skills, including, but not limited to, the following: land navigation; weapons use and clearing procedures; night driving with night vision goggles; familiarity with operational terms and graphics; and familiarity with other battlefield operating systems (BOS) elements.

In sum, JA O/Cs observe that if the legal teams present a proper appearance and participate in the staff process, including the MDMP, they become fully integrated into the staff. Other staff officers include them in all planning and seek out the legal team for advice and support. Once these legal teams "speak the language," they can disseminate information using the information tools the Army provides, including fragmentary orders (FRAGOs) and net calls.

Mobility

When a legal team arrives at a CTC without a vehicle, they often miss opportunities to practice basic skills such as land navigation, convoy operations, and night driving. Thus, the OSJA leadership must emphasize basic Soldier skill training at home station prior to deployment to a CTC and ensure legal teams have a vehicle during their rotation. Second only to

³ U.S. DEP'T OF ARMY, FIELD MANUAL 101-5, STAFF ORGANIZATION AND OPERATIONS ch. 5 (31 May 1997) (recently replaced by U.S. DEP'T OF ARMY, FIELD MANUAL 5-0, ARMY PLANNING AND ORDERS PRODUCTION ch. 3 (20 Jan. 2005)).

⁴ See generally U.S. DEP'T OF ARMY, FIELD MANUAL 34-130, INTELLIGENCE PREPARATION OF THE BATTLEFIELD ch. 1 (8 July 1994) (stating that all staff officers participate in IPB).

⁵ See generally U.S. DEP'T OF ARMY, FIELD MANUAL 6-0, MISSION COMMAND: COMMAND AND CONTROL OF ARMY FORCES para. 1-5 (11 Aug. 2003) (requiring all staff officers to identify and disseminate relevant information in order to promote situational understanding). Judge advocates at the CTCs recommend that JA doctrine be updated to identify those products with specificity. The *Rules of Engagement Handbook* suggests what products should be developed and when those products should be produced, but focuses almost solely on ROE development. See CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, RULES OF ENGAGEMENT HANDBOOK ch. 1 (July 2000) [hereinafter CLAMO HANDBOOK].

training, this is an important challenge facing a legal team deploying to a CTC. Although many BOLTs arrive at the CTC with dedicated vehicles, these vehicles often have been cross-leveled from some other source. Commanders must prioritize the availability of vehicles based upon what they believe the mission requires. Fortunately, many commanders understand the importance of JAs and paralegals in the contemporary operational environment.⁶ The legal teams need vehicles to conduct missions in all core legal disciplines, such as claims and legal assistance, as well as missions that include meeting with local judicial representatives to ensure judicial reconstruction efforts and with local government agents on behalf of the commander.

Secure Communications

The ability to conduct secure communications is a significant issue for legal teams at the BCT. Although legal teams do not have organic communications (except e-mail), they have access to it, except while in transit. Thus, access to the commander is lost during periods of transit and while off of the FOB. Because the JA is both a personal and a special staff officer whose function cannot be replicated, the commander should have access to the JA at all times. This is rarely the case; a Senior JRTC O/C commented that during his tenure, only one BOLT arrived at JRTC with their own FM communications (a SINGARs Advanced System Improvement Program (ASIP) radio).⁷

Equipment

All legal team equipment must be tested prior to deployment, and every member of the BOLT should be capable of operating each piece of organic equipment. A clear trend at the CTCs is that computer systems are rarely fully tested prior to deployment. Often, legal administrators keep “deployment laptops” segregated from “work laptops” and only issue the deployment laptops upon deployment. The Judge Advocate Warfighting System (JAWS) is the standard, and it is the most valuable piece of BOLT equipment. Optimally, the O/Cs recommend that each member of the BOLT utilize the JAWS system during unit rotations, particularly if the battalion paralegals have not been consolidated at the brigade. For a paralegal to be most effective at the battalion level, he must be able to timely transmit documents to the JA. To transmit documents, they must have a scanner. According to the O/Cs, the weakest component of the JAWS is the scanner/printer. It requires the most training and testing prior to deployment. Nevertheless, O/Cs have noticed that very few BOLTs arrive at the CTC having previously tested their scanners. BOLTs should consider replacing this component with an all-in-one scanner, printer, copier which, while larger, is more reliable and easier to employ.⁸ Finally, few BOLTs arrive at the CTC with USB (universal serial bus) drives for paralegals even though the paralegals rarely have their own computer. There should be a minimum of two USB drives per member of the BOLT. While capacity is important, 64 MB is normally sufficient for all but the largest of PowerPoint presentations. One USB drive should be classified and the other unclassified.⁹

Rules of Engagement Issues

Clearly stated, the ROE must be published before Army forces are committed at higher levels. Operational law JAs assist the commander to interpret, draft, disseminate, and train the ROE. Because the ROE must conform to international

⁶ Major Rick Lear, the Senior O/C at JRTC observed:

All JAs that I visited while in [the Iraqi] theater had dedicated vehicles, however, most received their vehicles after arriving in theater and once commanders realized that an adjustment had to be made in order for the JA to do his/her job. In other words, the commander had to go through some “growing pains” and realize that mobility was a more important issue for their JA than they anticipated.

E-mail from Major Rick Lear, Senior O/C, Joint Readiness Training Center, to Lieutenant Colonel Pamela Stahl, Director, Center for Law and Military Operations, subject: Data Call (3 Oct. 2004).

⁷ *Id.*

⁸ CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL’S SCHOOL, U.S. ARMY, LEGAL LESSONS LEARNED FROM AFGHANISTAN AND IRAQ: VOLUME I, MAJOR COMBAT OPERATIONS (11 SEPTEMBER 2001 – 1 MAY 2003) ch. J, para. 3.f.3 (2004) (noting the need for an all-in-one copier, printer, and scanner).

⁹ *See id.* para. 3.f.2 (highlighting the utility of USB drives).

law, Army policy gives military attorneys a role in ROE compliance,¹⁰ and the Chairman of the Joint Chiefs of Staff has directed attorneys to review all operations plans and participate in military staffs' targeting meetings.¹¹

There are few clearly identifiable trends regarding the level of knowledge of the ROE that Soldiers possess upon arrival at a CTC. Most Soldiers have received some level of training from JAs, their chain of command, or other sources. Soldiers in units who are not organic to the BCT (e.g., Psychological Operations or Civil Affairs Soldiers) typically have less training on the ROE than organic units. Prior to arriving to the CTC, Soldiers generally receive their training in a classroom environment. Soldiers understand the importance of ROE and recognize that it contains both legal and political considerations. They often know the 5 Ss,¹² but have not internalized them and therefore fail to apply them in given situations. Consequently, during situational training exercise (STX) lanes, Soldiers confronted with difficult and realistic ROE scenarios have difficulty applying the appropriate use of force, although they can repeat the rules after the fact. Nearly all units incorporate vignettes into their ROE training program. The legal team O/Cs observed that the use of vignettes effectively contributes to Soldiers' understanding of the rules.

Clearly Stated ROE

Legal teams recognize the need to provide clearly stated ROE and excel when given the opportunity to help draft ROE and train Soldiers on ROE. Rules of engagement in today's operational missions are complex and derived from various sources. Real world confusion exists in several areas regarding the ROE, in particular regarding the use of warning shots. Judge advocates often fail to advise commanders on the production of clear guidance regarding the use of warning shots prior to their arrival at the CTC. Additionally, terms such as "positive identification" or "PID," can be confusing. While JAs easily understand this concept with little explanation, commanders and Soldiers often exhibit difficulty and must be trained on these concepts.

Interpret, Draft, Disseminate, and Train (I-D-D-T)

Units use the I-D-D-T (Interpret, Draft, Disseminate, and Train) methodology both consciously and instinctively in their training program.¹³ Currently, most units arrive at the CTC with their version of the Combined Forces Land Component Command (CFLCC) ROE card rather than the prescribed CTC card in order to provide greater clarification to Soldiers deploying in support of Operation Iraqi Freedom. Dissemination through various means has been effective. What the I-D-D-T methodology does not consider, and the task that JAs and commanders often fail to perform, is an assessment of the effectiveness of the ROE training program. Soldiers should be spot-checked for possession of their cards, but more importantly, on the knowledge of what is on their cards.

Participate in the Targeting Meetings

Many JAs attend the targeting meetings only at the prompting of the O/C. This may be due to the fact that these JAs often do not understand the targeting process used by their commands, and therefore are unable to anticipate legal issues which will arise during targeting meetings. Judge advocates generally arrive at the correct legal answer, but normally fail to anticipate the issues and must research and answer the questions after the fact. For additional information on contemporary targeting, legal teams should refer to a previous CLAMO Note on effects-based targeting.¹⁴

¹⁰ FM 27-100, *supra* note 2, para. 8.4.

¹¹ CHAIRMAN OF THE JOINT CHIEFS OF STAFF, INSTR. 3121.01A, STANDING RULES OF ENGAGEMENT FOR US FORCES encl. L, para. 2.a (15 Jan. 2000) ("The staff judge advocate (SJA) assumes the role of principal assistant to the J-3 or J-5 in developing and integrating ROE into operational planning."); CHAIRMAN OF THE JOINT CHIEFS OF STAFF, JOINT PUB. 3-60, JOINT DOCTRINE FOR TARGETING app. A, para. 9 (17 Jan. 2002) ("Due to the complexity and extent of international law considerations involved in the Joint Targeting process, a judge advocate (JA) must be immediately available at all levels of command to provide advice about law of war compliance during planning and execution of exercises and operations.").

¹² Shout (verbal warning), show (show weapons or threat of force), shove (use physical force to restrain threat), shoot to warn (warning shot), shoot to kill. See CLAMO HANDBOOK, *supra* note 5, at 2-6.

¹³ FM 27-100, *supra* note 2, para. 8.4 (describing the I-D-D-T methodology as a medium for teaching ROE).

¹⁴ See generally Lieutenant Colonel Pamela M. Stahl & Captain Toby Harryman, *The Judge Advocate's Role in Information Operations*, ARMY LAW., Mar. 2004, at 30.

Detention Operations

Detention involves a less than lethal means of the use of force which should be addressed during ROE training.¹⁵ About fifty-percent of units rotating through the CTCs have incorporated the rationale for detentions into ROE training. For example, JA O/Cs train all units deploying to Iraq on the proper method of completing the Multinational Corps Iraq (MNC-I) detention form. Units continue to have difficulty with this task, because they fail to provide required information and to demonstrate any basis for detention. The result is that interrogators are unable to properly formulate questions for detainees, and intelligence is lost. Moreover, despite the required training, Soldiers in maneuver units still appear untrained in the use of sworn statements and MNC-I detention forms. The Senior JA O/C at JRTC devised the following acronym that may be provided on DA Form 2823, Sworn Statement, to assist Soldiers in completing the form.

Witnesses: who saw it, both U.S. and local national.

Reason: what did this person do that caused you to detain him/her.

Observe: what did you directly observe or what did others tell you that they observed that caused you to detain this person.

Name: of the person detained and those detained with him/her.

Grid: location where the person was detained.

Conclusion

The CTCs use the most current information from ongoing operations and are therefore able to juxtapose the skills modern combat operations require of legal personnel with the skill levels of the legal teams rotating through the CTCs. Most trends in legal performance can be remedied before the units arrive at the CTC and should be remedied before deployment in support of ongoing combat operations. A successful training exercise at a CTC can build confidence in legal teams who may soon deploy with their units. Applying these lessons learned in training can assist leaders and those deploying to the CTCs in devising home station training strategies and acquiring the best equipment to ensure success in CTC rotations and for their deployments in support of real-world operations.

¹⁵ See generally CLAMO HANDBOOK, *supra* note 5, ch. 2.