

## IN MEMORIAM



### **Major Michael R. Martinez**

**29 April 1962 – 7 January 2006**

*Colonel (Ret.) Fred L. Borch III, JAGC  
Regimental Historian & Archivist*

*“A guy who always had a smile on his face. . .”*

To all who knew him, Michael Martinez will be forever remembered for his zest for life, love of family, and devotion to the law and our Army.

Major (MAJ) Martinez was born in Frankfurt, Germany on 29 April 1962 and grew up at Fort Leonard Wood, Missouri. Major Martinez was the son of a career military Soldier. His father, Raymond C. Martinez, was a Vietnam veteran and a career noncommissioned officer who eventually retired as a command sergeant major.

Major Martinez wanted to Soldier, too, and, following in his father’s footsteps, he enlisted in the Army in 1988. Major Martinez served eight years as an enlisted Soldier, beginning his military career as a paralegal specialist in the Office of the Staff Judge Advocate, 6th Infantry Division (Light), Fort Wainwright, Alaska. In 1991, MAJ Martinez completed court reporter training at the Naval Justice School, Newport, Rhode Island. He excelled in this course, graduating with honors and receiving the Hibben Award for the highest final average. Major Martinez then returned to Fort Wainwright and served as a court reporter until 1992. For his next assignment, MAJ Martinez served with the 1st Infantry Division, Fort Riley, Kansas, where he became the senior court reporter in that busy jurisdiction. He was promoted to staff sergeant in September 1992.

While on active duty, MAJ Martinez found the time and energy to complete his undergraduate studies and, having accomplished this goal, decided he was up for the challenge of law school and the legal profession. Major Martinez left active duty in 1995 and entered the University of Missouri School of Law in Columbia, Missouri. Despite his busy curriculum as a full time law student, MAJ Martinez still found time to serve as a court reporter in the Missouri National Guard.

As he neared graduation from law school, MAJ Martinez had many opportunities before him. Given his military background, however, it was only natural for him to return to the Army that he loved—and in which he had enjoyed such success. He applied for a commission as a judge advocate and, after graduating and passing the Missouri Bar, now First Lieutenant Martinez entered the 147th Judge Advocate Basic Course in October 1998. His classmate from that course, Major (MAJ) Chris Kennebeck, remembers how much MAJ Martinez knew about criminal law—perhaps not surprising given his time as a court reporter. More importantly, says Kennebeck, “what I remember most about Mike is that he always had time to help . . . and that he had innate leadership skills.”

Major Martinez’s first assignment as an officer brought him back to Fort Riley, where he served as a legal assistance attorney and trial counsel for the 24th Infantry Division (Mechanized). In 2001, then Captain Martinez was re-assigned to the Combined Arms Center, Fort Leavenworth, Kansas, where he was first the Chief of Military Justice and later the Chief of Administrative Law. Major Jeff Mullins, who served with MAJ Martinez at Fort Leavenworth, remembers him as:

[A] great guy to work with . . . he always provided the best legal advice and was highly respected by everyone in our office and the entire post. He was extremely helpful to me on many occasions and would sacrifice his time to help out with any issue.

Major Martinez also had many interests outside of work. He was an avid and talented photographer and shared his passion for that hobby with anyone who was interested. He also loved working out and talking about sports. And, most of all, he loved his children and his family.

In 2004, MAJ Martinez moved to the 7th Infantry Division, Fort Carson, Colorado, where he was the Chief of Legal Assistance and was known for his caring client counseling and exceptionally hard work. Major Martinez was also a Field Screening Officer, which meant he was entrusted with selecting future members of the Judge Advocate General's Corps. With more than ten years in the Army, MAJ Martinez knew what soldiering was all about and spoke enthusiastically with young men and women about his experiences as a judge advocate.

In early 2005, MAJ Martinez volunteered to deploy to Iraq with the Fort Carson-based 3rd Armored Cavalry Regiment (ACR). Major Martinez left Fort Carson in November 2005 to join the cavalry regiment that deployed the previous April. This was MAJ Martinez's first overseas deployment in sixteen years of service, and his friends and colleagues remembered that he was proud to be a part of the 3rd ACR and looked forward to practicing law and serving his nation in Operation Iraqi Freedom.

"Everyone is really proud of him," said his brother, Daniel Martinez. "He was dedicated, and he knew what he wanted. He wanted to serve."<sup>1</sup>

One of the last people to see MAJ Martinez was his friend and fellow judge advocate, MAJ Alyssa Adams. Her memory of him is as "a guy who always had a smile on his face ready to greet you." Major Adams last saw MAJ Martinez at a detainee operations conference in Tikrit, Iraq, in January 2006, and talked to him the night before he was killed. Major Martinez "was in good spirits and was ready to tackle his last six weeks before heading back [to Fort Carson]," she remembers. Major Martinez knew then that he would be coming to the 55th Graduate Course in the summer of 2006, and he looked forward to moving to Charlottesville with his wife Kelly and their children.

On 7 January 2006, MAJ Martinez was passenger on a UH-60 Blackhawk helicopter flying to the 3rd ACR headquarters. That helicopter crashed seven miles east of Tal Afar, a northern city near the Syrian border MAJ Martinez and eleven other crew and passengers were killed.

Major Martinez was posthumously promoted to major on 10 January 2006 and posthumously awarded the Bronze Star Medal. His other awards and decorations include the Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, Army Good Conduct Medal, National Defense Service Medal, Global War on Terrorism Service Medal, the Iraqi Campaign Medal, the Noncommissioned Officer Professional Development Ribbon, Army Service Ribbon, Overseas Service Ribbon, Parachutist Badge, and Air Assault Badge.

Major Martinez is survived by his wife Kelly; three sons, Alexander, Colby, and Benjamin; two stepdaughters, Samantha and Kathryn; his mother, Beatrice; and his brother, Daniel. All who knew MAJ Martinez were shocked at his passing. "Mike was my only brother," stated Daniel Martinez. "It's a deep hurt. We're going to miss him deeply."<sup>2</sup> His tremendous success as a Soldier was a model for others, and his love of life and family was an inspiration to all his friends and colleagues.

As a token of admiration and respect for MAJ Martinez, a stained glass window honoring his memory has been donated by the cadre of the Noncommissioned Officer Academy, The Judge Advocate General's Legal Center and School (TJAGLCS). The window dedication ceremony will be held at the TJAGLCS Hall of Heroes on 4 June 2007.

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<sup>1</sup> Dick Foster & Ivan Moreno, *3 Carson Crash Victims ID'd*, ROCKY MOUNTAIN NEWS, Jan. 11, 2006, [http://www.rockymountainnews.com/drmn/local/article/0,1299,DRMN\\_15\\_4379225,00.html](http://www.rockymountainnews.com/drmn/local/article/0,1299,DRMN_15_4379225,00.html).

<sup>2</sup> *Id.*

## Preparing Interrogators to Conduct Operations Lawfully

*Major Thomas H. Barnard\**

A top concern for commanders preparing Soldiers for operations is the ability to explain to those Soldiers the legal rules and limits of operational authority. Training is the number one mission of a unit preparing to deploy and legal training can help eliminate unnecessary problems once a unit steps into the operational mission. The task of training human intelligence (HUMINT) collectors to comply with legal principles is not overly complicated or time consuming. This article provides commanders and legal advisors with a basic framework for training HUMINT collectors, specifically interrogators,<sup>1</sup> to deploy and conduct operations lawfully and consistent with Army values.

### Defining the Desired End-State

The first step of any training is defining the desired end-state. In the context of legal training for interrogation operations, a commander has to communicate a vision of how he considers a properly trained HUMINT collector will act and what they will look like from a legal perspective. The end-state for training should include the following four objectives: First, every Soldier must be trained to comply with the law. That, however, is only the minimum standard. The commander must incorporate training that pushes Soldiers beyond mere compliance and into comprehension of the laws and rules. This cognitive development is the second objective. Within the second objective, each Soldier must understand the tactical, operational, and *strategic* impacts of his actions.

While the first two objectives focus the Soldier on only his conduct, the third training objective requires a Soldier to look beyond his actions. The ideal interrogator must see himself as part of a team, with the desire to both encourage and expect compliance from coworkers. The trained Soldier recognizes his role as a guardian of public trust; he will see the need to impose a duty upon himself to help uphold the law. The fourth objective is for the interrogator to be able to maximize use of all available tools for intelligence collection because of a complete knowledge and understanding of the “left” and “right” legal limits of operations. Soldiers who struggle with this final objective often tend to focus on the law only as a limiting or restricting mechanism. As a desired end state, a successfully trained Soldier pieces the training together, realizes the many layers of impacts his conduct can have, and sees operations through a lens of what he can do, rather than focusing on the courses of action that violate law or policy.

### The Four Building Blocks to Success

To reach these training objectives, the commander can rely on the “Four Building Blocks to Success”: Code of Conduct training; Intelligence Oversight training; Law of War Fundamental Principles; and the Application of the Law of War to Interrogation and Detainee Operations.

#### *Code of Conduct Training*

Training on the Code of Conduct is part of standard Army training,<sup>2</sup> but it also has a particular relevance to professionals who work with detainees. In addition to being valuable training for any deploying or deployable Soldier in the event of

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<sup>1</sup> Intelligence interrogation is a subset of HUMINT collection operations and is regulated as a source operation under Department of Defense guidance. See U.S. DEP’T OF ARMY, FIELD MANUAL 2-22.3, HUMAN INTELLIGENCE COLLECTOR OPERATIONS intro. Pt. II and paras. 5-50 to 5-82 (6 Sept. 2006) [hereinafter FM 2-22.3]; see also Memorandum, Under Secretary of Defense for Intelligence (USD(I)), subject: Guidance for the Conduct and Oversight of Defense Human Intelligence (HUMINT) (S) (14 Dec. 2004); Memorandum, Under Secretary of Defense (I), subject: Implementing Instructions for the Conduct and Oversight of Defense Human Intelligence (HUMINT) (S) (7 Sept. 2005) (This guidance is classified, but legal advisors to units conducting source operations, including interrogations, need access to these documents).

<sup>2</sup> The Code of Conduct for U.S. Armed Forces was first published in 1955 by President Dwight D. Eisenhower. Exec. Order No. 10,631, 3 C.F.R. 266 (1954-1958). President Carter later amended the Code of Conduct in 1977. The Code of Conduct outlines the basic responsibilities and obligations of all U.S. servicemembers. The Code of Conduct contains the following six articles:

Article I: I am an American fighting in the forces that guard my country and our way of life. I am prepared to give my life in their defense.

Article II: I will never surrender of my own free will. If in command, I will never surrender the members of my command while they still have the means to resist.

capture, Code of Conduct training forces interrogators to think from the perspective of a captured person and to consider that most enemy Soldiers plan for their own capture with similar training and advice.

Understanding the mindset of someone in captivity is crucial to understanding the rationale for some legal limitations on treatment; this understanding also provides insight on how the HUMINT collector's behavior can manipulate the detainee's position. Code of Conduct training can be conducted in a classroom setting using the lecture method. The class can be taught by a non-lawyer and would benefit from input by an experienced noncommissioned officer (NCO) or Warrant Officer or, if possible, a former prisoner of war (POW). The key topics to discuss include the six articles of the *Code of Conduct*, with an emphasis on the "bounce-back" provision in Article V.<sup>3</sup> A discussion of Army values is appropriate to include as part of Code of Conduct training. The obligations of the Code of Conduct can be explained in terms of Army values, to which most Soldiers can already relate. Furthermore, discussing Army Values during Code of Conduct training will facilitate a more in-depth discussion during pre-deployment training, specifically, the interrogation block of training. Trainers should also conduct research to provide training relating to peace-time captivity and captivity by terrorists.<sup>4</sup> Trainers should consult the following helpful references when preparing Code of Conduct training:

- Department of Defense Directive 1300.7, Training and Education Measures Necessary to Support the Code of Conduct (8 Dec. 2000)
- U.S. Air Force Instruction 36-2209, Survival and Code of Conduct Training (27 May 1997)
- U.S. Dep't of Army Regulation 350-30, Code of Conduct, Survival Evasion, Resistance, and Escape (SERE) Training (10 Dec. 1985)
- Chief of Naval Operations Instruction 1000.24B, Code of Conduct Training (12 May 1989)

Code of Conduct training, like all training, will benefit from realistic vignettes or problems for discussion throughout the lecture. The following is an example adapted from *Training Circular 27-10-1, Selected Problems in the Law of War*:

Sergeant (SGT) M is captured. The interrogating enemy officer, to whom SGT M gave his name, rank, service number, and date of birth, tells SGT M he is accused of war crimes because he returned fire against an enemy tank and killed a civilian in the process. The interrogator demands that SGT M explain his actions and unit's operations or face criminal prosecution. He is told if he refuses to defend himself, he will surely be convicted. What should SGT M do?

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Article III: If I am captured I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy.

Article IV: If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information or take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.

Article V: When questioned, should I become a prisoner of war, I am required to give name, rank, service number, and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.

Article VI: I will never forget that I am an American fighting for freedom, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

U.S. DEP'T OF ARMY, REG. 350-30, CODE OF CONDUCT, SURVIVAL, EVASION, RESISTANCE, AND ESCAPE (SERE) TRAINING app. B (10 Dec. 1985) [hereinafter AR 350-30]. Code of Conduct training is required under *Army Regulation 350-1, Army Training and Leader Development* as mission readiness, integrated, and refresher training. U.S. DEP'T OF ARMY, REG. 350-1, ARMY TRAINING AND LEADER DEVELOPMENT tbl. G-1 (13 Jan.. 2006) [hereinafter AR 350-1]. The training has been designed traditionally to prepare Soldiers for what to expect and what is expected of them if they are captured by the enemy.

<sup>3</sup> The "Bounce Back" provision comes from Article V of the Code of Conduct. AR 350-30, *supra* note 2, App. B, art. III. The "Bounce Back" provision recognizes that enemy interrogators will make some progress, but stresses that a servicemember recover and force the enemy interrogators to go through the whole process of breaking a detainee again. *See id.*; *see also* Robert K. Ruhl, *The Code of Conduct*, AIRMAN, May 1978, available at [www.au.af.mil/au/awc/awcgate/au-24/ruhl.pdf](http://www.au.af.mil/au/awc/awcgate/au-24/ruhl.pdf). An interrogator who understands this will understand that enemies will probably receive the same training. *See* AR 350-30, *supra* note 2, para. 4-16 (b)3.

Understand that, short of death, it is unlikely that a [prisoner of war] PW can prevent a skilled enemy interrogator, using all available psychological and physical methods of coercion, from obtaining some degree of compliance by the PW with captor demands. However, if taken past the point of maximum endurance by the captor, the PW must recover as quickly as possible and resist each successive captor exploitation to the utmost. The PW must understand that a forced answer on one point does not authorize continued compliance. Even the same answer must be resisted again at the next interrogation session.

*Id.*

<sup>4</sup> For additional training resources and references regarding more advanced training, review the links and resources at the Air War College Military Index to the Internet website at [www.au.af.mil/au/awc/awcgate/awc-ndex.htm#s](http://www.au.af.mil/au/awc/awcgate/awc-ndex.htm#s). *See also* Joint Personnel Recovery, [www.jprr.com](http://www.jprr.com) (last visited Feb. 20, 2007).

Sergeant M should not give any additional information to the enemy, regardless of threats against him. He has no obligation to answer questions beyond name, rank, service number, or date of birth. He has no obligation to answer additional questions by the enemy concerning the lawfulness or his potential criminal liability in a foreign court. Sergeant M's conduct appeared to be lawful, because he was returning fire against a lawful target. Sergeant M should only point out that he has acted in compliance with the law of war and is therefore not subject to prosecution.<sup>5</sup>

This sort of training on the Code of Conduct is extremely relevant to subsequent interrogation training because it points out to the Soldier that detainees cannot be forced to talk;<sup>6</sup> they must be convinced to talk because talking is in their best interest.

### *Intelligence Oversight Training*

All intelligence professionals are required to receive training in Intelligence Oversight.<sup>7</sup> This training is extremely important immediately preceding a deployment because it reminds each HUMINT collector that his specialty is unique and subject to additional regulations. Most importantly, it reminds Soldiers of the reason for intelligence oversight regulations—the balance between individual liberty and the need for intelligence.<sup>8</sup>

Understanding this balance is essential to developing an ideal HUMINT collector. Using reasoning skills to select courses of action is part of developing a values-based judgment process. (Note: Balancing tests are used again in training Block 3: Law of War Fundamental Principles.<sup>9</sup>) Additionally, this training provides units a refresher on some authority requirements for special collection techniques.<sup>10</sup> Lastly, and most importantly, Intelligence Oversight training begins the processes of instilling in each Soldier the reporting obligations for questionable activities and certain federal crimes.<sup>11</sup> Developing a sense of duty that includes being responsible for the actions of everyone participating in the interrogation, reinforces earlier training objectives. Additionally, the obligation for enforcing rules and reporting criminal action is consistently recognized in Army standards.<sup>12</sup>

Intelligence Oversight training is easy to conduct in a classroom environment using the lecture method. A lawyer is the recommended instructor for intelligence oversight and is a primary source for assistance in interpreting intelligence oversight principles.<sup>13</sup> However, a non-lawyer, perhaps the intelligence oversight officer for the unit, can conduct this training if a lawyer is not available.

The key topics for Intelligence Oversight training include minimal coverage of Procedures 1 through 4, 14 and 15 as well as Chapters 16 and 17 of *Army Regulation 381-10, U.S. Army Intelligence Activities*, as well as any procedures pertaining to special collection techniques a unit employs.<sup>14</sup> The training must emphasize the importance of reporting under Procedure 15 and Chapter 16, and highlight the availability of a unit legal advisor for answering questions pertaining to the interpretation of *Army Regulation 381-10*. Trainers may wish to consult the following useful references:

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<sup>5</sup> See AR 350-30, *supra* note 2; see also Geneva Convention Relative to the Treatment of Prisoners of War art. 17, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135 [hereinafter GPW] (regarding the requirement for POWs to only give name, rank, service number, and date of birth, and the prohibition on using physical or mental coercion).

<sup>6</sup> See AR 350-30, *supra* note 2; see also GPW, *supra* note 5.

<sup>7</sup> See U.S. DEP'T OF ARMY, REG. 381-10, U.S. ARMY INTELLIGENCE ACTIVITIES para. 14-1 (22 Nov. 2005) [hereinafter AR 381-10] (outlining the requirements for training of intelligence professionals).

<sup>8</sup> See *id.* para. 1-1.

<sup>9</sup> See Law of War Fundamental Principles, *infra* pg. 4 (discussing proportionality).

<sup>10</sup> Special collection techniques from AR 381-10, in Procedures 5 through 10 are not those typically used in an interrogation setting. However, HUMINT collectors outside the interrogation booth need to be aware of the unique approval requirements. Additionally, the HUMINT collector needs to understand the sort of information which could serve as the basis for requests for these types of collections. See also U.S. DEP'T. OF DEFENSE, REG 5240.1R, PROCEDURES GOVERNING THE ACTIVITIES OF DOD INTELLIGENCE COMPONENTS THAT AFFECT UNITED STATES PERSONS (11 Dec. 1982) [hereinafter DOD REG. 5240.1R]; see generally AR 381-10, *supra* note 7, procs. 5 - 10.

<sup>11</sup> See AR 381-10, *supra* note 7, at proc. 15 and ch. 16.

<sup>12</sup> See U.S. DEP'T OF ARMY, REG. 600-20, ARMY COMMAND POLICY paras. 2-18, 4-4, and 4-5 (1 Feb. 2006); see also AR 381-10, *supra* note 7, proc. 15 and ch. 16. See generally MANUAL FOR COURTS-MARTIAL, UNITED STATES pt. IV para. 95 (2005) [hereinafter MCM] (discussing misprision of serious offense); *id.* R.C.M. 301; U.S. DEP'T OF ARMY, REG. 190-40, SERIOUS INCIDENT REPORTS (9 Feb. 2006).

<sup>13</sup> See AR 381-10, *supra* note 7, para. 1-6.

<sup>14</sup> See *id.* para. 14-1.

- U.S. Army Regulation 381-10, *U.S. Army Intelligence Activities* (22 Nov. 2005)
- U.S. Department of Defense Regulation 5240.1R, *Procedures Governing the Activities of DOD Intelligence Components that Affect United States Persons* (11 Dec. 1982)

The most effective intelligence oversight vignettes will be those that are made relevant to a situation an interrogator may encounter. The following is an example of a vignette that can be incorporated into the training:

During a raid in a local village in Iraq, U.S. Soldiers capture a number of suspected insurgents who were firing on U.S. and coalition forces. As you are conducting the screening process, one of the captured persons claims his place of birth is Chicago. What are some impacts of this information?

While personnel overseas are presumed to be non-U.S. persons, once a unit receives information that an individual may be a U.S. person, the unit has an obligation to gather more information to clarify that person's status before doing any other intelligence collection.<sup>15</sup> Additionally, the detainee's citizenship status can impact how, when, and by whom he is questioned. This information should immediately be reported through the chain of command for further guidance.<sup>16</sup>

This sort of vignette is valuable because it points out that interrogators are trained to be aware that certain issues require additional guidance. The discussion will focus on reporting and the need for seeking additional guidance prior to proceeding with the questioning.

### *Law of War Fundamental Principles*

The class on Law of War fundamentals is the basic orientation to the provisions of the law of war that govern Soldier conduct during all military operations. Every Soldier receives this kind of training,<sup>17</sup> but commanders should be committed to ensuring it is more than an hour of "checking the block." Interrogators will need a sound understanding of the fundamental principles to properly grasp the need and rationale for the rules on interrogation operations. Law of War training should, at a minimum, discuss the four principles of Distinction, Military Necessity, Unnecessary Suffering, and Proportionality.<sup>18</sup> During this training, Soldiers will get their second exposure to a balancing test, which will also help Soldiers realize they are, in fact, crucial decision makers in an armed conflict. Additionally, an overview of protected places, persons and things, especially the standard rules governing POW camps, categories, and rights, will be essential.<sup>19</sup> Lastly, critical facets of this training block include reinforcement of potential criminal liability and the duty to report violations.

Some valuable references for this training include:

- Chairman of the Joint Chiefs of Staff Instruction 5810.01B., *Implementation of the DOD Law of War Program* (25 Mar. 2002 (current as of 28 Mar. 2005))
- Department of Defense Directive 2311.01E, *DOD Law of War Program* (9 May 2006)
- Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31
- Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135
- Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287
- Department of Army, Field Manual 27-10, *The Law of War* (15 July 1976)

<sup>15</sup> When collecting outside the United States, individuals are presumed to be non-U.S. persons unless there is specific information to the contrary. *See id.* para. 1-8. Once you get specific information that an individual may be a U.S. person, a number of provisions change the manner in which information concerning that individual is treated. *See generally id.*

<sup>16</sup> Based on professional experience as a Judge Advocate working with U.S. Army Intelligence from 2004 until 2006, the capture and detention of anyone who may be a U.S. person will likely be a priority intelligence requirement (PIR).

<sup>17</sup> *See* Message, 240248Z Aug. 2005, Headquarters, U.S. Dep't of Army, subject: Law of War Training.

<sup>18</sup> *Id.* For a current training module, *see* [www.jagcnet.army.mil](http://www.jagcnet.army.mil). Go to The U.S. Army Judge Advocate General Legal Center and School (TJAGLCS) home page, click on "Departments", then "Training Development Directorate", and then "Standard Training Packages." On that page, you will be able to find the most current approved Law of War training package.

<sup>19</sup> An overview of the Geneva Convention rules regarding these detention operations issues could be discussed during this block and discussed again in much greater detail during the interrogation and detainee operations block.

- Department of Army, Training Circular 27-10-1, *Selected Problems in the Law of War* (June 1979)
- Int'l & Operational Law Dep't, The Judge Advocate General Legal Center & School, U.S. Army, JA 422, *Operational Law Handbook* (2006)

Law of War training can be accomplished in a classroom setting using the lecture method. A judge advocate should conduct and facilitate the training and discussion. The following is an example vignette that could be used for Law of War training:

Your unit overtakes an enemy medical convoy displaying Red Cross symbols. The convoy fires upon the platoon. The platoon returns fire and seizes control. Inspection reveals that the convoy carried both wounded and artillery ammunition. The captured personnel stated that they fired because they feared the ammunition would be detected and they would be punished. How do we treat captured medical personnel; enemy wounded; captured medical vehicles?

Normally, medical equipment is protected from attack unless it is used in a manner inconsistent with its mission by conducting attacks or being used to support attacks.<sup>20</sup> When enemy medical assets initiate an attack, the vehicles and equipment are lawful targets and may be used once they are captured. In this case, any enemy medical personnel who acted as combatants lose their protected status and become lawful targets. Furthermore, the Soldiers in the enemy convoy lose the right to be considered a Retained Person because they failed to be exclusively engaged in medical activities and may also lose the opportunity for Prisoner of War status for violating the Law of War by misusing the Red Cross.<sup>21</sup> The wounded who surrender or are not part of the fight are protected persons, and the capturing unit would have an obligation to remove them from battlefield and care for the wounded. After ensuring the enemy wounded receive adequate provisions, the capturing unit may then convert medical vehicles to any legal use by removing any medical insignia from the vehicles.<sup>22</sup>

#### *Application of the Law of War to Interrogation and Detainee Operations*

The final, and most crucial, block of instruction is the application of the previous training blocks to sensible rules for interrogators during interrogation and detainee operations. This extension of fundamental Law of War principles into Soldiers' unique areas of expertise is necessary to put the training into a relevant context. The training will highlight the potential strategic importance of their mission and lessons learned from recent operations will highlight the incredibly negative impact of illegal behavior by individual Soldiers. Lastly, this scenario-based training will assist in building interrogators' confidence prior to conducting operations.

The key topic for this training is the coverage of the basic standards of detainee operations and treatment. The training must reinforce the following concepts: that the same standard of treatment—humane treatment—should be provided to all detainees regardless of status; the reporting requirements and organizations where a Soldier can go to make a report of detainee abuse; the limitations on who can conduct interrogations and what sort of activities are appropriate in support of interrogation; the potential for punitive action for abuse or failures to report; the relevant principles of the Army values to reinforce a number of conduct and reporting requirements; and the lessons learned from current operations and past instances of abuses. The basic standard concept may be effectively presented using the acronym “THINK,” explained in the next section.

This training can be conducted in two parts: first, in a classroom environment using the lecture method with some vignette application; and second, in a field training exercise (FTX) or military readiness exercise involving realistic legal and

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<sup>20</sup> See Geneva Convention Relative to the Protection of Civilian Persons in Time of War arts. 18-21, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 [hereinafter GC], Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31 [hereinafter GWS]. Once enemy medical equipment is used to engage in combat operations, that equipment and the personnel operating that equipment lose their protected status and become lawful targets.

<sup>21</sup> See GPW, *supra* note 5, arts. 3 and 4. In order to be considered a prisoner of war (POW), detainees must satisfy the four requirements of GPW art. 4. The failure to satisfy these requirements removes critical benefits which relate to legal rights, but have no impact on the standard of humane treatment reflected in Article 3 of the GPW and the GC [article 3 of both treaties is identical and generally referred to as “Common Article 3.”] Soldiers should be taught the fundamental impact of not getting POW status: losing combatant immunity, *id.* art. 99, and losing the guarantee of repatriation at the end of hostilities, *id.* art. 118. Law of War training is important because Soldiers need to know that detainees might not be entitled to POW status and may be criminally punished. Furthermore, by addressing the question of POW status as a separate question from standards of treatment, Soldiers will not be confused or misled into thinking that because a person is not a POW that a different or lower minimum standard of treatment applies.

<sup>22</sup> See GWS, *supra* note 20, art. 35 (stating “Should such transports or vehicles fall into the hands of the adverse Party, they shall be subject to the laws of war, on condition that the Party to the conflict who captures them shall in all cases ensure the care of the wounded and sick they contain.”).

ethical dilemmas in an interrogation environment. A judge advocate, with support from a trained and experienced interrogator, should conduct training. Key resources include the following:

- The references listed in Part 3: Law of War Fundamental Principles
- Department of Defense Directive 2311.01E, *DOD Law of War Program* (9 May 2006)
- Detainee Treatment Act of 2005, Public Law 109-148<sup>23</sup>
- Department of Defense Directive 3115.09, *DOD Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning* (3 Nov. 2005)<sup>24</sup>
- Department of Defense Directive 2310.01E, *DOD Detainee Program* (5 Sept. 2006)<sup>25</sup>
- Message, 292015Z MAR 05, Joint Chiefs of Staff, subject: CI, HUMINT and Interrogation Support to Military Operations (authorizing implementation of Appendix C, Joint Publication 2-01.02, Joint Interrogation Operations)
- Department of Army, Field Manual 2-22.3, *Human Intelligence Collector Operations* (6 Sept. 2006)
- Manual for Courts-Martial (2005)  
Theater specific guidance<sup>26</sup>

### The “THINK” Model

The THINK model uses five basic rules to provide a logical framework for interrogators to understand the basic standards for the treatment of detainees, as well as to reinforce the need of each Soldier to use an ethical and value based decision making process:<sup>27</sup>

**Treat all detainees with the same standard**—While a detainee’s legal status may impact the use of certain interrogation approaches and techniques,<sup>28</sup> a unit’s treatment of detainees and interrogation techniques cannot violate certain principles no

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<sup>23</sup> Detainee Treatment Act of 2005, Pub. L. No. 109-148, 119 Stat. 2680 (also commonly referred to as the McCain Amendment).

<sup>24</sup> This directive is one of the most recent pieces of guidance given by the DOD and contains several critical provisions. One of the most significant is the requirement for interrogators to be trained and certified and that only individuals who have attended an approved course can satisfy that requirement. See U.S. DEP’T OF DEFENSE, DIR. 3115.09, DOD INTELLIGENCE INTERROGATIONS, DETAINEE DEBRIEFINGS, AND TACTICAL QUESTIONING para. 4.1.9.2 (3 Nov. 2005) [hereinafter DOD DIR. 3115.09]. Additionally, this reference includes some definitions that are helpful to instruction. Specifically, look at the definition of: “detainee” (all persons held in captivity, regardless of legal status); the Law of War; and tactical questioning. See *id.* at encl. 2.

<sup>25</sup> This reference reiterates and reinforces the definitions mentioned *supra* note 24. See U.S. DEP’T OF DEFENSE, DIR. 2310.1E, DOD DETAINEE PROGRAM encl. 2 (5 Sept. 2006) [hereinafter DOD DIR. 2310.1E]. Additionally, this guidance clarifies that the “standards articulated in Common Article 3 of the Geneva Convention of 1949” shall be applicable “without regard to a detainee’s legal status.” See *id.* para. 4.2.

<sup>26</sup> Theater guidance is often the most critical reference to soldiers. Theater guidance should bring together all applicable laws and treaties to give practical, easy to understand guidance to soldiers. This fine-tuned, implementation-based guidance will almost always be classified, as the release of this information could pose a serious threat to the success of future interrogations. However, training should ensure this guidance is the primary document used for governing interrogation operations and units should conduct training on the policy at least quarterly.

<sup>27</sup> See FM 2-22.3, *supra* note 1, para. 5-76 which states:

5-76. While using legitimate interrogation techniques, certain applications of approaches and techniques may approach the line between permissible actions and prohibited actions. It may often be difficult to determine where permissible actions end and prohibited actions begin. In attempting to determine if a contemplated approach or technique should be considered prohibited, and therefore should not be included in an interrogation plan, consider these two tests before submitting the plan for approval:

If the proposed approach technique were used by the enemy against one of your fellow soldiers, would you believe the soldier had been abused?

Could your conduct in carrying out the proposed technique violate a law or regulation? Keep in mind that even if you personally would not consider your actions to constitute abuse, the law may be more restrictive.

These two tests are included in the manual to instill in each Soldier the sense of duty and responsibility over his or her own actions. The questions are designed to force considerations of both ethical and legal obligations, and to give Soldiers a mechanism for making decisions in the area of interrogation even when they operating without direct supervision or adequate guidance. This method of decision making reinforces the “THINK” paradigm and the circumspection of thinking from the detainee’s perspective began during the Code of Conduct training.

<sup>28</sup> The legal status of a detainee under the Geneva Convention does have consequences on interrogation approaches and techniques in two ways: First, with regard to the incentive approach, the legal status of a detainee impacts what may be considered a “right” versus an “incentive” or “privilege.” See FM 2-22.3, *supra* note 1, para. 8-21. Take for instance a detainee who is entitled to the status as a POW under GPW, *supra* note 5, art. 4. That detainee has a right to be repatriated at the end of hostilities. See GPW, *supra* note 5, art. 118. Repatriation at the end of hostilities would, therefore, be an inappropriate incentive for a detainee who has the legal status of POW. However, repatriation at the end of hostilities may be an appropriate incentive for a detainee who does not have the legal status of a POW. Second, FM 2-22.3 includes the interrogation technique of “separation.” See FM 2-22.3, *supra* note 1, app. M. This technique is not authorized for use with a detainee who has the legal status of POW under GPW, *supra* note 5, art. 4. See FM 2-22.3, *supra* note 1, app. M, para. M-1.

matter what technical legal status a detainee has. Security holds, military intelligence holds, persons under U.S. control—none of these labels change how detainees should be *treated* during an interrogation.

**Humane treatment is the standard**<sup>29</sup>—A simple way to understand the concept of humane treatment is to think of it as having the following three major components:<sup>30</sup> (1) Treatment must guarantee adequate provisions of basic life necessities like food, water, shelter, clothing, medical aid, and protection; (2) Respect for individual human dignity;<sup>31</sup> and (3) Prohibition against illegal conduct.<sup>32</sup>

**Interrogators interrogate**—Department of Defense (DOD) policy limits authority to conduct interrogations to individuals trained and certified in courses designated by the Defense HUMINT Management Office (DHMO).<sup>33</sup> Interrogators need to be able to focus on doing their job and letting other specialties do theirs.<sup>34</sup> HUMINT professionals need to be careful not to allow their words or conduct to create the impression that they want the other specialties supporting detainee operations to “set the conditions for successful interrogations.”

**Need to report abuses**—Soldiers must serve as the commander’s eyes and ears and report abuses. The training should include practical guidance on reporting abuses as described in the Army HUMINT Field Manual.<sup>35</sup> Several authorities require interrogators to report abuses and questionable activities. Failure to report such abuses may subject the interrogator to adverse actions. The training must also reinforce Soldiers’ responsibility for protecting individuals held captive by the United States. As the custodians of detainees, the United States must ensure interrogators from other nations, or agencies outside the DOD, comply with the DOD policy to treat detainees with the same standards as U.S. Soldiers when interrogating a detainee held in a U.S. military facility.<sup>36</sup> Additionally, Soldiers must be trained to document and report suspected abusive behavior by these third parties.<sup>37</sup>

**Know the approved approaches and techniques**—The training must include an overview of the techniques that will be authorized in deployed area of operations (AOR). If the unit does not have theater-specific guidance then, Field Manual 2-22.3 serves as the baseline for the techniques that can be legally employed.<sup>38</sup> The baseline authority may be further restricted

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<sup>29</sup> See Detainee Treatment Act of 2005, Pub. L. No. 109-148, 119 Stat. 2680, § 1003 (prohibiting “cruel, inhuman or degrading treatment”); see also DOD DIR. 3115.09, *supra* note 24.

<sup>30</sup> Judge advocates must understand that no authority has come forward to say exactly what is meant by the phrase “humane treatment.” Accordingly, there is no single definition. One method of defining humane treatment, however, which has been successful with thousands of personnel trained by the U.S. Army Intelligence Center and the U.S. Army Intelligence and Security Command, is the three part approach described above. This three part definition has been essentially adopted and established as DOD guidance in the new *DOD Directive* 2310.01E. See DOD DIR. 2310.01E, *supra* note 25, encl. 4, para. E4.1.1.1 – E4.1.1.3. The phrase “humane treatment” finds its legal origins in the Geneva Convention. The phrase is used repeatedly throughout both GPW and GC, indicating there is no deviance from the standard regardless of the legal status of the detainee. At a minimum, the phrase guarantees the protections of Common Article 3. See *id.* para. 4.2. A logical means of providing useful substance to the phrase “humane treatment” is the consideration of the enumerated rights common to both GPW and GC, as the phrase “humane treatment” is common to both. Compare GPW, *supra* note 5, arts. 3 and 13, GC, *supra* note 20, arts. 3 and 27. Similar logic appears to support the explanation of humane treatment in U.S. DEP’T OF ARMY, REG. 190-8, ENEMY PRISONERS OF WAR, CIVILIAN INTERNEES, RETAINED PERSONNEL, AND OTHER DETAINEES para. 1-5 (1 Oct. 1997). Additionally, the reference to humane treatment is included over twenty times in the new field manual. See generally FM 2-22.3, *supra* note 1; see also DOD DIR. 3115.09, *supra* note 23, para. 3.1 and DOD DIR. 2310.01E, *supra* note 25, para. 4.2 and encl. 4.

<sup>31</sup> This respect corresponds to treatment that does not degrade or humiliate detainees, shows cultural awareness, and respects an individual’s immutable characteristics like gender or race.

<sup>32</sup> Actions such as physical assault, threats, sexual assault, hostage taking, and removal of Geneva Convention protections are always illegal, and any unit legal advisor should be able to assist servicemembers in outlining these rights.

<sup>33</sup> See DOD DIR. 3115.09, *supra* note 24, paras. 3.1 and 4.1.9.2.

<sup>34</sup> As noted in some of the investigations into the abuses at Abu Ghraib, confusion over the limits and roles of Military Police guards and interrogators was a contributing factor to a lack of responsibility and discipline for the treatment of detainees. See INSPECTOR GENERAL, U.S. ARMY, INSPECTION REPORT, DETAINEE OPERATIONS INSPECTION vi and 31 (21 July 2004); see also LTG Anthony R. Jones & MG George R. Fay, Army Regulation 15-6 Investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade (Aug. 23, 2004), available at <http://news.findlaw.com/hdocs/docs/dod/fay82504rpt.pdf>. The new Army field manual addresses this issue in significant detail. See FM 2-22.3, *supra* note 1, paras. 5-57 - 5-66, and 8-2. Additional specific guidance can be found in DOD DIR. 3115.09, *supra* note 24, paras. 3.4.4 and 3.4.4.4.

<sup>35</sup> See FM 2-22.3, *supra* note 1, paras. 5-68 to 5-71.

<sup>36</sup> See *id.* paras. 5-55 and 5-66 (regarding treatment of other agencies and nations conducting interrogations); see also DOD DIR. 3115.09, *supra* note 24, para. 3.4.4.3.

<sup>37</sup> See FM 2-22.3, *supra* note 1, paras. 5-55 and 5-66; see also DOD DIR. 3115.09, *supra* note 24, para. 3.4.4.3.

<sup>38</sup> New legislation makes the Army field manual for intelligence interrogations the resource and primary source of law on the question of approved approaches. See Detainee Treatment Act of 2005, Pub. L. No. 109-148, 119 Stat. 2680. This statute calls for the legalization of only those approaches “authorized by and listed” in the Army field manual on intelligence interrogation. *Id.* § 1002. The new field manual is a comprehensive document covering the full scope of HUMINT operations. See FM 2-22.3, *supra* note 1, para. 1-4 (discussing scope) and ch. 8 (discussing approach techniques).

by theater or local standard operating procedure or policy. Additionally, training should once again include a reminder to interrogators about their individual responsibility to ensure that any interrogation plan is both legal on paper and in execution.<sup>39</sup>

A good vignette for interrogation training will force interrogators to push their interrogation plans to the limits of legal conduct without going too far. An example could include:

Your subordinate, Specialist (SPC) Newman, has completed multiple interrogation sessions with a detainee. During previous sessions, SPC Newman learned that the detainee is a bodybuilder and has previously stated he would like to work out with special exercise equipment. While SPC Newman was talking with the detainee today, the detainee refused to answer questions concerning topics on which you desperately need information. SPC Newman meets with you to discuss his future strategy and suggests offering the detainee access to free weights, something no other detainee gets. Which of the following best describes how the provisions of the Law of War relate to SPC Newman's suggestion?

A vignette like this pushes a Geneva Convention right, such as the right to exercise,<sup>40</sup> into an interrogator's planning considerations. The interrogator in this case should understand that the right to exercise only requires providing detainees time to walk in a defined area.<sup>41</sup> Knowing the minimum standard will enable an interrogator to realize that going above and beyond that minimum is a legal tactic. In this instance, access to special exercise equipment can be used as an incentive during interrogations, as long as it is in addition to the detainee's basic right to exercise. Furthermore, the interrogator should realize that this sort of incentive can be removed without legal objection.

### Assistance in Preparing for Training

A unit legal advisor should take three additional steps when preparing to conduct legal training geared toward interrogation: (1) obtain and review other draft classes, presentations, and information papers; (2) read and understand the Field Manual and various interrogation approaches; and (3) seek assistance from experienced interrogators as well as other lawyers, on potential issues and questions from students.

A trainer can go to several places for interrogation related training materials. First, the U.S. Army Intelligence Center and School located at Fort Huachuca, Arizona, is the primary organization responsible for training interrogators. The intelligence school has, at all times, one to two attorneys assigned as instructors to train intelligence professionals.<sup>42</sup> Second, the largest command responsible for HUMINT is the U.S. Army Intelligence and Security Command (INSCOM). The INSCOM Office of the Staff Judge Advocate regularly trains or supervises the training of interrogators in deployable units. Third, trainers should contact the International and Operational Law branch at The Judge Advocate General's Legal Center and School. The Legal Center and School trains attorneys on the basics of intelligence law, including interrogations. Any of these offices can help trainers by providing references, training resources, or subject matter expertise.<sup>43</sup>

Reading and understanding the Army Field Manual on HUMINT collection will help the trainer turn his training from a presentation of rules and regulations into practical guidance to which all the trainees can relate. As this article discusses in detail below, the Army Field Manual provides insight into most topic areas about which students routinely have questions. Some of the common areas an instructor should be prepared to respond to include the following:

- What is the command and control relationship between the detention force and the intelligence unit at a facility?<sup>44</sup>
- How do interrogators coordinate with the guard force? How are conflicts between the guard force and the interrogators resolved?<sup>45</sup>
- How do we respond to requests from agencies outside the Department of Defense or other nations to interrogate

<sup>39</sup> See FM 2-22.3, *supra* note 1, paras. 7-26 and 10-15 and fig. 10-3.

<sup>40</sup> See GPW, *supra* note 5, art. 38 and GC, *supra* note 20, art. 94.

<sup>41</sup> See GPW, *supra* note 5, art. 38 and GC, *supra* note 20, art. 94.

<sup>42</sup> These attorneys are attached to the Fort Huachuca Office of the Staff Judge Advocate, which can be contacted at (520) 533-2095.

<sup>43</sup> See JUDGE ADVOCATE GENERAL, PUB. 1-1, JAGC PERSONNEL AND ACTIVITY DIRECTORY AND PERSONNEL POLICIES, 2006-2007 (containing points of contact for these offices).

<sup>44</sup> See generally FM 2-22.3, *supra* note 1, at chs. 4 and 5.

<sup>45</sup> See *id.* at ch. 5.

detainees that the DOD has in custody?<sup>46</sup>

- How do I get authority or coordinate offering unique incentives? What are my authorities?<sup>47</sup>
- When does questioning become “coercive?” When does questioning become “humiliating or degrading?”<sup>48</sup>
- What does “humane treatment” require?<sup>49</sup>
- How and what kind of assistance can I get from medical teams?<sup>50</sup> What about from Behavioral Science Consultation Teams (BSCTs)?<sup>51</sup>
- What is the basis for the debate in the news regarding the application of the Geneva Conventions to detainees?
- What rules have we been applying?<sup>52</sup>
- What are my obligations if I see foreign officials abuse detainees while in that country’s custody?<sup>53</sup>
- What rules govern contractors?<sup>54</sup>

To help prepare responses to these sorts of issues, instructors should draft solutions using the same methods they would employ if dealing with the issue in a real-world situation. The trainer should write down the assumptions, facts, relevant authorities, and necessary steps he used in coming to that conclusion. Then, during the class or training exercise, he should assist the student in answering the example by leading him through the same thought process. This method will enable an instructor to understand where in the thought process he and the student differ, which will then enable him to focus the instruction on that difference. Instructors should also seek reviews of training products and ideas by other, possibly more experienced, instructors. As part of this process, instructors should try to identify a couple of experienced warrant officers or NCOs to preview the instruction to ensure the training, language, and examples are both readable and realistic.

### Other Training Considerations

As a unit enters the deployment preparation cycle, there are some additional training steps, beyond the instruction outlined above, that can be valuable to a unit’s success. First, knowing and being prepared for the particular theater is crucial. Theater-specific policies on detention and interrogation exist and can impact operations. A unit should begin training using these policies as soon as possible. Second, all training should be conducted with the supporting Judge Advocate and should incorporate legal issues. If that particular Judge Advocate is not deploying with the unit, then he should determine what legal support will be available in theater, obtain the supporting Staff Judge Advocate’s contact and location information, the staffing policies for legal review on interrogation plans, as well as the authorities and control measures on the various approaches. Third, the scenarios trained within FTXs should be consistent with the conditions of the deployed AOR, and interrogators should go through the full process of interrogation plan approval.<sup>55</sup>

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<sup>46</sup> See *id.* paras. 5-55 and 5-56; see also DOD DIR. 3115.09, *supra* note 24, para. 3.4.4.3.

<sup>47</sup> See FM 2-22.3, *supra* note 1, paras. 8-21 and 8-22 (discussing the use of incentives).

<sup>48</sup> See *id.* paras. 5-74 to 5-77, 6-23 and p. 5-26; see also Detainee Treatment Act of 2005, Pub. L. No. 109-148, 119 Stat. 2680, § 1003.

<sup>49</sup> See Detainee Treatment Act of 2005, *supra* note 29 (discussing humane treatment); see also DOD DIR. 3115.09, *supra* note 24..

<sup>50</sup> See FM 2-22.3, *supra* note 1, paras. 5-91 through 5-94; see also DOD DIR. 3115.09, *supra* note 24, para. 3.4.3; U.S. DEP’T OF ARMY, SPECIAL TEXT 4-02.46, MEDICAL SUPPORT TO DETAINEE OPERATIONS (30 Sept. 2005); FM 2-22.3, *supra* note 1, para. 7-17.

<sup>51</sup> See DOD DIR. 3115.09, *supra* note 24, para. 3.4.33; FM 2-22.3, *supra* note 1, para. 7-17; see also American Psychological Association, *APA Ethics Code* (21 Aug 2002), [www.apa.org/ethics/code2002.pdf](http://www.apa.org/ethics/code2002.pdf) (considering general ethical principles A and D).

<sup>52</sup> For example, a web search for the words “Detainee and Geneva Convention” on [www.msn.com](http://www.msn.com) on 23 September 2006 produced over 100,000 results. While not all of these results are current, they represent the background and exposure Soldiers may have had prior to arriving at the unit for training.

<sup>53</sup> See DOD DIR. 3115.09, *supra* note 24, at enclosure 3; see FM 2-22.3, *supra* note 1, paras. 5-69 through 5-71.

<sup>54</sup> See FM 2-22.3, *supra* note 1, at app. K; see also DOD DIR. 3115.09, *supra* note 24, para. 4.1.7; see also Memorandum, Deputy Chief of Staff for Intelligence, U.S. Army, for See Distribution, subject: Contract Interrogator Selection, Training and Certification Requirements (7 Mar. 2006) (copy on file with author).

<sup>55</sup> Planning HUMINT collection, or drafting an interrogation plan, is a deliberate process involving research, preparation, and coordination. This process is discussed at length in FM 2-22.3. See FM 2-22.3, *supra* note 1, at ch. 7. The HUMINT collectors must understand that their plan must be reviewed and approved before use. This review will include a check for legal compliance. *Id.* paras. 7-26, 10-15 and fig. 10-3. The appropriate level for approval may depend on the types of approaches being used and local theater policy. See *id.* para. 8-3.

## **Conclusion**

A unit's operational success will benefit from each individual Soldier's ability to know the law and understand its importance, to obey the law, and to exercise sound judgment and encourage others to do the same. This benefit can only come from comprehensive training and thorough preparation. Judge advocates assigned to units that conduct interrogation operations must take the initiative to organize and initiate this training. Failing to equip Soldiers to deal with the legal and ethical challenges they will face during interrogation operations increases the chance of future tragedies.