



DEPARTMENT OF THE NAVY
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MARINE CORPS ORDER 3300.4A

From: Commandant of the Marine Corps
To: Distribution List

Subj: MARINE CORPS LAW OF WAR PROGRAM

Ref: (a) DOD Directive 2311.01E Ch 1, "DOD Law of War Program," November 15, 2010 (certified current 27 February 2011)
(b) 10 U.S.C. Chapter 47
(c) DoD Instruction 3020.41, "Operational Contract Support (OCS)," December 20, 2011
(d) Geneva Conventions of 1949 for the Protection of War Victims
(e) CJCSI 5810.01D
(f) SECNAVINST 3300.1C
(g) MCO 1510.121A
(h) MCO 3504.2A
(i) 18 U.S.C. Chapter 212
(j) 18 U.S.C. Chapter 118
(k) SECNAV M-5210.1

Encl: (1) Definitions
(2) Entry-level Training
(3) Follow-on Training
(4) Specialized Training
(5) Detailed Training
(6) Report, Investigation, and Disposition of Alleged Law of War Violations (Reportable Incidents)

1. Situation

a. The law of war is defined in reference (a) as that part of international law that regulates the conduct of armed hostilities. It is often called the "law of armed conflict." The law of war encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law.

b. Marines are expected to conduct themselves consistent with the law of war at all times because discipline in combat is essential; violations of the law of war detract from accomplishment of the mission; violations of the law of war frequently lead to a loss of public support (domestic and international) for the war effort; and violations of the law of war may arouse an enemy to greater resistance, leading to increased friendly casualties. Violating the law of war dishonors the Marine Corps and may subject individuals to prosecution under the Uniform Code of Military Justice (reference (b)) or adverse administrative action.

c. Reference (a) directs members of Department of Defense (DoD) components to comply with the law of war during all armed conflicts and in all other military operations. Additionally, reference (a), in coordination with references (b) through (d), provides policy and guidance, and institutes and assigns responsibilities for implementing the DoD Law of War Program. References (e) and (f) implement the requirements provided in reference (a) that are assigned to the Chairman of the Joint Chiefs of Staff and the Department of the Navy (DON), respectively. Specifically, reference (f) requires the Commandant of the Marine Corps (CMC) to establish and implement procedures and policies for a law of war program.

2. Cancellation. MCO 3300.4.

3. Mission. The Marine Corps will follow the Law of War program by establishing and maintaining training and reporting requirements and delineating responsibilities in accordance with references (a) and (f) to ensure Marines, and the Sailors and civilians accompanying them, to include contractors, conduct military operations in accordance with applicable laws, regulations, and policies. Enclosure (1) contains definitions applicable to this Order.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent

(a) From the earliest days of our history, Marines have always distinguished themselves by disciplined adherence to orders. This has been especially true in austere and challenging expeditionary combat environments. Obedience to orders is at the heart of our ethos, it sets us apart from other

fighting forces, and it has solidified our reputation as a disciplined force.

(b) Marines and all personnel accompanying Marine Corps forces will conduct all military operations in accordance with applicable laws, regulations, and policies. In particular, they will comply with the law of war during all armed conflicts, however such conflicts are characterized, and in all other military operations.

(c) Adhering to the law of war is essential to the success of combat operations and must remain an integral part of Marine Air Ground Task Force (MAGTF) operations.

(d) All Marine Corps plans, policies, directives, publications, training programs shall be in compliance with the law of war, this Order, and applicable laws, regulations, and policies.

(2) Concept of Operations. All Marines will receive law of war training as outlined in this Order and its enclosures. Training will be conducted as a formal part of the respective training curriculums and will include testing to ensure mastery of the material. In accordance with references (a) and (f), Marines are required to receive the following law of war training.

(a) Entry-level Training. Entry-level law of war training, as set forth in enclosure (2), will be provided to every newly accessing Marine, whether officer or enlisted, at Officer Candidates School or the Marine Corps Recruit Depots. In addition to traditional classroom instruction (i.e., lecture/discussion), Entry-level Training also will incorporate realistic training exercises through the use of realistic mission-oriented scenarios derived from the training objectives outlined in enclosure (2).

(b) Follow-on Training

1. Marines attending Marine Corps formal or unit-run schools (not including entry-level formal schools) such as The Basic School, School of Advanced Warfighting, Schools of Infantry, Expeditionary Warfare School, Command and Staff, Staff Noncommissioned Officer Academies, and locally conducted schools such as Sergeants Course and Corporals Course, will receive Follow-on Training as set forth in enclosure (3).

2. Furthermore, operational units prior to deployment (i.e., Pre-deployment Training Packages (PTP)) also will receive Follow-on Training as set forth in enclosure (3).

3. In addition to traditional classroom instruction (i.e., lecture/discussion), Follow-on Training also will incorporate realistic training exercises through the use of realistic mission-oriented scenarios derived from the training objectives outlined in enclosure (3).

(c) Specialized Training. Specialized Training is required for Marines occupying certain billets or assigned particular duties and responsibilities. In particular, commanders will ensure that all personnel responsible for directing or planning operations will receive law of war training sufficient to enable them to comply with applicable laws, regulations, and policies in all situations reasonably contemplated. Such personnel are identified in enclosure (4). In addition to traditional classroom instruction (i.e., lecture/discussion), Specialized Training also will incorporate realistic training exercises through the use of realistic mission-oriented scenarios derived from the training objectives outlined in enclosure (4).

(d) Detailed Training. All Marine Corps judge advocates will receive Detailed Training as set forth in enclosure (5). Newly accessing judge advocates will be provided Detailed Training while attending the Basic Lawyer Course, Naval Justice School (NJS), Naval Education & Training Command, Newport, Rhode Island. Additionally, judge advocates will receive refresher Detailed law of war training prior to deployment in accordance with the objectives set forth in enclosure (5).

(e) Instructional Training Packages. Law of war baseline training materials for use in the Entry-level Training and Follow-on Training classroom instruction periods and realistic training exercise scenarios will be obtained through Training and Education Command (TECOM) (Code 465), Marine Corps Combat Development Command (MCCDC). The baseline training materials for the Specialized Training classroom instruction periods and realistic training exercise scenarios will be obtained through the International and Operational Law Branch (JAO), Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC). JAO will coordinate with NJS to ensure the Detailed Training objectives are achieved. These training materials are meant to be the baseline content for instruction

for each of the training curriculums stated above. Instructors are permitted to add pertinent substance to these training packages, but they should not deviate from the substantive content within the training materials without previous authorization from SJA to CMC (JAO).

b. Report, Investigation, and Disposition of Reportable Incidents

(1) Commanders will promptly and thoroughly investigate all reportable incidents in accordance with enclosure (6). Specific guidance on reporting requirements, reporting channels, reporting timelines, and incident repository requirements are contained in reference (h) and enclosure (6).

(2) A "reportable incident" is a possible, suspected, or alleged violation of the law of war, for which there is credible information, or conduct during military operations other than war, which would constitute a violation of the law of war if it occurred during an armed conflict. (Reference (a)).

c. Evaluation. The Marine Corps Law of War Program will be evaluated using the following:

(1) the MAGTF Staff Training Program (MSTP);

(2) the Marine Expeditionary Unit (MEU) Certification Exercise (CERTEX) process;

(3) Naval Inspector General (Deputy Inspector General for Marine Corps Matters) inspections;

(4) testing conducted during Entry-level, Follow-on, and Detailed Training that identifies mastery of the learning objectives set forth in the respective enclosures;

(5) verification by commanders of deploying units that their units have completed Follow-on training in conjunction with their existing PTP certification process; and

(6) Commanding General's Inspection Program checklist.

5. Tasks

a. Deputy Commandant for Plans, Policies, and Operations (DC PP&O) is the primary staff sponsor of the Marine Corps Law of War Program. DC PP&O will:

(1) ensure that all plans, orders, policies, directives, publications, and other documents concerning Marine Corps operational matters are reviewed by the SJA to CMC (JAO) for consistency with applicable laws, regulations, and policies, including the law of war; and

(2) coordinate with the SJA to CMC (JAO) to provide overall coordination, approval, and promulgation of Marine Corps policies, plans, and training involving the Marine Corps Law of War Program.

b. The Naval Inspector General (Deputy Inspector General for Marine Corps Matters) will:

(1) ensure that the inspection program monitors the adequacy of law of war training and the review of Marine Corps plans for conformity with reference (f), and that Marine operations are executed consistent with this Order and with reference (f);

(2) ensure that the inspection program monitors investigations of Reportable Incidents; and

(3) provide a copy of all Inspector General investigations of Reportable Incidents to the SJA to CMC (JAO).

c. SJA to CMC will:

(1) provide legal guidance for the Marine Corps Law of War Program;

(2) develop, oversee, and review all Headquarters Marine Corps staff agency issued plans, policies, directives, orders, letters of instruction, and similar documents involving or related to operational matters to ensure conformity with applicable laws, regulations, and policies;

(3) coordinate law of war matters with other Federal departments and agencies, including the Department of Defense (DoD) General Counsel, and the DoD Law of War Working Group;

(4) conduct periodic reviews of the Marine Corps Law of War Program;

(5) create, approve, coordinate, and monitor Marine Corps plans and policies, curriculum, and instruction for

training and education in the law of war for the Specialized and Detailed Training levels;

(6) assist DC PP&O in developing and coordinating plans and policies involving the law of war;

(7) in coordination with CG MCCDC, create all Entry-level and Follow-on Law of War Classroom Instruction Training Packages and realistic mission-oriented scenarios to ensure the instructional material is relevant and consistent with current international law and domestic laws, regulations, and policies;

(8) in coordination with CG MCCDC and the Commanding Officer, NJS, create and conduct Detailed Training required for judge advocates, in accordance with enclosure (5);

(9) support CG MCCDC by:

(a) assisting in the development and implementation of Marine Corps Law of War Program, to include providing "qualified legal instructors;"

(b) creating, monitoring and reviewing all Entry-level Training and Follow-on Training law of war instruction and instructional materials related to law of war to ensure the instruction is relevant and consistent with current international law and domestic laws, regulations, and policies;

(c) assisting in the development and implementation of testing and evaluation standards to be incorporated into curriculums at Entry-level and Follow-on formal schools; and

(d) considering the approval of requested amendments to the Law of War Classroom Instruction Entry-level and Follow-on Training Package material and realistic mission-oriented scenarios from classroom instructors. Work with instructors to provide specific training material for extraordinary training requirements;

(10) support Marine Forces (MARFOR) commanders by:

(a) assisting, approving, developing, and implementing law of war practical training exercises/scenarios and evaluation programs in conjunction with MARFOR SJAs, including those incorporated into the MSTP and MEU CERTEX process;

(b) reviewing, as requested by MARFOR SJAs, all Practical Training Exercises/Scenarios related to the law of war; and

(c) considering, upon appeal of MARFOR SJAs, approval of requested amendments to the Law of War Classroom Instruction and Follow-on or Specialized Training Package material and realistic mission-oriented scenarios. Work with instructors to provide specific training material for extraordinary training requirements; and

(11) assisting the Naval Inspector General (Deputy Inspector General for Marine Corps Matters) in developing and implementing inspection procedures to evaluate the Marine Corps Law of War Program.

d. Commanding General, Training and Education Command (TECOM) (Code 465) will:

(1) In coordination with SJA to CMC (JAO), ensure that formal law of war and operational law training required by this Order is incorporated into existing training programs including:

(a) Entry-level Training to be provided in accordance with enclosure (2);

(b) Follow-on Training to be provided in accordance with enclosure (3); and

(c) Detailed Training in enclosure (5).

(2) In coordination with SJA to CMC (JAO), employ "qualified legal instructors," as defined in enclosure (1), to conduct law of war training during all existing training programs under the cognizance of CG MCCDC.

(3) In coordination with SJA to CMC (JAO), establish law of war evaluation and testing standards to be incorporated into Entry-level, Follow-on, and Detailed Training.

e. MARFOR Commanders, will:

(1) ensure that all plans, policies, directives, orders, letters of instruction, and documents concerning operational matters, prepared by or subject to review by them, are reviewed by their SJA for consistency with applicable laws, regulations, and policies, and the law of war;

(2) include law of war issues in unit training and evaluation, including MSTP and the MEU CERTEX;

(3) ensure training is conducted and make available/provide "qualified legal instructors" to conduct training in the following areas:

(a) Follow-on Training for pre-deployment (PTP) personnel in accordance with enclosure (3) of this Order;

(b) Follow-on Training for incorporation into unit training plans in accordance with enclosure (3) of this Order; and

(c) Specialized Training in accordance with enclosure (4) of this Order;

(4) ensure "qualified legal advisors," as defined in enclosure (1), are made available to operational commanders at all levels of command, in coordination with the Deputy Commandant for Manpower & Reserve Affairs (DC M&RA), and the SJA to CMC, to provide advice concerning law of war compliance; and

(5) ensure that judge advocates assigned as staff judge advocates, deputy staff judge advocates, or legal advisors to operational commands are granted appropriate clearances and access to classified information and command spaces necessary to carry out their responsibilities under this Order.

6. Administration and Logistics

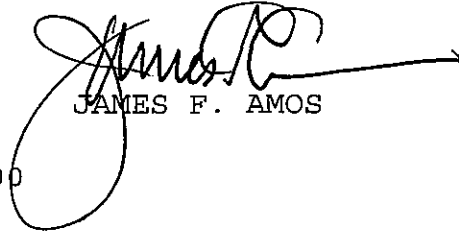
a. All Marine Corps personnel, including civilian employees and contractors, may be punished or subject to adverse administrative procedures under applicable regulations and law, including references (b), (i), and (j), for violations of the law of war, and the failure to report and investigate Reportable Incidents as required by this Order.

b. Records created as a result of this Order shall be managed according to National Archives and records Administration approved dispositions per reference (k) to ensure proper maintenance, use, accessibility, and preservations, regardless of formal or medium.

7. Command and Signal

a. Command. This Order is applicable to the Marine Corps Total Force.

b. Signal. This Order is effective the date signed.



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DEFINITIONS

1. International Law. International law consists of rules and principles of general application dealing with the conduct of states and of international organizations and with their relations *inter se*, as well as with some of their relations with persons, whether natural or juridical. International law is generally derived from three sources: international agreements; customary law (resulting from a general and consistent practice of states followed by them from a sense of legal obligation); and rules derived from general principles common to the major legal systems of the world. (Restatement Third of the Foreign Relations Law of the United States (1986), at §§ 101 and 102).

2. Law of War. The "law of war" is that part of international law that regulates the conduct of armed hostilities. It is often called the "law of armed conflict." The law of war encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law. (DoD Dir 2311.01E)

3. Law of War Instructional Baseline Training Package. The law of war training packages are the baseline instructional materials developed by the SJA to CMC (JAO). These training packages contain the baseline training information for instructors (whether a judge advocate or not) to use for formal classroom instruction on the law of war. The training packages contain both baseline information and realistic training exercises. There is one training package for each level of training - Entry-level, Follow-on, Specialized, and Detailed. Instructors are permitted to add pertinent material to these training packages but they should not deviate from the substantive content within the training materials without previous authorization from SJA to CMC (JAO). The baseline material is not meant to cover every law of war scenario, but to provide for the general rules and policies.

4. Realistic Training Exercises. Law of war training that employs the practical use of lessons learned from the law of war baseline information in the Law of War Instructional Baseline Training Package. Some of these tactical exercises/scenarios are provided in the training packages; however, commanders, in coordination with a judge advocate, can develop and implement more, to replicate realistic situations and to test the precepts

of the law of war. No prior coordination with JAO is required to create and implement these scenarios; however, JAO is available to assist.

5. Reportable Incident. A possible, suspected, or alleged violation of the law of war, for which there is credible information, or conduct during military operations other than war that would constitute a violation of the law of war if it occurred during an armed conflict. (DoD Dir 2311.01E.)

6. Qualified Legal Advisor. For the purposes of this Order, a "qualified legal advisor" in the law of war is a judge advocate or a DoD-civilian attorney specializing in operational law.

7. Qualified Legal Instructor. For purposes of this Order, "qualified legal instructors" in the law of war are persons, who by their training, education, or experience, have acquired special expertise in the law of war sufficient to fully and completely address the objectives identified for the program(s) they are expected to teach. Ideally, this instructor is a Marine Corps judge advocate; however, a person qualified by training, education, or experience in the law of war qualifies. A Marine Corps judge advocate is presumptively a qualified legal instructor. For a non-Marine Corps judge advocate, the cognizant Marine Expeditionary Force SJA (or secondarily, the instructing command's SJA) will determine whether the instructor has the requisite training, education, or experience to qualify. A qualified legal instructor who is not a judge advocate will be given the name and contact information for a judge advocate who can answer specific questions about the instructional material.

ENTRY-LEVEL TRAINING

1. Entry-level Training

a. Teaching the basic principles of the law of war to accessing Marines at the Entry-level is an essential element in the establishment of good order and discipline within the Marine Corps, especially as it relates to discipline in the use of force in combat. Consequently, all newly accessing Marines must receive, and master, Entry-level Training that meets the training objectives as outlined in paragraph 3 of this enclosure.

b. Entry-level Training must be clear and direct, positive in substance, and dynamic in approach. It will express in simple, succinct form, those restrictions on conduct in combat that are absolute. This training will be designed to ensure that all Marines are aware of, can understand, remember, and meet their responsibilities under the law of war. Training will also identify and examine, through case study and discussion of lessons learned, instances where Marines have failed to adhere to the law of war and the ensuing negative strategic consequences.

c. Training will emphasize the compatibility of the law of war with the principles of war, tactical considerations, and good leadership. It will stress the overall effective philosophy of the law of war and the United States' dedication to adherence to the law of war during the conduct of military operations through establishment of the nine "Basic Principles" of the law of war.

2. Training Requirements

a. Entry-level Training must be provided to every newly accessing Marine, whether officer at Officer Candidates School, or enlisted at the Marine Corps Recruit Depots.

b. Students will be formally tested on their understanding of their Entry-level Training to reinforce that instruction and determine its effectiveness.

c. Under no circumstances will this Entry-level law of war instruction be merged with any block or area of instruction (i.e., Ethics, Code of Conduct, Military Justice) that will have the effect of minimizing the importance of the law of war or doubting the absoluteness of its principles. The law of war training must be reinforced as a distinct block of instruction to stress its importance and significance.

d. Employ CG MCCDC baseline instructional materials approved by the SJA to CMC (JAO). Baseline training materials may be obtained through CG, MCCDC (Code 465). The materials contain the baseline training information for qualified legal instructors to use for formal classroom instruction and realistic training exercise scenarios on the law of war. Qualified legal instructors are encouraged to add their own experiences to the training, but will conduct the class in accordance with the established training objectives and not deviate from the substantive content without previous authorization from SJA to CMC (JAO). Any questions regarding the content of the training material should be addressed to SJA to CMC (JAO). A minimum of one-hour will be dedicated to formal classroom training. The Entry-level objectives will be reinforced throughout the curriculum.

e. All Marines are expected to master the law of war principles. Accordingly, any qualified legal instructor may conduct formal Entry-level training. Additionally, all officers and non-commissioned officers involved in Entry-level Training are required to reinforce law of war principles throughout field training and other exercises conducted during Entry-level Training.

f. Entry-level Training is the first step in what will be an ongoing education process for all Marines. By requiring that all Marines, officer and enlisted, receive and master this standard training, it will ensure not only that Marines will be capable of conducting themselves in accordance with the basic law of war principles while conducting operations, but it will also allow for successful Follow-on, Specialized, and Detailed Training to be conducted if required.

3. Entry-Level Training Objectives. Entry-level Training will be conducted in formal classroom sessions and will be incorporated into realistic training exercises and field training. Entry-level Training will teach the following:

a. Adherence to the law of war. Discipline in combat is essential. Marines are expected to conduct themselves in a manner consistent with law of war principles even if the enemy does not.

(1) Violations of the law of war detract from accomplishment of the mission.

(2) Violations of the law of war frequently lead to a loss of public support (domestic and international) for the war effort.

(3) Violations of the law of war may arouse an enemy to greater resistance, leading to increased friendly casualties.

(4) Violating the law of war dishonors our Nation, our Marine Corps, and those Marines who have gone before us. Disobeying the law of war is also a crime punishable under the Uniform Code of Military Justice.

b. The "Core Principles" of the law of war are the following:

- (1) Military Necessity.
- (2) Unnecessary Suffering.
- (3) Discrimination/Distinction.
- (4) Proportionality.

c. The "Basic Principles" of the law of war are the following:

- (1) Marines fight only enemy combatants.
- (2) Marines do not harm enemy combatants who surrender. Marines disarm them and turn them over to their superiors.
- (3) Marines do not torture or kill enemy prisoners of war or detainees. Marines treat them humanely.
- (4) Marines collect and care for the wounded, whether friend or foe.
- (5) Marines do not attack medical personnel, facilities, equipment, or chaplains.
- (6) Marines destroy no more than the mission requires.
- (7) Marines treat all civilians humanely.
- (8) Marines do not steal; they respect private property and possessions.

(9) Marines do their best to prevent violations of the law of war, and report all violations to their superiors.

d. Rules of Engagement (ROE) - Basic tenants of the rules that govern how U.S. Service members initiate or respond to a combat engagement with other forces.

- (1) ROE Definition.
- (2) Mission Accomplishment.
 - (a) Declared Hostile.
 - (b) Lawful Military Objectives.
- (3) Self-defense.
 - (a) Hostile Act.
 - (b) Hostile Intent.
- (4) Positive Identification.
- (5) Escalation of Force.

FOLLOW-ON TRAINING

1. Follow-on Training

a. Follow-on Training builds upon the basic concepts imparted during Entry-level Training, exploring them in more depth and detail, and employing traditional law of war terminology. In addition to fundamental concepts of the law of war, Follow-on Training teaches Marines central aspects of other laws, regulations, and policies that directly affect military operations.

b. Follow-on Training establishes a baseline for Marines during their exposure to combat or direct confrontation with a hostile force, or whose military assignment plans for such operations. Marines must possess sufficient comprehension of these Follow-on Training concepts to enable them to comply with the law of war in the performance of their duties.

c. Follow-on Training will stress the fundamental principles upon which the law of war is built; the core principles of the law of war. These core principles provide the foundation for the law of war. Follow-on Training will incorporate central tenets of all of the core principles, as well as relevant domestic laws, regulations, and policies, as appropriate for the audience as outlined in the training objectives in paragraph 3 of this enclosure.

2. Training Requirements. Follow-on law of war training will be:

a. Taught at all Marine Corps formal schools beyond the entry-level, including, but not limited to, the School of Infantry, Corporals Course, Sergeants Course, Career Courses, Advanced Courses, Senior Enlisted Courses, The Basic School, Expeditionary Warfare School, Command & Staff College, School of Advanced Warfighting, and the Marine Corps War College. In addition, Follow-on Training will be conducted during formal operational pre-deployment unit training.

b. Incorporated into practical exercises at all operational levels of command through use of realistic mission-oriented scenarios derived from the training objectives outlined in paragraph 3 of this enclosure.

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c. Taught in formal classroom sessions by "qualified legal instructors." Additional reinforcement throughout the curriculum will be conducted by all Marines.

d. Used to meet the training objectives set forth in paragraph 3 of this enclosure (students will be formally tested on their understanding of their Follow-on Training to reinforce that instruction and determine its effectiveness).

e. Used to employ CG MCCDC (Code 465) baseline instructional materials approved by the SJA to CMC (JAO). Baseline training materials may be obtained through MCCDC (Code 465). The materials contain the baseline training information for instructors to utilize for formal classroom instruction and realistic training exercise scenarios on the law of war. "Qualified legal instructors" are encouraged to add their own experiences to the formal classroom training, but will conduct the class in accordance with the established training objectives and not deviate from the substantive content without previous authorization from SJA to CMC (JAO). Any questions regarding the content of the training material should be addressed to SJA to CMC (JAO).

f. Reinforced throughout the curriculum. In addition to the time necessary to complete formal classroom training, the Follow-on Training objectives should be reinforced throughout the curriculum.

3. Follow-On Training Objectives. Follow-on Training will:

a. Define, discuss, and illustrate the following four "Core Principles" of the law of war:

- (1) Military Necessity;
- (2) Unnecessary Suffering;
- (3) Discrimination/Distinction; and
- (4) Proportionality.

b. Discuss and illustrate the specific protections accorded the following categories of persons and objects under the law of war:

- (1) Civilians;

(2) Prisoners of war, including a discussion on the United States' treatment of detainees and interrogation policy;

(3) Wounded and sick in the field and at sea; and

(4) Medical personnel, medical units and establishments, and chaplains.

c. Define, discuss, and illustrate the following tactics, stratagems, and concepts:

(1) Ruses;

(2) Use of enemy property, to include:

(a) enemy uniforms;

(b) colors and markings; and

(c) equipment;

(3) Treachery and perfidy, to include:

(a) feigning incapacitation;

(b) feigning surrender;

(c) feigning civilian or other noncombatant status;

(d) feigning protected status;

Crystal; (e) misuse of Red Cross, Red Crescent, and Red

(f) "Blue Shield" cultural property; and

(g) certain uses of "booby traps;"

(4) Assassination;

(5) Espionage; and

(6) Reprisals.

d. Discuss the law, regulation, and policy governing the use of certain weapons and munitions, to include the following:

(1) Certain small arms projectiles, including hollow point ammunition, sniper rifles, .50 caliber machine guns, and shotguns;

(2) Fragmentation weapons;

(3) Landmines and booby traps;

(4) Cluster munitions;

(5) Incendiaries;

(6) Directed Energy Weapons and lasers;

(7) Chemical and biological weapons;

(8) Riot Control Agents; and

(9) Non-lethal weapons.

e. Discuss reasons and obligations to comply with the law of war (even when the enemy does not adhere to it), the duty to report violations, and the consequences of failing to comply.

f. Define, discuss, and illustrate rules of engagement/rules for the use of force, particularly the concept of self-defense, as articulated in CJCSI 3121.01B, or its current edition.

SPECIALIZED TRAINING

1. Specialized Training

a. Specialized Training is intended to impart that detailed level of knowledge required of Marine commanders, executive officers, intelligence officers, operations officers, future plans officers, and others (including select staff non-commissioned officers) whose billet or duties and responsibilities may require the command of troops in combat, planning for combat operations, direction of prisoner of war handling or investigation of alleged war crimes, and direction of contingency operations among foreign civilian populaces.

b. The intent of Specialized Training is to build upon the fundamentals learned at the Follow-on Training level, and increase each individual's knowledge as required by that Marine's expected duties and responsibilities, rather than to provide a checklist of required topics or specify a required number of hours of instruction.

c. Specialized training must use the "Specialized" baseline training package from SJA to CMC (JAO). "Qualified legal instructors" are encouraged to add their own experiences to the training, but will conduct the class in accordance with the established training objectives and not deviate from the substantive content without previous authorization from SJA to CMC (JAO).

d. Commanders will ensure Specialized Training is conducted for Marines identified below by special briefing on an "as necessary" basis depending upon the needs of the Marine. Training can occur at any time, but commanders will ensure training is conducted prior to a deployment in conjunction with Follow-on Training received by all Marines during pre-deployment training.

2. Billet Specific Training Requirements. Marines assigned to the billets specified in this paragraph should obtain Specialized Training, as necessary, prior to or as soon as practicable after assuming their duties and consistent with mission requirements.

a. Commanders (including deputy commanders and executive officers), Operations officers (G/S-3s), fire support coordinators, Intelligence officers (G/S-2s), and Plans officers (G/S-5s), of MARFORs, MAGTFs, and elements of the Operating

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Forces, down to and including the battalion/squadron level and equivalent logistics combat element (LCE).

b. Officers serving in Headquarters, United States Marine Corps and joint or combined staff billets, when their duties require a specialized knowledge of the law of war (such as J-2, J-3, and J-5 billets). Officers should receive this training prior to joining the joint or combined billets.

c. Commanding officers, executive officers, and officers-in-charge of civil affairs groups and detachments.

d. Commanding officers, executive officers, and officers-in-charge of military police units and detachments.

e. Officers-in-charge and/or staff noncommissioned officers-in-charge of Counterintelligence/Human Intelligence detachments and personnel.

3. Specialized Training Objectives. The following training objectives should be covered under Specialized Training.

a. Discuss the Core Principles of the law of war to include military necessity, discrimination/distinction, proportionality, and unnecessary suffering.

b. Discuss the nature of individual/command responsibility as it relates to the law of war, including measures for the reporting of reportable incidents committed by or against United States personnel, coalition personnel, enemy personnel, or any other person.

c. Discuss when the law of war applies, the nature of obligations on nations to observe legal requirements, and methods of internal enforcement within the United States and international methods of enforcement of the laws of war.

d. Discuss the major requirements of the Geneva Conventions of 1949 for the Protection of War Victims and Hague Convention No. IV of 1907, Respecting the Law and Customs of War on Land, and its Annexed Regulations.

e. Discuss the United States policy toward and key provisions of the 1977 Protocols Additional to the Geneva Conventions (API & APII).

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f. Discuss the key provisions of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

g. Discuss the United States policy contained in DOD Directive 2311.01E of 9 May 2006 (certified current as of 22 February 2011) (reference (a)), or its current edition, to comply with the law of war during all armed conflicts, however such conflicts are characterized, and in all other military operations.

h. A discussion of how detainees should be handled during all stages of military operations, including an advanced discussion on the treatment of detainees under the Detainee Treatment Act and the interrogation policy as articulated in Field Manual 2.22-23.

i. Discuss relevant laws, regulations, and policies concerning, at a minimum, the weapons referred to in paragraph 3.d, of enclosure (3), as well as an in-depth review of the following:

(1) Key provisions of the Biological Weapons Convention (BWC), Chemical Weapons Convention (CWC), and the 1980 United Nation's Convention on Prohibitions or Restrictions of the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (UNCCW), and all five of its protocols; and

(2) Use of riot control agents (RCAs) and the relationship of the CWC, Executive Order 11850, and CJCSI 3110.07D, "Guidance Concerning Employment of Riot Control Agents and Herbicides," or its current edition.

j. Discuss ROE, including:

(1) CJCSI 3121.01B, "Standing Rules of Engagement/ Standing Rules for the Use of Force for U.S. Forces" (SROE/SRUF), or its current edition, to include: SROE applicability; the fundamentally permissive nature of the SROE, and its distinction between "self-defense" and "mission accomplishment;" the use of force in self-defense, including the elements of and permissible actions in self-defense, and in particular, the commander's inherent right and obligation to exercise unit self-defense in response to a hostile act or demonstrated hostile intent; the meanings of "necessity," "proportionality," "hostile act," "hostile intent," "all necessary means available," and "all

appropriate actions may be used in self-defense;" the distinctions between national, unit, individual, and collective self-defense and the authorities to exercise these rights; the purpose and scope of ROE "supplemental measures," how they enable commanders to tailor ROE for specific missions, and how they differ from and interact with the right of self-defense; and the authority to, and implications of, declaring forces "hostile;"

(2) applicable theater-specific ROE and how they interact with the SROE;

(3) key aspects of MC 362 (the NATO ROE document) and the impact on U.S. forces operating with multinational forces;

(4) how RCAs are treated in the SROE;

(5) current U.S. Government land mine policy;

(6) United States law and policy relevant to Information Operations including information-related capabilities (i.e. Military Information Support Operations, Military Deception, Operations Security, Electronic Warfare, Computer Network Operations, etc.);

(7) measures imposing limitations on fires, including prohibitions upon "unobserved indirect fires," or that "targets must be clearly identified," and restrictive fire areas (RFAs); and,

(8) requirement that ROE must be consistent with international and domestic law

k. Discuss rules for the use of force (RUF) in domestic military operations, including:

(1) How RUF differ from ROE;

(2) Key aspects of DOD Directive 5210.56 of 1 Apr 2011, "Carrying of Firearms and the Use of Force by DoD Personnel Engaged in Security, Law and Order, or Counterintelligence Activities," or its current edition;

(3) RUF reflected in the "Standing Rules of Engagement/ Standing Rules for the Use of Force for U.S. Forces;"

(4) DoD policy for providing defense support of civil authorities as set forth in DoD Directive 3025.18, DoD

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Instruction 3025.21, "Defense Support of Civilian Law Enforcement Agencies;" SECNAVINST 5820.7C, "Cooperation with Civilian Law Enforcement Officials;" and related DoD and DON regulations.

1. Discuss the legal authorities for the use of force under international and domestic law, including:

(1) how the United Nations (UN) Charter addresses the use of force; how the United States interprets the UN Charter in light of customary international law, including the U.S. view that the "inherent right of self-defense" includes the right of a nation to protect its nationals abroad, and to act in "anticipatory self-defense;"

(2) the principle of collective self-defense and key collective defense treaties to which the United States is a party, to include the North Atlantic Treaty Organization (NATO) treaty;

(3) the division of authority to wage war in the United States Constitution, including the President's constitutional authority to direct or authorize the use of force and Congress' constitutional authority to declare war, authorize the use of force, and appropriate funds;

(4) the War Powers Resolution, 50 U.S.C. §§ 1541-1548; and,

(5) a discussion of the legal authorities for the use of force in response to terrorism.

m. Discuss the requirements of International Human Rights law and its impact on military operations, including key concepts of the United Nations General Assembly's Universal Declaration of Human Rights; and the U.S. position concerning various international declarations and conventions on human rights, particularly as they might impact on military operations.

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DETAILED TRAINING1. Detailed Training

a. The United States is party to certain treaties or considers itself legally bound under customary international law to provide law of war legal advisors to commanders and instruct its armed forces on the law of war. For instance, the Hague Convention No. IV of 1907, Respecting the Laws and Customs of War on Land, and its Annexed Regulations, and the Geneva Conventions of 1949, for the Protection of War Victims, require the United States to instruct its armed forces in the law of war. These legal obligations are implemented through references (a), (e), and (f), or their current editions. This Order implements these requirements in the Marine Corps. This enclosure addresses the specific training in the law of war to be provided to Marine judge advocates who perform the tasks of advising military commanders and providing instruction on the law of war.

b. To fulfill their duties as law of war advisors and instructors, judge advocates must possess a solid foundation in the treaties and customary law comprising the fundamental core of the law of war.

c. Various joint directives establish implicit requirements for judge advocate proficiency in numerous regulatory and policy matters impacting military operations. These diverse subjects comprise the wider discipline of operational law. Judge advocates must also, therefore, possess a working knowledge of operational law to be effective legal advisors during military operations, exercises, and training.

d. Military commanders require the assistance of legal advisors in teaching, interpreting, and construing the relevant laws of war and policies impacting military operations in order to ensure effective implementation. Operational legal advisors today are routinely called upon to provide advice that directly impacts operational planning, decision-making, and the conduct of combat operations.

e. Treaties, customary international law, and regulatory requirements establish the discipline of operational law as a core competency of every judge advocate's military legal practice.

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2. Policy

a. Judge advocates will be prepared to advise commanders and their staffs independently and expeditiously on numerous legal and regulatory subject matters impacting military operations during peacetime activities and across the spectrum of conflict.

b. Judge advocates also will be prepared to provide instruction to Marines in the law of war and other operational law subjects as set out in the main body and enclosures to this Order.

c. The Detailed operational law training implemented in this enclosure is intended to prepare judge advocates to fulfill their legal and regulatory obligations as law of war and operational law advisors and instructors for the Operating Forces.

d. Prior to or as soon as practicable after reporting, officers assigned as staff judge advocates, deputy staff judge advocates, or operational law advisors for the Operating Forces must prepare themselves to perform the duties assigned in this Order. These officers should undertake personal study and seek additional formal operational law instruction, as necessary, to refresh and update their knowledge in this area.

3. Training Requirements

a. Newly-accessing Marine Corps judge advocates will be provided Detailed operational law training, consistent with the training objectives set out below, in conjunction with the Basic Lawyer Course at NJS.

b. Although it is not required that judge advocates receive post-NJS instruction on all the training topics within this enclosure, staff judge advocates will ensure Detailed Training is conducted for judge advocates by special briefing on an "as necessary" basis depending upon the needs of the Marine. However, to the greatest extent possible, SJAs will ensure training is conducted prior to a deployment. Post-NJS Detailed Training must use the "detailed" baseline training package from SJA to CMC (JAO). Instructors are permitted to add pertinent material to this training package, but they must not deviate from the substantive content without previous authorization from SJA to CMC (JAO). Detailed Training must be conducted by "qualified legal instructors."

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c. The Detailed operational law instruction will, at a minimum, meet the training objectives established in paragraph 4 of this enclosure.

4. Detailed Training Objectives. Judge advocates will be prepared to provide advice and to instruct MAGTF commanders, their staffs, and units in the law of war and operational law in accordance with this Order. Judge advocates will be prepared to provide advice and/or instruction, at a minimum, consistent with the training objectives in this paragraph.

a. Provide advice and/or instruction on key aspects of law of war treaties, customary international law, and relevant United States policy directly affecting military operations as outlined below:

(1) Hague Convention No. IV of 1907, "Respecting the Laws and Customs of War on Land," and the Regulations annexed thereto;

(2) basic customary international law principles of the law of war in the context of lawful targeting as described in enclosure (2);

(3) Hague Convention No. IX of 1907, "Concerning Bombardment by Naval Forces in Time of War;"

(4) Geneva Convention Relative to the Treatment of Prisoners of War (GPW);

(5) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (GWS);

(6) Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea (GWS Sea);

(7) Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC);

(8) those provisions of the 1977 Protocols Additional to the Geneva Conventions (AP I & II) that the United States considers consistent with U.S. practice or is an accurate statement of the law of war;

(9) 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict; and

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(10) United States policy that members of DoD components comply with the law of war during all armed conflicts, however such conflicts are characterized, and in all other military operations.

b. Provide advice and/or instruction on key provisions of arms control treaties, executive orders, joint instructions, and relevant United States policies as outlined as follows:

(1) Protocol for the Prohibition of the use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare (1925) (Geneva Gas Protocol);

(2) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (1993) (CWC);

(3) Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (1972) (BWC);

(4) Convention on Prohibitions or Restrictions of the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (1980) (CCW), and its five Protocols;

(5) United States policy regarding anti-personnel landmines;

(6) United States policy regarding the use of RCAs, and in particular, their treatment in CJCSI 3110.07D, "Guidance Concerning Employment of Riot Control Agents and Herbicides," or its current edition; Executive Order 11850 Renunciation of Certain Uses in War of Chemical Herbicides And Riot Control Agents; and the CWC; and

(7) DoD policy on non-lethal weapons.

c. Provide advice and/or instruction concerning reporting, investigation, and adjudication of violations of the law of war in accordance with the references and enclosure (6) of this Order.

d. Provide advice and/or instruction concerning the concept of command responsibility for the conduct of military operations, including compliance with the law of war.

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e. Provide legal advice and/or instruction, including mission-specific advice or instruction, regarding ROE, to include the following:

(1) SROE/SRUF, or its current edition, including:

(a) SROE purposes, development, modification, and promulgation, and in particular, the SROE "supplemental measures" process;

(b) key SROE concepts, including: SROE definitions, authorities, responsibilities, and applicability; the fundamentally permissive nature of the SROE, and its distinction between "self-defense" and "mission specific ROE;" the use of force in self-defense, including the elements of and permissible actions in self-defense, and in particular, the commander's inherent right and obligation to exercise unit self-defense in response to a hostile act or demonstrated hostile intent; the meanings of "necessity," "proportionality," "hostile act," "hostile intent," "all necessary means available," and "all appropriate actions may be used in self-defense," the distinctions between national, unit, individual, and collective self-defense and the authorities to exercise these rights; the purpose and scope of ROE "supplemental measures" how they enable commanders to tailor ROE for specific missions, and how they differ from and interact with the right of self-defense; and the authority to and implications of declaring forces "hostile;"

(c) theater-specific ROE and their interaction with the SROE; and

(d) SROE policy regarding information operations;

(2) key aspects of MC 362 (NATO ROE document), or its current edition, and the impact on U.S. forces operating with multinational forces;

(3) measures imposing limitations on fires, including prohibitions upon "unobserved indirect fires" or requirements for "eyes on target," and restrictive fire areas (RFAs); and,

(4) requirement that ROE be consistent with international law and United States law and policy.

f. Provide legal advice regarding SRUF in domestic military operations, to include:

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(1) how SRUF differ from SROE;

(2) DoD policy for use of deadly force and carrying of firearms, as articulated in DOD Directive 5210.56 of 1 Apr 2011, "Carrying of Firearms and the Use of Force by DoD Personnel Engaged in Security, Law and Order, or Counterintelligence Activities," or its current version;

(3) DoD policy for providing defense support of civil authorities as set forth in DoD Directive 3025.18, or its current edition; DoD Instruction 3025.21 Defense Support of Civilian Law Enforcement Agencies," or its current edition; SECNAVINST 5820.7C, "Cooperation with Civilian Law Enforcement Officials, or its current edition; and related DoD and DON regulations; and

(4) SRUF aspects of DoD policy regarding response to the release of chemical, biological, nuclear, radiological, or high explosive weapons inside the United States.

g. Provide legal advice and/or instruction regarding intelligence operations, to include the following:

(1) constitutional and statutory authorities that govern intelligence operations;

(2) United States policy regarding intelligence operations as set out in Executive Order 12333;

(3) DoD and Naval Services policies established in DoD Directive 5240.01, of 27 Aug 07, "DOD Intelligence Activities;" DoD 5240.1-R, of 7 Dec 82, "Procedures Governing the Activities of DOD Intelligence Components that Affect United States Persons;" DoD Directive O-5240.02, of 20 December 2007, "Counterintelligence;" SECNAVINST 3820.3E, "Oversight of Intelligence Activities within the Department of the Navy;" and MCO 3800.2B, "Oversight of Intelligence Activities," or their current editions; and

(4) implications (both jus ad bellum and jus in bello) of cyber operations in strategic planning and the operational conduct of hostilities.

h. Provide advice and/or instruction regarding the international and domestic law authorities for the use of force, including:

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(1) how customary international law and the UN Charter address the use of force, including its prohibition on aggressive use of force; and the authority of the United Nations Security Council to mandate measures, including the use of force, to address threats to international peace and security, and the right of self-defense;

(2) the United States policy of interpreting the UN Charter in light of customary international law, including the United States view that the "inherent right of self-defense" includes the right of a nation to protect its nationals abroad, and to act in "anticipatory self-defense;"

(3) the principle of collective self-defense and key collective defense treaties to which the United States is a party, including the North Atlantic Treaty Organization (NATO) treaty;

(4) the division of authority to wage war in the United States Constitution, including the President's constitutional authority to direct or authorize the use of force and Congress' constitutional authority to declare war and appropriate funds;

(5) summary of the War Powers Resolution Act, 50 U.S.C. §§ 1541-1548 of 7 Nov 73; and

(6) the legal authorities for the use of force in response to terrorism.

i. Provide advice and/or instruction regarding the requirements of International Human Rights law and its impact on military operations, to include the following:

(1) key concepts of the United Nation General Assembly Resolution "Universal Declaration of Human Rights;" and

(2) the United States position concerning various international declarations and conventions on human rights, particularly as they might impact on military operations.

j. Provide advice and/or instruction regarding the legal ramifications of information operations, to include the following:

(1) implications of information operations as to the law of war and other international agreements; and

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(2) legal considerations associated with the information operations including information-related capabilities (i.e., Military Information Support Operations, Military Deception, Operations Security, Electronic Warfare, Computer Network Operations, etc.).

k. Provide advice and/or instruction regarding fiscal law and its impact on military operations, to include the following:

(1) fundamental fiscal rules and authorities applicable in U.S. military operations; and

(2) typical fiscal law issues that frequently arise in the pre-deployment phase, or during exercises and training.

l. Provide advice and/or instruction regarding the investigation, adjudication, and settlement of claims for damage, loss, or injury arising from military operations, consistent with the following:

(1) DoD Instruction 5515.08 of 11 Nov 2006, "Assignment of Claims Responsibility," or its current version;

(2) applicable Status of Forces Agreements (SOFA); and

(3) Federal Tort Claims Act (28 U.S.C. §§ 2671-2680) May 2000, Personnel Claims Act of 1964 (31 U.S.C. § 3721), the Military Claims Act (10 U.S.C. § 2733), the Foreign Claims Act (10 U.S.C. § 2734), and the Manual of the Judge Advocate General of the U.S. Navy (JAGMAN).

m. Provide advice and/or instruction regarding SOFAs and international agreements impacting MAGTF deployments, to include the following:

(1) key aspects of SOFAs and their potential impact on MAGTF operations;

(2) basic rules that mandate or override the application of host nation law to foreign forces in war and military operations other than war;

(3) United States policy and procedures that establish the authority for negotiating international agreements and the recommended content of such agreements; and,

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(4) sources of existing international agreements that might impact on military operations.

n. Provide advice and/or instruction regarding international law, to include the Vienna Convention on Diplomatic Relations, and United States policy concerning diplomatic relations and how they may impact MAGTF operations, and in particular, during the conduct of noncombatant evacuation operations.

o. Provide advice regarding the judge advocate's advisory role and responsibilities within the Marine Corps Planning Process, during Deliberate and Rapid Planning, to include participation in ROE and targeting cells, and during all phases of mission planning and execution.

p. Provide advice on the history of detainee interrogation following 9-11 and discuss the content of Field Manual 2.22-3 and the Detainee Treatment Act.

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REPORT, INVESTIGATION, AND DISPOSITION OF
ALLEGED LAW OF WAR VIOLATIONS (REPORTABLE INCIDENTS)

1. Background. A Reportable Incident is a possible, suspected, or alleged violation of the law of war, for which there is credible information, or conduct during military operations other than war that would constitute a violation of the law of war if it occurred during an armed conflict. Per references (a), (e), and (f) or their current editions, it is DoD, Joint, and DON policy that:

a. The law of war obligations of the United States are observed and enforced by DoD components;

b. All Reportable Incidents committed by or against United States personnel, enemy persons, or any other individual are reported promptly, investigated thoroughly, and where appropriate, remedied by corrective action;

c. All Reportable Incidents committed by or against United States personnel, enemy persons, or other individuals, will be reported through appropriate command channels for ultimate transmission to appropriate United States agencies, allied governments, or other appropriate authorities. Contracts shall require contractor employees to report Reportable Incidents to the commander of the unit they are accompanying or the installation to which they are assigned, or to the combatant commander. Once it has been determined that United States persons are not involved in a Reportable Incident, an additional U. S. investigation shall be continued only at the direction of the appropriate combatant commander. On-scene commanders shall ensure that measures are taken to preserve evidence of Reportable Incidents pending transfer to U.S., allied, or other appropriate authorities.

2. Report of Violations. Consistent with the references, all Marines, United States Navy, civilians, contractors, and subcontractors assigned to or accompanying the Marine Corps who have knowledge of, witness, or receive a report of a Reportable Incident, will comply with the requirements set out below.

a. As soon as practical:

(1) inform the immediate commander of the matter;

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(2) make the matter known to an officer (normally in the chain of command) senior to the immediate commander if the member has an honest and reasonable belief that the immediate commander is, or may be, involved in violating or concealing a violation of the law of war; or

(3) in circumstances making other means of reporting impractical, report the matter to a judge advocate, inspector general, or military police investigator who shall then report the matter as directed in this Order. Reports made to officials other than those specified in this paragraph shall, nonetheless, be accepted and forwarded through the recipient's chain of command.

b. Initial Report. The commander of any unit that obtains information about a Reportable Incident will:

(1) take immediate action to mitigate or correct the harm, i.e., by providing medical care to anyone wounded by the allegedly unlawful act;

(2) report the matter promptly through command channels, to higher authority in accordance with reference (a);

(3) as soon as practical, report the matter to the nearest military police investigator; and

(4) if practical, secure the scene of the possible law of war violation so that evidence may be preserved and collected.

c. Higher authorities receiving an initial report will:

(1) report the incident by the most expeditious means up both the responsible operational chain of command and up their Service chain of command. Reporting requirements are concurrent. Commanders and commanding officers shall, as appropriate, submit amplifying reports of investigation and ultimate disposition. Absent other applicable directives, commanders will normally report Reportable Incidents by means of an OPREP-3 report (MCO 3504.2, Operations Event/Incident Report (OPREP-3) Reporting). CMC (DC PP&O (PO/PS), IGMC, and SJA to CMC (JAO)) will be designated as information addressees on all reports of Reportable Incidents; and

(2) request a formal investigation by the cognizant military investigation authority.

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d. The SJA to CMC (JAO), will maintain a central repository for reports and completed investigations of Reportable Incident alleged to have been committed by or against Marine Corps personnel or person accompanying them.