



An aerial view of damage to Wakuya, Japan after a 9.0 magnitude earthquake and subsequent tsunami devastated the area in northern Japan. Ships and aircraft from the *Ronald Reagan* Carrier Strike Group conducted search and rescue operations and re-supply missions in support of *Operation Tomodachi* throughout northern Japan.

## *Doing our utmost to help a friend in need*

### Navy lawyers support U.S. relief operations in response to the earthquake, tsunami in Japan

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**On** March 11, Japan suffered a 9.0-magnitude quake, one of the worst in a century. The earthquake triggered destructive tsunami waves of more than 30 feet that struck the coastal areas of Northeast Japan, in some cases travelling up to six miles inland. The tsunami damaged the Fukushima civilian nuclear power plant, crippling its primary and secondary electrical systems, and severely damaging its critical cooling capability.

Within hours, the U.S. military initiated crisis response actions in support of the Japanese government in an operation the allies called “Tomodachi,” the Japanese word for friend.

U.S. military units conducted search and rescue operations and transported emergency response teams, equipment and relief supplies to hundreds of thousands of displaced people in affected remote Japanese communities, and provided emergent medical care to injured people. In the days thereafter, other forms of U.S. military support followed to assist the Government of Japan and other relief agencies with a variety of highly-trained support personnel for humanitarian assistance operations.

In an address to the American people soon after the disaster struck, President Barack Obama described the critical role that U.S. forces should and would play in helping Japan in its time of need.

“The Japanese people are not alone in this time of great trial and sorrow,” President Obama said. “Across the

Pacific, they will find a hand of support extended from the United States as they get back on their feet. After all, we have an alliance that was forged more than a half century ago, and strengthened by shared interests and democratic values.”

U.S. military forces, especially those operating in the U.S. Pacific Command’s area of responsibility are experienced in responding to natural disasters. Unprecedented, however, was the magnitude of the devastation caused by the disaster in a highly-developed nation like Japan, coupled with the associated radiological threat from the destabilized nuclear power plant.

ADM Patrick M. Walsh, the U.S. Pacific Fleet and Joint Task Force-519, commander, lead U.S. military response.

With more than three hundred military officers, enlisted members and civilians, ADM Walsh deployed to Japan on short notice and augmented the staff of Commander, U.S. Forces Japan, at Yokota Air Base to form the Joint Support Force. The Joint Support Force with Japanese representatives became a perfect complement to accomplish this complex, delicate, and urgent mission.

Throughout *Operation Tomodachi*, U.S. forces followed three lines of operation:

- Foreign humanitarian assistance and disaster relief
- Foreign consequence management
- Voluntary departure and planning of the potential ordered departure of DoD personnel, their dependents, American citizens and designated foreign nationals

Each of these lines of operation generated its own sets of legal challenges and solutions.

#### **Foreign humanitarian assistance and disaster relief**

The body of international and domestic law governing how U.S. forces, including the Navy, conduct traditional military operations is fairly settled. Military and DoD civilian lawyers are relatively well-versed on those areas of law, ranging from the law of targeting to the law and policies on detention and treatment of enemy combatants. When U.S. forces are called upon to provide support in humanitarian assistance and disaster relief missions, as in *Operation Tomodachi*, the applicable law and the legal issues arising are often less familiar to military and DoD civilian lawyers. Making matters even more challenging is the legal authorities for some facets of humanitarian assistance missions are less codified. The result is lawyers supporting foreign humanitarian assistance and disaster relief often maneuver in a gray zone, interpreting broad-based, undefined terms in statutes -- like “other humanitarian purposes” -- and relying on precedents of what U.S. forces did in other disaster relief operations, such as those conducted after the 2004 tsunami in Indonesia and the 2010 earthquake in Haiti.

Once *Operation Tomodachi* began, the Japanese government submitted some specific requests for assistance to the U.S. Government via the U.S. Embassy and the U.S. Agency for International Development/U.S. Office of Foreign Disaster Assistance field officer. In other cases, due to the

long-standing military-to-military relationship between Japan and the U.S., an alternative process for submitting requests for assistance was also established between the Japanese Joint Staff and U.S. Forces Japan (and later Joint Support Force).

The request for assistance process was the heart of the Joint Support Force operational planning effort to support Japanese relief in *Operation Tomodachi*. The “operational law” of this operation was fiscal law and contract law.

The primary funding mechanism for disaster relief is a special category of appropriated funds for foreign humanitarian assistance and disaster relief known as overseas humanitarian, disaster assistance and civic aid funds. A significant amount of the legal workload for U.S. Pacific Command and Joint Support Force staff judge advocate offices in *Operation Tomodachi* was devoted to analyzing whether fiscal law and regulations would allow overseas humanitarian, disaster assistance and civic aid funds to be spent for particular request for assistance. Many of the requests for assistance were validated and U.S. forces were tasked to assist the Japanese government.

If the prerequisites for overseas humanitarian, disaster assistance and civic aid funding were not satisfied for a particular request for assistance from the Japanese government, the staff judge advocate representatives supported the board in identifying other lawful ways to fund relief activities, such as, service-funded community relations programs.

#### **Foreign consequence management**

The disaster Japan experienced was historically destructive even if it consisted only of the earthquake and the resulting tsunamis. However, the danger for the Japanese people and others who reside in Japan, including American service members and civilians assigned to Japan, was magnified by the resulting damage to one of the civilian nuclear power plants located in Fukushima, 135 miles north of Tokyo.

As ADM Robert Willard, the Pacific Command commander, said to Congress following the disaster, “The significance of the continuing nuclear crisis adds a level of disaster response complexity and urgency that’s without peer.”

The word “complexity” captures the U.S. military’s response options for supporting the Japanese in properly handling the risk posed by the damaged nuclear plant. It also describes many of the legal issues that arose in *Operation Tomodachi*’s line of operations known as foreign consequence management, defined by DoD as “assistance provided by the U.S. Government to a host nation to mitigate the effects of a deliberate or inadvertent chemical, biological, radiological, nuclear and high-yield explosive attack or event to restore essential operations and services.”

While foreign disaster relief is not a core area of practice for Navy judge advocates, the laws and regulations applicable to foreign consequence management are even more specialized. Fortunately, the Defense Threat Reduction Agency published a comprehensive foreign consequence management legal desk-book in 2007 that identifies and analyzes many of the legal

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issues associated with this mission set. This deskbook proved to be a valuable asset to the military lawyers involved. Additionally, early in the establishment of the Joint Support Force, the Joint Support Force leadership identified a reserve Navy judge advocate assigned to U.S. Northern Command's Joint Task Force-Civil Support to augment the Joint Support Force legal office.

As the response effort matured, it quickly became evident -- to both military operators and legal advisor alike -- that success required effective coordination with and contributions from other U.S. federal departments and agencies with expertise in nuclear and radiological issues. Representatives from Defense Threat Reduction Agency, the Department of Energy, and the Nuclear Regulatory Commission were either embedded in the Radiological Consequence Management Team on the Joint Support Force staff or on call for support at the U.S. Embassy in Tokyo. Together, these operational,

technical, and legal experts worked to refine a vetting process.

Early on, nuclear experts, medical experts, and judge advocates on the U.S. Pacific Command and Joint Support Force staffs were also tasked to identify the appropriate health standards for exposure to radiation. The legal advisors sought to gather together all preexisting radiation health standards in U.S. federal and military regulations. It quickly became evident that federal agencies and the military had established a significant number of different radiological exposure standards, each standard tailored to address a particular risk unique to a foreseen environment. For example, the Navy's standards for radiation exposure have been tailored to protect Navy personnel who were projected to consistently work near nuclear reactors aboard ships and submarines over a twenty-year career. The risk arising from an accumulation of twenty years of persistent exposure for a Navy reactors officer did not equate to the risk for an

Air Force maintenance service member assisting in the removal of radiological contamination found on an aircraft returning from sorties in support of the relief effort. Ultimately, the experts from the U.S. Pacific Command and Joint Support Force staffs developed and promulgated standards that were tailored to the actual risks in the operation and based upon rational justification and analogous pre-existing standards.

The legal team was also called upon to help develop standards for all U.S. forces to follow in decontamination of ships, aircraft, vehicles, and other equipment utilized to provide assistance in the operation. While the force health protection standards involved a synthesis of preexisting U.S. regulations and policies, the decontamination standards included the added challenge of identifying and comparing relevant Japanese regulatory standards since these U.S. military platforms were operating within the sovereign territory of another nation. Fortunately, this effort was greatly assisted by the



LT Josh Fryday, LCDR Sarah Stancati, LT John Battisti, CDR Christopher French, LTJG Hannah Foster, LN2 Kerri Johns and LN1 Ronald Alexander served as legal officers and aides aboard the U.S. 7th Fleet command flagship *USS Blue Ridge* (LCC 19) in support of *Operation Tomodachi*.

resident expertise among U.S. Forces Japan lawyers already familiar with applicable Japanese environmental laws and regulations. Together, they were able to develop decontamination standards that complied with both U.S. and Japanese law, and ensured that redeploying platforms could enter other nations in the future with self-certification that they were safe and met general international standards.

#### **Voluntary Authorized Departure**

The U.S. military forces' third line of operation in the earthquake/tsunami/nuclear power plant disaster aftermath was taking care of service members families and fellow U.S. citizens. On March 17, the Office of the Secretary of Defense authorized the departure of eligible family members of U.S. military and civilian employees assigned to locations on Honshu, the largest island of Japan, including those stationed at the U.S. Navy's Fleet Activities Yokosuka and Naval Air Facility Atsugi, the U.S. Air Force's Yokota Air Base and Misawa Air Base, and the U.S. Army's Camp Zama. These authorized eligible family members were entitled to funded travel out of Japan to the designated safe haven of the United States. In light of the scope of the authorization, ensuring an expeditious and orderly departure for this large number of DoD family members proved to be a significant undertaking, called *Operation Pacific Passage*. ADM Willard designated the Commanding General, III Marine Expeditionary Force, headquartered in Okinawa, as Commander, Joint Task Force-505, and assigned him the responsibility of directing the voluntary departure effort and planning for a potential ordered departure of U.S. personnel if the radiological threat to U.S. installations became grave. Given the dispersal and service-centric nature of the U.S. military communities on Honshu, it quickly became evident that Joint Task Force-505's assigned task required the contribution of installation commands, including the support of their respective staff judge advocate and legal offices.

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## **Navy Reserve Region Legal Service Office Japan** *Ready Now. Anytime, Anywhere.*

The members of Navy Reserve Region Legal Service Office Japan are accustomed to working on highly sensitive and mission critical projects in the Far East. They never expected—nor could they expect—to find themselves in the middle of one of Japan's worst natural and human disasters. Yet, that is what happened to the members of Navy Reserve Region Legal Service Office Japan.

CAPT Bradley Cordts, commanding officer of Reserve Region Legal Service Office Japan arrived in Japan on March 7 and expected a busy, but relatively uneventful, three weeks of duty as the force judge advocate. His senior legalman, LNC Eric Kemp, had arrived a few months earlier on extended active duty orders. He too expected a busy, but relatively quiet time supporting Commander Fleet Activities Yokosuka. All of that changed when the earthquake and subsequent tsunami struck Japan's eastern seaboard.

CAPT Cordts immediately understood the enormity of the event and the need for significant Reserve support.

"I had been in Japan during other high profile events that required significant JAG Corps resources, but I knew that the size and scope of this tragedy required an effort a 1,000 times greater than anything I had seen in the past," recalls CAPT Cordts. "We needed all-hands on deck—Reserve and active duty—to assist in our humanitarian aid and disaster relief efforts."

Under the leadership of CAPT Tompkins, active duty commanding officer of Region Legal Service Office Japan, the Region Legal Service Office Japan active and Reserve team started to identify a game plan for the emerging legal issues and how to get the best resources to accomplish the mission. Many of those best assets were members of the Reserve Region Legal Service Office Japan. For example, LCDR Sean Cogley arrived in Japan within days of the earthquake. He served as the staff judge advocate for Commander Fleet Activities Sasebo, which became a hub of activity once the nuclear disaster forced ships in the Yokosuka area to temporarily re-deploy.

Other Reserve members soon followed including CAPT Bob Elwell and CDR Craig Haughtelin. They provided critical support in the legal service center, which operated 24 hours a day for several weeks after the disaster. In addition, CDR Paul "Garrett" Triplett was hand-selected to provide 29 days of active duty service and to lead a joint legal team supporting Joint Task Force 505 and III Marine Expeditionary Force, which was tasked with planning voluntary early departure of dependents and potential non-combatant evacuation operations.

There should be no doubt about the critical role played by Reserve Region Legal Service Office Japan in the JAG Corps' mission in Japan.

As CAPT Tompkins emphasized, "our Reservists in general do a tremendous job of providing critical support to our mission. However, we were very, very lucky that CAPT Cordts was in Japan when the disaster occurred and even luckier that so many of his unit members answered our immediate call for help."

Navy Reserve Region Legal Service Office Japan clearly epitomized the Navy Reserve motto: Ready now. Anytime, anywhere.



# Navy lawyers make a difference

By no means was the legal workload of *Operations Tomodachi* and *Pacific Passage* carried by Navy judge advocates alone; this was truly a joint legal effort by dozens of civilian counsel and military judge advocates of all services.

“Real world missions, especially humanitarian assistance and disaster relief operations, demanded immediate legal support. It’s critically important for there to be the right mix of lawyers available at all levels of command and manning operational watch floors at the onset of crisis. Decisions made in the first 24 to 48 hours will either set you up for success, or have you playing catch up for the duration of the operation,” said CDR Chris French, 7th Fleet staff judge advocate.

At Pacific Command Headquarters, CAPT John Hannink advised on the theater-strategic level issues affecting the operation, while Pacific Command CDR Jonathan Odom and LCDR Mike Adams supported operational planning teams.

Less than 24 hours after the earthquake, a 24/7 staff judge advocate watch was established on the Pacific Command Joint Operations Center watchfloor, augmented by LT Chris Toscano from Joint Interagency Task Force-West.

The Pacific Command legal team analyzed legal issues, often elevating those with policy implications in the theater of operations to Washington for resolution.

When ADM Walsh deployed to Japan to serve as the Joint Support Force commander, he was accompanied by CAPT Stu Belt as his staff judge advocate and CDR Odom, as his chief of operational law. The Joint Support Force staff judge advocate office also included CAPT Mike Shaw, a reservist with expertise on foreign consequence management, from Joint Task Force-Civil Support in Norfolk, and LT Alex Sevald from Combined Task Force-70 who manned the Bilateral Joint Operations Coordination Center with U.S. and Japanese military representatives at the Joint Support Force and U.S. Forces Japan headquarters in Yokota.

Navy legal support to *Operation Tomodachi* was not limited to the four-star staff level of Pacific Command, Pacific Fleet, and the Joint Support Force. Just as the newly-established Joint Support Force staff merged operational law expertise with familiarization of the host nation’s legal regimes, so too was there synergy between Navy lawyers from inside and outside Japan.

Staff judge advocate CDR French and his deputy, LCDR Sarah Stancati advised VADM Scott R. Van Buskirk, commander U.S. Navy’s 7th Fleet, and his operational staff. Two days after the earthquake and tsunami, CDR French asked for help to man the 24/7 watch at 7th Fleet. With less than three-hours notice, LT Josh Fryday and LTJG Hannah Foster headed to the airport, seabags packed, to augment the staff. LT Byron Nakamura, reported to Combined Task Force-76 to assist LCDR Tahmika Jackson, the lone lawyer providing advice to the amphibious fleet supporting the humanitarian relief mission. LT Drew Coffin, was immediately in the forefront of providing advice to his amphibious ready group commander.

Meanwhile, ashore Navy lawyers at Region Legal Service Office Japan and Naval Legal Service Office Pacific, assisted in the host of challenging legal issues associated with the voluntary authorized departure of Navy dependents from Japan to the U.S.

“Normally we are defense and legal assistance attorneys so we had to become acquainted with operational international law very quickly and dive right in,” said LT Fryday. “It’s an honor to be part of an operation like this, to see how the Navy can really make a difference, especially to those in need. Having an opportunity to work on a mission like this is why I joined the JAG Corps.”

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As the frontline attorneys for direct support to Navy and civilian personnel in Japan, the Region Legal Service Office Japan and Naval Legal Service Office Pacific in Yokosuka were thoroughly involved in assisting departing eligible family members. Military and civilian lawyers engaged representatives from other U.S. departments and agencies, including U.S. Customs and Border Protection and the DoD Education Activity, to help ensure a smooth transition in a stressful time for departing family members. One key component to mitigating the stress of the departure was ensuring the flow of accurate information, including details about travel and lodging entitlements, and alternative safe havens. Navy judge advocates were integrally involved in developing and regularly updating frequently asked questions, also known as FAQs, posted on installation Web sites to help inform the families departing or considering departure. The development of these FAQs exemplified the overall posture of Navy judge advocates involved in *Operations Tomodachi* and *Pacific Passage*: naval officers stepping forward and contributing in whatever ways they could in order to accomplish the assigned mission, even if the issue or challenge was not purely legal in nature.

The earthquake, tsunami, and resulting radiological threat created an almost incomprehensible time of difficulty for Japan. In fact, some observers in Japan have referred to their nation facing a “New Normal” in the “post-March 11 era,” reminding us of the collective shock to our national psyche after the attacks of Sept. 11, 2001.

Yet in this difficult time for Japan, it is clear that *Operation Tomodachi* is aptly named. By words and by deeds, the U.S. military has demonstrated to the nation of Japan that they have, and will continue to have, a sure friend in such times of need. 🌟