

DEPARTMENT OF THE NAVY
Office of the Chief of Naval Operations
Washington, D.C. 20350

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18 March 1983

OPNAV INSTRUCTION 3300.52

From: Chief of Naval Operations
To: All Ships and Stations (less Marine Corps field addressees not having Navy personnel attached)

Subj: Law of Armed Conflict (Law of War) Program to ensure compliance by the U.S. Navy and Naval Reserve

Ref: (a) SECNAVINST 3300.1A
(b) Uniform Code of Military Justice (UCMJ)
(c) JAGINST 3300.1 (NOTAL)
(d) JAGINST 3300.2 (NOTAL)
(e) OPNAVINST 5420.30E (NOTAL)
(f) NWIP 10-2, Law of Naval Warfare
(g) OPNAVINST 3100.6C (NOTAL)
(h) BUPERSINST 1300.26F
(i) MILPERSMAN

Encl: (1) Level One (accession) training objectives
(2) Level Two training objectives
(3) Level Three training objectives

1. Purpose. To implement reference (a) within the U.S. Navy and Naval Reserve. To promulgate regulations and guidance, and to assign responsibilities, to ensure compliance by all personnel of the U.S. Navy and Naval Reserve with the law of armed conflict. To denote as punishable conduct, failures to prevent, to report and to investigate violations of the law of armed conflict. Violations of the prevention, reporting and investigation requirements of paragraph 6 of this instruction shall be punishable under Article 92 of reference (b).

2. Policy. It is the policy of the Department of Defense and the Chief of Naval Operations (CNO) to ensure that:

a. The obligations of the U.S. Government under the law of armed conflict are observed and enforced by the U.S. Navy in the conduct of military operations and related activities in armed conflict, regardless of how such conflicts are characterized.

b. Alleged violations of that law, whether committed by or against U.S. or enemy personnel are promptly reported, thoroughly investigated, and where appropriate, remedied by corrective action.

c. All persons in the U.S. Navy and Naval Reserve, commensurate with their duties and responsibilities, will receive, through appropriate publications, instructions or training programs, adequate training and education in the law of armed conflict.

3. Information. Reference (a) assigns to the Judge Advocate General responsibility for formulating broad objectives for training programs, identifying necessary resource materials for curricula development, and ensuring the training in the law of armed conflict of Navy judge advocates assigned to billets requiring detailed knowledge of the law of armed conflict. References (c) and (d) have been issued to meet those requirements.

4. Responsibilities

a. The Deputy Chief of Naval Operations (Manpower, Personnel and Training) (OP-01) shall:

(1) have staff cognizance over all law of armed conflict training within the U.S. Navy and Naval Reserve;

(2) develop training and education plans, policies and procedures to instruct, train or educate all members of the Navy and Naval Reserve commensurate with each individual's projected duties and responsibilities, in academic courses and in military training within his/her cognizance wherever relevant and appropriate; and

(3) identify billets requiring special knowledge of aspects of the law of armed conflict and assign appropriately trained personnel to those billets.

b. The Deputy Chief of Naval Operations (Plans, Policy and Operations) (OP-06) shall:

(1) coordinate overall law of armed conflict and related policy matters for the U.S. Navy and Naval Reserve, and

(2) ensure that all plans, orders, rules of engagement and other documents under his/her cognizance, including those documents subject to review in accordance with reference (e) as a result of referral by the Joint Chiefs of Staff (JCS), are reviewed by the Judge Advocate General for consistency with U.S. domestic law and with international law including the law of armed conflict.

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c. **The Chief of Chaplains (OP-09G) shall** supervise the individual training of chaplains to ensure they receive adequate specialized training and instruction in the content and requirements of the law of armed conflict.

d. **The Naval Inspector General (OP-008) shall:**

(1) ensure that the Naval Command Inspection Program monitors the adequacy of law of armed conflict training and the review of Navy plans for conformity with reference (a), and that naval operations are executed consistent therewith;

(2) ensure that incidents involving alleged violations of the law of armed conflict committed by or against members of the naval service are investigated; and

(3) provide a copy of all such investigations to the Judge Advocate General.

e. **All other Deputy Chiefs of Naval Operations (DCNO's) and Directors, Major Staff Offices (DMSO's)** within the Office of the Chief of Naval Operations (OPNAV) shall ensure that all plans, policies, directives, publications and operations within their area of responsibility are reviewed by the Judge Advocate General for consistency with U.S. domestic law and with international law including the law of armed conflict.

f. **Commander, Naval Medical Command shall** supervise the individual training of medical and dental personnel to ensure adequate specialized training and instruction of such personnel in the requirements of the law of armed conflict as they relate to personnel of the Medical, Dental, Medical Service, Nurse and Hospital Corps, and to the Dental Technicians.

g. **The Fleet Commanders-in-Chief shall:**

(1) as Service component commanders of unified commands, ensure that all plans, policies, directives, orders, letters of instruction, rules of engagement, and similar documents, prepared by or subject to review by them, are reviewed by their judge advocates for consistency with U.S. domestic and international law including the law of armed conflict;

(2) ensure that realistic problems involving the law of armed conflict are included in the conduct of tactical, command post and fleet exercises, and other war games under their cognizance, and in the activities of the training

commands under their command, as appropriate and that the responses thereto are evaluated;

(3) as Service component commanders of unified commands, establish procedures providing for the prompt reporting and investigation of alleged violations of the law of armed conflict committed by or against members of their commands in accordance with the directives of the appropriate unified commander; and

(4) establish policies and procedures providing for the appropriate disposition (for example, under reference (b)) of cases involving alleged violations of the law of armed conflict and this instruction by persons subject to court-martial jurisdiction of their commands.

h. **The Chief of Naval Education and Training and the Chief of Naval Reserve shall** ensure that education, instruction or training in the content and requirements of the law of armed conflict are included in all training programs under their cognizance as required by the anticipated duties and responsibilities of each student.

i. **The President, Naval War College shall** include adequate education of instruction in the content and requirements of the law of armed conflict in the curricula of the College and in the activities of the Center for War Gaming as appropriate.

j. **The Superintendent, U.S. Naval Academy shall** provide adequate instruction to all midshipmen in the content and requirements of the law of armed conflict as part of their basic education and training.

k. **Officers in command shall,** commensurate with their level of responsibility, ensure that:

(1) all members of the naval service under their command are aware of their obligations under the law of armed conflict; and

(2) their judge advocates have been granted appropriate clearances and access to classified information to carryout their responsibilities under references (a), (c) and (f) and this instruction.

5. Training Objectives and Methodologies

a. General

(1) The extent of knowledge of the law of armed conflict required of individuals will be commensurate with their projected or assigned duties and responsibilities.

(2) All members of the U.S. Navy and Naval Reserve will attain sufficient understanding of the law of armed conflict to:

(a) minimize the intentional commission of serious offenses in combat; and

(b) ensure recognition that it is United States policy to conduct all military operations in accordance with that law.

(3) The law of armed conflict should be discussed in academic courses and in military training whenever it is relevant and appropriate.

(4) Under no circumstances will instruction in the law of armed conflict be merged with any block or area of instruction that will have the effect of minimizing the importance of the law of armed conflict or placing in doubt the absoluteness of its principles.

(5) Specialized training will emphasize, to the maximum extent possible, practical application through, for example, the insertion of practical questions and situations into gaming exercises or scenarios, rather than formal instruction and will be reinforced by the evaluation of the responses to such questions and situations.

(a) The intent is to increase each individual's depth of knowledge as required by his or her expected duties or responsibilities, rather than to provide a checklist of topics to be covered in an arbitrary fashion or by a number of hours of instruction offered all personnel on a periodic basis whether needed or not.

(b) Training to Levels Two and Three will involve a proportionate increase in sophistication in approach to the subject.

(6) Discussion of the requirements of the law of armed conflict is contained in reference (f). All training should be based on the terminology used in that publication and be consistent with it.

b. Individual Training. Training will be focused to three levels of understanding:

(1) **Level One.** Minimum level of understanding for all members of the U.S. Navy and Naval Reserve:

(a) to be imparted during entry training of all personnel;

(b) is not required to be given to personnel currently on active duty who have not previously received this training; and

(c) will be given to all present and future members of the Naval Reserve not on active duty who have not previously received this training.

(2) **Level Two.** Minimum level of understanding for members whose military specialty or assignment involves participation in combat operations, or whose military specialty or level of rank requires additional training.

(a) Examples of the former include naval aviators and bombardier-navigators assigned to fleet units, special warfare personnel, personnel connected with target selection and evaluation, and other combat personnel.

(b) Examples of the latter include chaplains and medical personnel, and officers and senior petty officers participating in formal professional military education programs.

(3) **Level Three.** Minimum level of understanding for naval personnel whose military job, specialty, or assignment involves participation in the direction of combat operations.

Examples include commanding and executive officers of combatant ships and aircraft squadrons, groups and wings, designated officers on fleet staffs and on the staffs of unified and subunified commanders, and target intelligence selection officers.

(4) **Detailed objectives and methodologies** of the three levels of training contemplated by this program are set forth as enclosures (1) through (3).

c. Unit and combined unit training should be designed and conducted:

(1) to develop, test, evaluate and ensure the readiness of naval forces to operate in compliance with the law of armed conflict; and

(2) in existing courses of instruction and unit or fleet exercises without significantly adding to any course syllabus or altering primary unit or fleet training objectives.

6. Action

a. OPNAV DCNO's and DMSO's, Commander, Naval Medical Command, Fleet Commanders in Chief, Chief of

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Naval Reserve, Chief of Naval Education and Training, President Naval War College, the Superintendent U.S. Naval Academy and Officers in Command shall carry out the responsibilities assigned in paragraph 4.

b. Copies of implementing instructional material shall be provided to the Judge Advocate General (Code 10) for review and comment as appropriate.

c. Each officer in command, aware that the behavior of a subordinate or other person under his/her control indicates that person may constitute an appreciable risk of violating the law of armed conflict, shall take the necessary steps, for example under paragraph 5 of reference (h), or articles 3410100 or 3420260 of reference (i), as appropriate, to remove that person from the combat zone.

d. Each person in the U.S. Navy who knows, or who has information that should enable him/her to conclude in the circumstances at the time, that a subordinate is committing a violation of or is about to violate the law of armed conflict, shall take all feasible measures within his/her power to prevent such violation.

e. Each person in the U.S. Navy who has knowledge of or received a report of an apparent violation of the law of armed conflict, shall as soon thereafter as practicable:

(1) make the incident known to his/her immediate officer in command, or

(2) if such person has an honest and reasonable belief that the immediate officer in command is or may be in-

involved in the violation, make the incident known to an officer, normally in the chain of command, senior to the immediate officer in command, or to any judge advocate or chaplain.

f. Each officer in command who is aware that a subordinate or other person under his/her control is going to commit or has committed a breach of the law of armed conflict shall take such steps as are necessary to prevent such violation and where appropriate initiate disciplinary or administrative action against such person or persons.

g. Each officer in command receiving a report of non-compliance with or breach of the law of armed conflict shall report the facts promptly to the National Military Command Center, copy to NAVINSGEN, in accordance with the procedures contained in reference (g) and the directives of the applicable unified commander, investigate the report, and, as appropriate, submit amplifying reports of investigation and of ultimate disposition in accordance with the directives of the applicable unified commander.

h. Representative examples of violations are contained in enclosure (2) to reference (a).

7. Punitive Application. Violations of the prevention, reporting and investigation requirements of paragraph 6 of this instruction are punishable in accordance with reference (b).

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LEVEL ONE (ACCESSION) TRAINING OBJECTIVES

1. Background

a. Teaching the basic principles of the law of armed conflict at the accession level is essential for the establishment in the trainee of good order and discipline, as it relates discipline to the use of force in combat. Individuals entering military service either possess no knowledge of or a considerable misperception regarding the limitation on the use of force in combat, and the degree to which there is adherence to or respect for those limitations. That ignorance or misperception must be corrected at the earliest practicable moment in an individual's military service.

b. During accession training, personnel are more amenable to orientation to the basic principles of the military in general than at any other time in their military service.

2. Objectives

a. Accession level training will express in simple, succinct form those principles which manifest the overall humanitarian philosophy of the law of armed conflict. That training will offer a general summary of those restrictions on conduct in combat which are absolute. It will also emphasize those prohibitions the violations of which are most deleterious to the conduct of combat operations, are most detracting to the commander in the accomplishment of his/her mission, and for which individuals may be held personally responsible.

b. Accession instruction must not be complex. Rather, it must offer in the simplest form possible the basic principles of the law of armed conflict so that they will be understood and remembered by all personnel. The basic principles at Tab A have been established as those which must be understood by all members of the Navy and Naval Reserve.

Enclosure (1)

3. Methodology

a. Instruction will be positive in substance and dynamic in approach.

b. The teaching of these basic principles must stress the dedication of the United States to adherence to the law of armed conflict in its conduct of combat operations.

c. Emphasis must be on the compatibility of the law of armed conflict with the principles of war, tactical considerations, and good leadership.

d. Students will be tested on their understanding of their accession level training at some point during accession training to reinforce that instruction and determine its effectiveness.

e. Accession level training need not be repeated for an individual trainee.

f. There will not be a formal make-up program for all individuals who have completed accession level training without basic instruction in the law of armed conflict.

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FUNDAMENTAL RULES OF HUMANITARIAN
LAW APPLICABLE IN ARMED CONFLICTS

1. Fight only enemy combatants.
2. Destroy no more than your mission requires.
3. Do not attack enemy soldiers, sailors, airmen or marines who surrender. Disarm them and turn them over to your superior.
4. Prisoners of war and other detainees shall never be tortured or killed.
5. Collect and care for the wounded, sick and shipwrecked survivors, whether friend or enemy, on land or at sea.
6. Medical personnel and chaplains, medical and religious facilities and medical transportation are protected. Respect them and do not attack them.
7. Treat all civilians humanely and respect their property. Do not attack them.
8. Do your best to prevent any violation of the above rules. Report any violations to the appropriate authority promptly.
9. You cannot be ordered to violate these rules.
10. Discipline in combat is essential. Disobedience of the law of armed conflict dishonors your nation, the Navy, and you. Far from weakening the enemy's will to fight, such disobedience strengthens it. Disobedience of the law of armed conflict is also a crime punishable under the Uniform Code of Military Justice (UCMJ).

Tab A to
Enclosure (1)

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LEVEL TWO TRAINING OBJECTIVES

1. Those personnel whose military specialty or assignment involves direct confrontation with or exposure to the enemy, or tactical (including tactical administrative) planning, will receive the level of additional training necessary to ensure their compliance with the law of armed conflict.
2. Training of these personnel should be conducted as soon as their assignment makes them eligible. For example, prospective fleet pilots should receive their training during assignment to the Fleet Replacement Air Wing. Corpsmen should continue to receive their specialized training at the Marine Corps Field Medical Service Schools.
3. A limited number of personnel will require this training as part of their individual specialized training. For example, naval personnel attending the photograph imagery interpretation course at Lowery AFB will continue to receive there the law of armed conflict training as it relates to those specific duties. Other individualized or specialized training can be obtained, upon request, from the Judge Advocate General.
4. All officers and senior petty officers attending career, intermediate and top level schools will receive education of a broader nature in the law of armed conflict as part of those persons' overall professional development. This education will enable such persons, with access to relevant regulations and sources, to possess sufficient comprehension of the law of armed conflict to enable them to comply with that law in the performance of their regular duties.
5. In addition to the requirements of Level One (Tab A to enclosure (1)), personnel meeting Level Two criteria should receive the degree of training set forth in Tab A hereto.

Enclosure (2)

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LEVEL TWO

1. In addition to the requirements of Level One, personnel meeting Level Two criteria should receive the following training to enable them to:

a. Understand, Recall and Explain

(1) Basic rules governing naval, air and land warfare:

(a) Nation's right to control access to its territory, territorial sea, and territorial airspace;

(b) Rights and obligations relating to neutral states;

(c) Rules relating to civil aircraft;

(d) Protection of hors de combat personnel.

(2) Basic rules of methods of warfare:

(a) Requirement to attack only military objectives;

(b) Basic protection of civilians and civilian objects;

(c) Concepts of proportionality and incidental (collateral) civilian casualties and damage;

(d) Obligations of all participants in combat to take precautions to minimize incidental civilian casualties and damage to civilian property, including specific obligations on both attacking forces (e.g., call off an attack when disproportionate, warning, methods to verify military objective) and defending forces (e.g., not to use civilian populace as shield, commingling);

(e) Persons and objects receiving special protection (e.g., hospitals, wounded, sick and shipwrecked, medics, medical means of transport, chaplains, cultural and religious buildings, undefended areas), including obligations on defending forces (e.g., location of hospitals, not to use cultural and religious buildings for military purposes);

Tab A to
Enclosure (2)

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(f) Circumstances under which special and general protection are lost.

(3) Basic concept of perfidy (treachery) and ruses, including recall of specific examples of naval and air warfare of legal ruses and unlawful acts of perfidy.

b. Understand and Explain

(1) Nature of individual responsibility, including obligations to report violations and not to obey orders to commit crimes;

(2) Basic rules of warfare regarding weapons:

(a) distinction between unlawful weapons and unlawful use of lawful weapons;

(b) indiscriminate weapons and indiscriminate use of weapons;

(c) prohibitions against unnecessary suffering;

(d) U.S. policies re CBW, tear gas, herbicides, nuclear weapons, and various conventional weapons, including domestic U.S. legal restrictions on their use.

(3) Relationship of law to military effectiveness.

c. Be familiar with

(1) Determinates of the law;

(2) When the law applies;

(3) Historical development of law as it applies to naval and air bombardment, blockade and mine warfare;

(4) Sources of legal limitations on weapons and JAG review of weapons, plans and rules of engagement;

(5) Significant requirements of the 1949 Geneva Conventions, such as common Article 3, provisions for protecting powers, repression of breaches, breaches, and dissemination.

Tab A to
Enclosure (2)

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2. These training objectives do not cover specialized training objectives for limited categories of persons because of particular job requirements, e.g., specialized training of medical personnel. Additionally, some commands may also need to emphasize particular aspects of the law due to their mission (e.g., NAVMAT as regards weapons under SECNAVINST 5711.8 (NOTAL)).

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LEVEL THREE TRAINING OBJECTIVES

1. Training of combat direction personnel will be conducted on a special briefing basis as soon as an officer's assignment to that duty makes him/her available. It will be conducted by a qualified judge advocate.
2. These briefings will emphasize the law of armed conflict as it relates to relevant doctrine, operations, plans, and rules of engagement for the forces of the command. All such officers will receive training enabling them to understand their individual responsibility for adherence to the law of armed conflict in the implementation and execution of those plans and rules. It will orient them to some of the factors affecting issues with which they will be confronted and the tools available to them in their decision-making process.
3. In addition to the requirements of Levels One and Two (Tabs A to enclosures (1) and (2)), personnel meeting Level Three criteria should receive the degree of training set forth in Tab A hereto.

Enclosure (3)

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LEVEL THREE

In addition to the requirements of Levels One and Two, personnel meeting Level Three criteria should receive the following training to enable them to:

a. Understand, Recall and Explain. Nature of individual responsibility, including obligation not to follow orders to commit and particularly to report violations including methods of reporting.

b. Understand and Explain

- (1) Determinates of the law of armed conflict.
- (2) When the law of armed conflict applies.
- (3) International methods to enforce legal limitations.
- (4) Nature of obligations on nations to observe legal requirements and methods of internal enforcement within U.S.

c. Be Familiar With

- (1) Legal regimes of ocean space, airspace, Chicago Convention, "state aircraft," neutral rights and obligations.
- (2) Historical development of the law as it applies to sea and air warfare.
- (3) Role of the U.S. in development of law of armed conflict.
- (4) All of the requirements of the 1949 Geneva Conventions for the Protection of War Victims and recent efforts to supplement those conventions and develop the law.
- (5) The basic history of enforcement of the law of armed conflict, for example by criminal trials.

Tab A to
Enclosure (3)

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(6) Rules governing warfare at sea:

(a) Protection of hospital ships, coastal vessels, shipwrecked, and hors de combat vessels.

(b) Protection of merchant vessels.