



Law

IMPLEMENTATION OF DEPARTMENT OF DEFENSE LAW OF WAR PROGRAM

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements the Department of Defense (DOD) Law of War Program within the United States Transportation Command (USTRANSCOM). This instruction implements DOD Directive (DODD) 2311.01E, *DOD Law of War Program*, and Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 5810.01C, *Implementation of the DOD Law of War Program*. This instruction applies to all military and civilian employees, contractor personnel, and subcontractors assigned to or accompanying USTRANSCOM personnel. When an allegation of a reportable offense is received, USTRANSCOM Transportation Component Commands (TCCs) will follow the Law of War Program for their respective Military Departments as well as the Geographic Combatant Commander (GCC) where their forces are located. The reporting requirements of this instruction apply to the TCCs (Air Mobility Command (AMC), Surface Deployment and Distribution Command (SDDC), and Military Sealift Command (MSC)). The provisions of this instruction are applicable in peacetime and wartime, during all armed conflicts, however such conflicts are characterized, and in all other military operations.

SUMMARY OF REVISIONS.

This instruction has been revised in its entirety; asterisks will not be used to identify revised material.

1. References, Abbreviations, Acronyms, and Terms. References, related publications, abbreviations, acronyms, and terms used in this instruction are listed in Attachment 1.

2. Policy.

2.1. USTRANSCOM personnel shall comply with the law of war during all armed conflicts, no matter how such conflicts are characterized, and in all other military operations. Law of war is that part of international law which regulates the conduct of armed hostilities. The law of war encompasses all international law for the conduct of hostilities which is binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, as well as applicable customary international law. Customary international law is the general and consistent practice of states from a sense of legal obligation which has become accepted as legally binding upon states in their international relations.

2.2. The law of war obligations of the United States will be observed and enforced by all USTRANSCOM personnel, including DOD contractors assigned to, or accompanying, deployed Armed Forces.

2.3. All reportable incidents committed by or against U.S. personnel, enemy persons, or any other individual shall be reported promptly; investigated thoroughly; and, where appropriate, remedied by corrective action. 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.

2.4. All reportable incidents are reported through command channels to USTRANSCOM Commander for ultimate transmission to appropriate U.S. Government agencies, allied or coalition governments, or other appropriate authorities.

2.5. Once it has been determined that U.S. persons are not involved in a reportable incident, an additional U.S. investigation shall be continued only at the direction of the USTRANSCOM Commander.

2.6. The on-scene commanders shall ensure that measures are taken to preserve evidence of reportable incidents pending transfer to U.S., allied, coalition, or other appropriate authorities.

3. Responsibilities.

3.1. Secretaries of the Military Departments are responsible for providing directives, policies, publications, instructions, and training so the principles and rules of the law of war will be known to members of their respective Departments. Such knowledge will be commensurate with each individual's duties and responsibilities.

3.2. The Secretary of the Army has been designated as the Executive Agent for reportable incidents committed against U.S. personnel. In this role, the Secretary of the Army is responsible for developing the policy for, and supervising the execution of, investigations of reportable incidents committed against U.S. personnel and the collection, recording, and reporting of information related to reportable incidents of enemy violations of the law of war.

3.3. USTRANSCOM Staff Judge Advocate (TCJA) is the designated command legal advisor to supervise USTRANSCOM compliance with the law of war and the administration of the command program for reportable incidents. TCJA shall:

3.3.1. Attend planning and operations-related conferences for military operations and exercises to advise the Fusion Center staff and leadership.

3.3.2. Provide advice concerning law of war compliance during joint and combined operations.

3.3.3. Participate in Joint Planning Teams (JPT) to advise Fusion Center staff and leadership.

3.3.4. Ensure, whenever possible, that law of war training is integrated with realistic exercises and training to improve evaluation, responses, and reporting procedures.

3.3.5. Ensure all operational plans, policies, and rules of engagement are reviewed to ensure compliance with domestic and international law and the DOD Law of War Program.

3.3.6. Ensure that all policies, directives, and operation and concept plans incorporate the reporting and investigation requirements established by this instruction and the DOD Law of War Program.

4. Reporting Law of War Violations.

4.1. Duty to Report Incidents. All USTRANSCOM military and civilian employees, contractor personnel, and subcontractors assigned to or accompanying a DOD component shall report all reportable incidents through their chain of command.

4.1.1. To Whom to Report. Such report may also be made through other channels such as the USTRANSCOM Office of the Staff Judge Advocate, the SDDC Office of the Staff Judge Advocate, the MSC Office of Counsel, the AMC Office of the Staff Judge Advocate, military police, or Inspector General. Reports made to officials other than specified in this paragraph shall, nonetheless, be accepted and immediately forwarded through the recipient's chain of command.

4.1.2. Forwarding Reports. When any person in a position of command within USTRANSCOM or its TCCs receives information about a reportable incident, they shall immediately report the incident through operational command channels to USTRANSCOM, in coordination with the Military Department concerned. The report shall be made by the most expeditious means available.

4.2. USTRANSCOM Deployment Distribution Operations Center (DDOC) will submit a message report, as expeditiously as possible, for all reportable incidents to the Joint Staff, the Office of Secretary of Defense, and the Secretary of the Army (in the Secretary's capacity as Executive Agent).

4.3. USTRANSCOM TCJA will ensure copies of all incident reports and reports of investigation of reportable incidents committed by or against members of, or accompanying, U.S. Armed Forces are provided to appropriate Joint Staff principals.

5. Investigating Law of War Violations.

5.1. On-scene commanders will take steps to preserve evidence and will report all reportable incidents to their appropriate Service investigative agency for investigation (i.e., U.S. Army Criminal Investigations Command, Air Force Office of Special Investigations, or Naval Criminal Investigative Service).

5.2. Investigations shall include the collection and preservation of evidence of reportable incidents committed by enemy forces against U.S. personnel since such evidence may serve as the basis for possible future trials of accused war criminals.

5.3. If the appropriate Service investigative agency cannot or will not investigate, USTRANSCOM will appoint an investigating officer to conduct a Commander-directed investigation.

6. Action for Alleged Violations Committed By or Against:

6.1. U.S. Personnel. On-scene commanders will promptly report, investigate, collate, collect, examine, and record the evidence concerning alleged violations of the law of war committed by or against members of, or persons serving with or accompanying, the Armed Forces of the United States.

6.2. Allied or Coalition Military Personnel, Enemy Personnel, or Civilians. On-scene commanders also ensure that alleged violations of the law of war committed by or against allied or coalition military personnel, enemy personnel, or civilians or their property are immediately investigated to determine whether U.S. personnel are involved.

6.2.1. If United States personnel are involved, either as perpetrators or as victims, reporting and investigation will be accomplished in accordance with this instruction.

6.2.2. If no U.S. personnel are involved, investigation may be required in order for the U.S. to satisfy obligations under the law of war; however, such an investigation shall be continued only at the direction of the USTRANSCOM Commander.

7. Reporting is Mandatory. All USTRANSCOM personnel shall report alleged law of war violations. The requirement in this instruction to promptly report all alleged law of war violations is a general order applicable to all military members without further implementation; violations may result in prosecution under the Uniform Code of Military Justice.

8. Primary Point of Contact within USTRANSCOM. TCJA is the designated primary point of contact for all matters concerning this instruction.

RONALD A. RODGERS
Colonel, USAF
Staff Judge Advocate

Attachment:
Glossary of References, Abbreviations, Acronyms, and Terms

Attachment**GLOSSARY OF REFERENCES, ABBREVIATIONS, ACRONYMS, AND TERMS****Section A—References**

Department of Defense Directive (DODD) 2311.01E, *DOD Law of War Program*

Chairman Joint Chiefs of Staff Instruction (CJCSI) 5810.01C, *Implementation of the DOD Law of War Program*

Department of the Army Field Manual (FM) 27-10, *The Law of Land Warfare*

Secretary of the Navy Instruction (SECNAVINST) 3300.1B, *Law of Armed Conflict (Law of War) Program to Compliance by the Naval Establishment*

Marine Corps Order (MCO) 3300.4, *Marine Corps Law of War Program*

Air Force Instruction (AFI) 51-401, *Training and Reporting to Ensure Compliance with the Law of Armed Conflict*

Air Force Policy Directive (AFPD) 51-4, *Compliance with the Law of Armed Conflict*

Section B—Abbreviations and Acronyms

AMC – Air Mobility Command

DDOC - Deployment Distribution Operations Center

JPT – Joint Planning Team

LOAC - Law of Armed Conflict

MSC – Military Sealift Command

GCC – Geographic Combatant Command

SDDC – Surface Deployment and Distribution Command

TCC - Transportation Component Command

TCIG – USTRANSCOM Office of the Inspector General

TCJA – USTRANSCOM Office of the Staff Judge Advocate

USTRANSCOM - United States Transportation Command

Section C - Terms

Law of War. Law of War is that part of international law which regulates the conduct of armed hostilities. It is often called the “law of armed conflict” (LOAC). The law of war encompasses all international law for the conduct of hostilities which is binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, as well as applicable customary international law. Customary international law is the general and consistent practice of states from a sense of legal obligation which has become accepted as legally binding upon states in their international relations.

Reportable Incident. 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.