

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE POLICY DIRECTIVE 51-4

4 AUGUST 2011



Law

**COMPLIANCE WITH THE LAW OF ARMED
CONFLICT**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This Directive establishes policies to ensure that the Air Force and its personnel comply with the Law of Armed Conflict (LOAC) by requiring that: all AF personnel are adequately trained regarding LOAC; all reportable incidents are properly investigated and reported; and that all weapons and cyber capabilities are reviewed for compliance with domestic and international law. This Directive implements Department of Defense Directive (DoDD) 2311.01E, *Law of War Program*, and is consistent with CJCSI 5810.01D, *Implementation of the DoD Law of War Program*. This Directive applies to all Air Force personnel, including civilian employees, members of the Air Force Reserve and Air National Guard (ANG) and contractors or subcontractors assigned to or accompanying the force.

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SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed. This revision updates the applicable guidance for LOAC training frequency; deletes the requirement for separate reporting of LOAC training by legal offices; and establishes the requirement for legal

reviews of cyber capabilities to ensure compliance with the LOAC, international and domestic law.

Section A—Compliance with LOAC

1. Purpose. LOAC, also referred to as the Law of War, encompasses all international and domestic law regulating 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, domestic law implementing those treaties, and applicable customary international law. The LOAC arises from civilized nations' humanitarian desire to lessen the effects of conflicts. It protects combatants from unnecessary suffering, and safeguards the basic rights of non-combatants and civilians. The Air Force will ensure its personnel understand, observe, report, and enforce the LOAC and the US Government's obligations under that law.

2. Policy. The Air Force will:

2.1. Ensure personnel comply with the LOAC during all armed conflicts, however such conflicts are characterized, and in all other military operations.

2.2. Implement effective programs to prevent violations of the LOAC and make qualified legal advisers at all levels of command available to provide advice about law of war compliance during the planning and execution of exercises and operations.

2.3. Ensure that contract work statements for contractors assigned to or accompanying the deploying forces are consistent with this policy, its implementing guidance, and AFI 63-101, *Acquisition and Sustainment Life Cycle Management*.

2.4. In coordination with the Combatant Commanders, ensure reportable incidents committed by or against members of the Air Force, or persons accompanying them, are promptly reported and investigated. Where appropriate, the Air Force will promptly dispose of alleged violations of the law of war by personnel subject to the Uniform Code of Military Justice.

2.5. Provide for the central collection of reports of reportable incidents involving Air Force personnel and forward all reports of reportable incidents against Air Force personnel to the Secretary of the Army, DoD's Executive Agent for all such cases. Cases involving U.S. civilians, contractors assigned to or accompanying the forces, or dependents, will be forwarded to the DoD General Counsel through the Secretary of the Army for review.

3. Responsibilities. The following responsibilities and authorities are established for purposes of LOAC compliance:

3.1. The Judge Advocate General (AF/JA) serves as the Air Force office of primary responsibility (OPR) to ensure effective implementation of DoD Law of War programs within the Air Force. AF/JA will:

3.1.1. Provide comprehensive advice on requirements and content of the LOAC.

3.1.2. Ensure qualified Air Force legal advisers are available at all levels of command to provide advice about law of war compliance during planning and execution of exercises and operations.

3.1.3. Assist commanders in ensuring all reportable incidents are fully investigated and processed, when appropriate, through the military justice system and pursuant to the requirements of the Uniform Code of Military Justice and other United States law.

3.1.4. Periodically review and evaluate Air Force activities to ensure that effective programs are maintained to prevent LOAC violations, including the review of such programs in connection with any reported violation.

3.2. The Deputy Chief of Staff, Manpower, Personnel and Services (AF/A1), in coordination with AF/JA, develops training guidance to enable effective implementation of LOAC training for Air Force personnel.

3.3. The Deputy Chief of Staff, Plans and Operations (AF/A3/5) will ensure that Air Force plans, policies and procedures under its purview incorporate LOAC considerations where appropriate, and in coordination with AF/JA, will ensure legal advisers are integrated into exercises, planning activities and operations to enable them to provide advice concerning domestic and international law, including law of war compliance.

3.4. The Air Force Inspector General (SAF/IG) develops procedures for the inspection of Air Force activities to ensure Air Force commands and personnel are meeting LOAC compliance requirements. SAF/IG also develops appropriate policies and procedures to ensure the Air Force Office of Special Investigations (AFOSI) meets its unique investigative responsibilities.

3.5. The Assistant Secretary of the Air Force for Acquisition (SAF/AQ) provides guidance to ensure Air Force contracting entities properly incorporate LOAC provisions into Air Force contracts where required by DoD policy.

3.6. Organizations responsible for personnel with unique responsibilities under LOAC, including the Surgeon General (AF/SG), the Chaplain Corps (AF/HC), and the Chief of Security Forces (AF/A7S), will develop appropriate policies and procedures to ensure they meet their respective responsibilities under the LOAC.

3.7. The Commander, Air Education and Training Command, and the Superintendent, United States Air Force Academy will include LOAC instruction in their respective military training and education programs where appropriate.

3.8. All commanders shall ensure that all Air Force personnel in their commands receive LOAC training in accordance with applicable Air Force guidance and combatant command reporting instructions. Commanders will ensure all command policies, procedures and activities are consistent with the LOAC and will ensure prompt reporting of reportable incidents through appropriate channels. Commanders will ensure a judge advocate reviews all command plans, policies, procedures and operations to ensure they comply with the U.S. legal obligations under domestic and international law including the LOAC.

4. Minimum Training Requirements. The Air Force will prevent LOAC violations through a mandatory training program by which Air Force personnel are trained in the principles and rules of LOAC needed to carry out their duties and responsibilities. This LOAC training will meet the criteria for training required by the 1949 Geneva Conventions and the Hague Convention IV of 1907 and its annexes. LOAC training will be conducted as part of the Air Force's Expeditionary Skills Training program in accordance with AFI 36-2201, *Air Force Training Program*.

5. Reporting and Investigating Suspected LOAC Violations. All Air Force personnel who suspect or have information which might reasonably be viewed as a violation of the LOAC committed by or against U.S. personnel, enemy personnel or any other individual shall promptly report it to their immediate commander.

5.1. If an immediate commander appears to be involved in the violation, Air Force personnel and those assigned to or accompanying the Air Force shall promptly report the information as a possible LOAC violation to the next higher command authority.

5.2. In instances where it is unreasonable to report within the chain of command, Air Force personnel shall either report the information as a possible LOAC violation to the servicing staff judge advocate (SJA), inspector general, the AFOSI or to a sister Service counterpart of one of these offices.

5.3. Each commander that receives information about a reportable incident shall forward this report promptly through command channels as appropriate, to their servicing SJA and, if applicable, the appropriate investigating agency.

5.4. Servicing SJAs shall notify AF/JAO of all reported incidents.

5.5. Commanders shall ensure that reportable incidents are properly investigated. Commanders shall forward investigations promptly through command channels and resolve misconduct through appropriate and timely corrective action, including, as appropriate, prosecution under the Uniform Code of Military Justice. Commanders, through their SJA, will forward a copy of completed investigations to AF/JAO.

Section B—Legal Reviews of Weapons and Cyber Capabilities

6. All weapons and cyber capabilities developed, acquired or modified by the Air Force are required to have a legal review to ensure compliance with LOAC, domestic and international law prior to employment in military operations. These weapons reviews shall be consistent with the requirements outlined in DoDD 5000.1, *The Defense Acquisition System* and DoDD 3000.3, *Policy for Non-Lethal Weapons*.

7. Responsibilities. The following responsibilities and authorities are established for legal reviews of weapons and cyber capabilities:

7.1. The General Counsel (SAF/GC), in coordination with AF/JA as appropriate, shall accomplish a legal review of each weapon developed within a special access program.

7.2. AF/JA shall accomplish a thorough and accurate legal review of all other Air Force weapons.

7.3. SAF/AQ shall ensure that all information required is available for AF/JA or SAF/GC to accomplish a legal review of each weapon.

7.4. AF/A3/5 shall ensure that all information required is available for AF/JA or SAF/GC to accomplish a legal review of each weapon.

7.5. All MAJCOM commanders, through their SJA, shall provide AF/JA or SAF/GC with all the information required to accomplish a thorough and accurate legal review of each weapon it intends to acquire.

7.6. SAF/GC, in coordination with AF/JA as appropriate, shall accomplish a legal review of each cyber capability developed within a special access program. AF/JA shall accomplish a thorough and accurate legal review of all other Air Force cyber capabilities.

7.7. All MAJCOM commanders, through their SJA, shall provide AF/JA or, in the case of special access programs, SAF/GC with all the information required to accomplish a timely legal review of each cyber capability.

MICHAEL B. DONLEY
Secretary of the Air Force

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

AFI 36-2201, *Air Force Training Program*, 15 September 2010

AFI 63-101, *Acquisition and Sustainment Life Cycle Management*, 17 April 2009

AFMAN 33-363, *Management of Records*, 1 March 2008

DoD Directive 2311.01E, *Law of War Program*, May 9, 2006

DoD Directive 5000.1, *The Defense Acquisition System*, May 12, 2003

DoD Directive 3000.3, *Policy for Non-Lethal Weapons*, July 9, 1996.

CJCSI 5810.01D, *Implementation of the DoD Law of War Program*, version "D", 30 April 2010

Adopted Forms

AF Form 847, *Recommendation for Change of Publication*, 22 September 2009

Abbreviations and Acronyms

LOAC—Law of Armed Conflict

MAJCOM—Major Command

SJA—Staff Judge Advocate

USAF—United States Air Force

Terms

Law of Armed Conflict.—Also known as the Law of War, LOAC is the part of domestic and international law that regulates the conduct of armed hostilities. LOAC 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, domestic law implementing those treaties, and applicable customary international law.

Reportable Incident.—A possible, suspected, or alleged LOAC violation, 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 armed conflict.

Weapons.—Weapons are devices designed to kill, injure, disable or temporarily incapacitate people or destroy, damage or temporarily incapacitate property or materiel. Weapons do not include devices developed and used for training, or launch platforms to include aircraft and intercontinental ballistic missiles.

Cyber Capability.—For the purposes of this Directive, an Air Force cyber capability requiring a legal review is any device or software payload intended to disrupt, deny, degrade, negate, impair or destroy adversarial computer systems, data, activities or capabilities. Cyber capabilities do not include a device or software that is solely intended to provide access to an adversarial computer system for data exploitation.