

# **Insights and Best Practices**

## **Focus Paper**



# **Authorities**

## ***Second Edition***

**Deployable Training Division  
Joint Staff J7**

**October 2016**

**Approved for public release; distribution is unlimited**

This is the Second Edition of the Insights and Best Practices Focus Paper on “*Authorities*.” It is written by the Deployable Training Division (DTD) of the Joint Staff J7 and released by the J7 Deputy Director for Joint Training.

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**Scope:** This paper focuses on four challenges facing commanders and their staffs at the operational and strategic levels of war:

- Identifying and understanding authorities.
- Developing and requesting authorities.
- Delegating and communicating authorities.
- Clarifying use of force authorities and guidance.

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**Terminology and Acronyms:** Numerous military acronyms and organizational names are used in this paper. They are defined in the glossary to increase readability for the intended readership.

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*Disclaimer: The insights in this paper are based on DTD observations and do not necessarily reflect the official policy or position of the Joint Staff, DoD, or the United States Government.*

## PREFACE

This paper focuses on the critical role that identifying, understanding, and developing authorities play in the successful planning and execution of military operations. It mirrors the content and format of the current Authorities seminar presented as part of the Joint Operational Module of the Capstone Senior Leader Education Course. This paper focuses on four challenges facing commanders and their staffs at the operational and strategic levels of war:

- Identifying and understanding authorities.
- Developing and requesting authorities.
- Delegating and communicating authorities.
- Clarifying use of force authorities and guidance.

**This paper may be beneficial to three main audiences** (in addition to commanders):

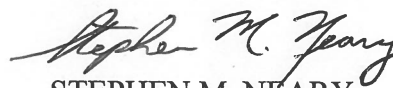
- CCMD and JTF Chiefs of Staff as they determine how to organize staff efforts.
- Staff Judge Advocates and their offices.
- The J3 and J5 staffs who must take authorities into consideration during the planning and execution of military operations.

**Several key insights** underlie this paper, including:

- Adhering to authority fosters legitimacy which generates national and international support.
- Staffs must recognize and leverage the many sources of mission essential authorities.
- Anticipate and request mission essential authorities early in design and planning.
- Develop a shared and common understanding of authorities through horizontal and vertical dialogue and translation.
- Delegate authority, as appropriate, to speed decision-making. Communicate clear guidance and intent to minimize risk associated with delegation of authority.
- ROE development and management is an operations and planner responsibility, assisted by legal, interagency, interorganizational, and policy advisors.

This and other focus papers summarize observations and insights developed by the Joint Staff J7 Deployable Training Division (DTD). The DTD gains insights on operational matters through regular contact and dialogue with combatant and operational level commanders and staffs as they plan, prepare for, and conduct operations and exercises. The DTD observes and compares staff processes among the various joint force headquarters, drafts functionally-based focus papers, and refines the focus papers through senior flag officer feedback. The focus papers are then shared with the operational force and used to contribute to joint lessons learned and joint doctrine. These unclassified papers are approved for public release and found on the site noted on the inside front cover.

We want to capture your thoughts, solutions, and best practices as you think, plan, and work your way through operational challenges. Please pass your comments to DTD's POC, COL (Ret) Mike Findlay. Email: [js.dsc.j7.mbx.joint-training@mail.mil](mailto:js.dsc.j7.mbx.joint-training@mail.mil).



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**1.0 EXECUTIVE SUMMARY.** The term “authorities” is commonly used by commanders and their staffs, but is not defined in doctrine. “Authorities” has multiple dictionary definitions encompassing concepts such as power, permission, right, and ability. Making the term more amorphous, authority emanates from many different sources, including law, regulation, and policy and the sources of authority affecting military operations continue to increase in both number and complexity. In addition, the whole-of-government approach to current operational challenges includes a still broader field of authorities that cross many traditional boundaries. The network of authorities significant to the commander expands again in the planning and execution of multinational operations where gaps and seams exist between differing national priorities and societal norms. Gaining unity of effort with partner nations, non-DOD agencies, international bodies, and nongovernmental organizations requires an understanding of the authorities enabling and limiting the capabilities of all of these groups.

The operationalization of mission command and the advent of Globally Integrated Operations is outlined in the Capstone Concept for Joint Operations Joint Force 2020 (CCJO) and the Chairman’s 2012 Mission Command White Paper. Leaders at all levels have an important role in contributing to a common operating assessment. This has been termed the “co-creation of context” and is foundational to building trust and confidence as well as empowering subordinates and mission partners to act. Subordinates and mission partners are empowered when they understand the authorities that support and guide their decisions and actions. Therefore, achieving a common and shared understanding of authorities vertically across echelons of command and horizontally across mission partners is key to the successful execution of mission command.

Legal, interagency, interorganizational, and policy advisors play an important role in identifying, developing, and requesting mission essential authorities in support of military operations. They are active participants in the design and planning process and within the commander’s decision cycle. These advisors attend battle rhythm events, work as part of operational planning teams, assist in developing plans and orders, and provide assistance and advice in areas well beyond the confines of traditional Title 10 activities. Finding the right advisors to inject this knowledge early in the design and planning effort is a key challenge.

The joint force Staff Judge Advocate (SJA) has a pivotal role in assisting the operational planners to anticipate, understand, and pursue necessary authorities. Joint force commanders rely heavily on their legal advisors for accurate, timely advice concerning authorities and limitations that impact planning and execution. Their recommendations also help shape the commander’s guidance and intent.



## 2.0 CHALLENGE: IDENTIFYING AND UNDERSTANDING AUTHORITIES.

**a. What is Authority?** Authority, in its simplest form, can be characterized as the power to perform some act or take some action. It is not a doctrinal term and is often characterized as

**National Security Strategy  
(Feb 2015)**

*“...at this pivotal moment, we continue to face serious challenges to our national security...”*

*“To succeed, we must draw upon the power of our example—that means viewing our commitment to our values and the rule of law as a strength, and not an inconvenience.”*

permission. In order to fully understand their authority, commanders must consider not only those things which provide affirmative permission to act, but also those things which restrict their ability to act. Therefore, authorities provide the “left and right limits” within which one has freedom of action. Additionally, commanders must consider guidance and intent issued by higher echelons to determine what should be done as well as what can be done.

Adhering to authority is more than an exercise in following the rules. When authorities are ignored, misunderstood, or applied improperly, military actions can be characterized as illegitimate or even criminal. Adherence to authority is, therefore, more than simply altruistic – it is a key component of our National Security and Military Strategies and contributes to the overall

strategy of the commander because legitimacy builds support, both foreign and domestic.

Effective military operations in the post-9/11 world require unity of effort to bring the Diplomatic, Informational, Military, and Economic (DIME) capabilities of all U.S. and international partners to bear on the operational challenges facing commanders. Whether combating terrorism, conducting stability operations, or providing foreign humanitarian assistance (FHA), joint forces recognize the value of unity of effort. We have progressed beyond a singular demand for unity of command in these partnership activities to a more realistic and viable unified action approach to achieve unity of effort - recognizing that each U.S. and foreign partner has unique authorities, responsibilities, and capabilities, as well as limitations. There is also a strong linkage between ensuring our actions adhere to authority and the commander’s synchronized communication strategy. Effective communication of the legal basis for our operations helps ensure our actions are viewed as legitimate both home and abroad.

**National Military Strategy  
(June 2015)**

*“Today’s global security environment is the most unpredictable I have seen in 40 years of service.”*

*“We must prepare our Service members to fight under conditions of complexity and persistent danger, conditions that demand courage, toughness, adaptability, and endurance as well as an abiding commitment to our Nation’s values and professional military ethic.”*

### Insights:

- Authority can be restrictive or permissive, defining the “how” as well as “what” of an action.
- Mission success involves both gaining the end state and retaining the moral high ground.
- Adhering to authority fosters legitimacy which generates national and international support.

**b. United States Domestic Authority.** For U.S. forces, domestic sources of authority include the Constitution, laws, statutes, and judicial decisions. The bulk of these authorities reside in the fifty-two numbered titles of the United States Code, which identify the authorities and responsibilities of the different branches of government and federal agencies.

Military commanders and their staffs are typically familiar with the large and diverse body of authorities under Title 10 of the United States Code. The authority necessary to equip and train the armed forces, establish a command structure, maintain good order and discipline, and some operational authorities are addressed in Title 10. For example, the Unified Command Plan (UCP), which establishes the missions and geographic responsibilities among the combatant commanders, is based on authority found in the Goldwater-Nichols Defense Reorganization Act of 1986, which modified Title 10.

The combatant commander exercises authority provided directly from Goldwater-Nichols and the UCP. This “COCOM” authority is not transferable and cannot be delegated. It authorizes a combatant commander to perform those functions of command over assigned forces involving organizing and employing; assigning tasks; designating objectives; and giving authoritative direction over all aspects of military operations, joint training, and logistics necessary to accomplish the assigned missions.<sup>1</sup>

COCOM authority includes directive authority for logistics (DAFL), which is the authority to issue those directives to subordinate commanders that are necessary to ensure the effective execution of approved operational plans. Essential measures include the optimized use or reallocation of available resources and prevention or elimination of redundant facilities and/or overlapping functions among the Service component commands. Under this authority, the Combatant Commander may delegate common support capability directive authority to subordinate commands which allows for centralized control of specific logistics functions in a theater or area of operations. This authority is not commonly used during peacetime or Phase 0 operations because other logistics control options exist, such as executive agency and lead Service designations.<sup>2</sup>

Operational control (OPCON) is inherent in COCOM authority and may be delegated to subordinate commanders. OPCON is the authority to perform those functions of command over subordinate forces involving organizing and employing commands and forces, assigning tasks, designating objectives, and giving authoritative direction necessary to accomplish the mission. It includes authority over all aspects of military operations and joint training necessary to accomplish assigned missions. OPCON does not, in and of itself, include authoritative direction for logistics or matters of administration, discipline, internal organization, or unit training. These matters normally remain within the Title 10 authorities of the various armed service branches.

Tactical control (TACON) of assigned or attached forces is inherent in OPCON and can be delegated to subordinate commanders. TACON is limited to the detailed and, usually, local direction and control of movements or maneuvers necessary to accomplish missions or tasks assigned.

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<sup>1</sup> U.S. Code Title 10, Section 164 also includes the following COCOM authorities over assigned forces: prescribing the chain of command to the commands and forces; organizing commands and forces as necessary to carry out assigned missions; employing forces as necessary to carry out assigned missions; assigning command functions to subordinate commanders; coordinating and approving those aspects of administration and support (including control of resources and equipment, internal organization, and training) and discipline necessary to carry out assigned missions; and exercising authority with respect to selecting subordinate commanders, selecting combatant command staff, suspending subordinates, and convening courts-martial.

<sup>2</sup> Joint Pub 4.09, Logistics, contains a more detailed description of DAFL and the delegation of directive authority for common support capability.

Another distinction in command authorities can be seen where superior authority designates a subordinate command as the supported or supporting command for a specific mission. In this case, the supporting command or commands are obligated to provide available capability under their control in support of the supported commander. To alleviate misunderstanding, these authorities should be spelled out clearly and concisely in operational plans, orders, or directives.

Authority can also be expressed in national policy and mission-type orders and can be enabling or limiting. In some cases, policy can provide very concrete boundaries, such as the President's March 2011 decision not to deploy ground troops into Libya. This national policy decision impacted planning for Operations ODYSSEY DAWN and ODYSSEY GUARD in Libya.

The commander's staff has to know and understand these authorities, assess their impact on operational planning, and seek additional authorities critical to mission success.

**National Security Strategy**

**"...national security strategy does not rely solely on military power...."**

**National Military Strategy**

**"Success will increasingly depend on how well our military instrument can support the other instruments of power and enable our network of allies and partners."**

to understand and align disparate authorities that enable mission partner capabilities. Some examples of missions where the joint force will encounter multiple sources of authorities are Cyberspace Operations, Defense Support of Civil Authorities (DSCA), Foreign Humanitarian Assistance (FHA), Alien Migrant Interdiction Operations (AMIO), Counterterrorism (CT), and Noncombatant Evacuation Operations (NEO).

The challenge is to navigate these authorities across the whole-of-government and leverage them to achieve unity of effort. This is not a search for loopholes or an attempt to get around authorities limitations. Rather, it is a search for the right organization with the right capability based on the right authority to take on a particular task.

**c. International Authority.** International law impacts the planning and execution of virtually every military operation and springs from codified law found in treaties and agreements, as well as from customary law based on the practice of nations over time. Some of these international agreements establish and empower international bodies such as the United Nations (U.N.) and North Atlantic Treaty Organization (NATO). For example, when the U.N. Security Council issues a resolution (U.N. Security Council Resolution or UNSCR), it provides international authority for nations to undertake action under the UNSCR.

The whole-of-government approach requires knowledge of a much broader and even more diverse body of authorities. For example, these may include: support to domestic operations involving Title 14 Coast Guard and Title 32 National Guard authorities; cyberspace operations involving Titles 6, 18, 28, and 50; and support to Rule of Law efforts and foreign embassies under Title 22. In order to achieve unity of effort, Commanders and their staffs need

**"With so many agencies cooperating, JIATF-South has access to a potent package of legal authorities. What one component does not have authority to do, another has. For example, DOD cannot make arrests or conduct criminal investigations, but other partners can...these diverse authorities mean that JIATF-South does not have to ask 'mother may I' when chasing smugglers."**

*Christopher J. Lamb and Evan Munsing,  
"Strategic Perspectives 5, Joint Interagency  
Task Force-South: The Best Known, Least  
Understood Interagency Success," Institute  
for National Strategic Studies, National  
Defense University, June 2011*



**d. Authorities in Multinational Operations.** Because international law is often drawn from custom and practice in addition to written agreements, partner nations may bring different interpretations of international law to the planning effort. In addition, the differing domestic laws and national policies of each partner nation can generate diverse authorities, capabilities, and limitations among the multinational forces. Understanding these disparate authorities is essential to taking full advantage of the capabilities within a coalition and avoiding wasted planning effort. Command authority in an international operation will be linked to the mission authority. For example, a coalition formed under a lead nation will normally leave coalition forces under their national command authority. A coalition formed under a multinational organization, such as the U.N. or NATO, will usually place coalition forces under the command authority of the multinational commander. Operation DESERT STORM was undertaken under the lead nation model, while the International Security Assistance Force (ISAF) in Afghanistan was established as a NATO-led mission.

Insights:

- Recognize and leverage the many sources of mission essential authorities.
- A whole-of-government approach requires leveraging mission partner capability and authority.

### **3.0 CHALLENGE: DEVELOPING AND REQUESTING AUTHORITIES.**

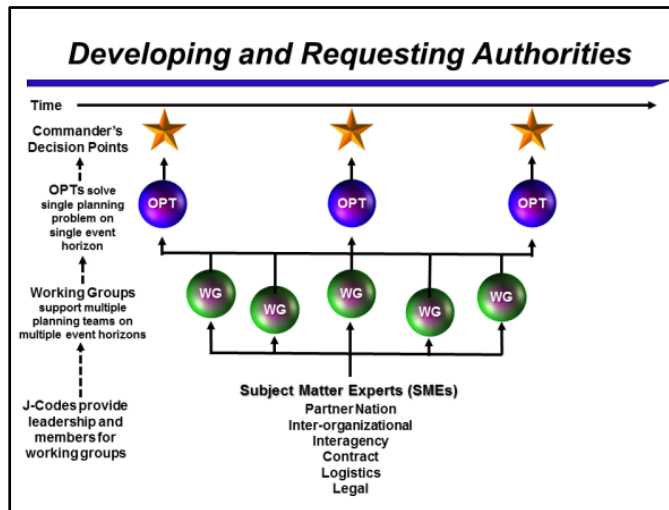
**a. Integrating authorities.** Joint force commanders and their staffs plan and execute missions involving many and varied authorities. Many of these authorities may be unfamiliar or unclear to the planners and the decision-makers, requiring legal and subject matter expertise resident in design and planning and throughout the commander's decision cycle. In many cases, the commander is either supported by or supporting a non-DOD agency. The whole-of-government approach to these missions presents unique challenges that may involve subject matter expertise outside the commander's staff. Integration of interagency, interorganizational, and partner subject matter experts or liaison personnel into the staff processes allows international, national, agency, and stakeholder authorities to be identified and understood.

Gaining meaningful participation from subject matter experts and liaison personnel, especially those from non-DOD agencies and organizations, is not as simple as inviting them to participate in working groups. Federal agencies and nongovernmental organizations are typically not as well funded or resourced as DOD entities and some of our partners do not possess enough people to assign to every working group needing their expertise. In addition, many non-DOD organizations have no equivalent to the DOD operational level, going straight from the strategic level to the tactical. As a result, these participants will often have competing obligations or function at the tactical level and may not feel comfortable or be authorized to provide input at the operational level without guidance from the strategic level.

One of the ways we have seen military staffs accommodate these high-demand, low-density assets is to focus on expanding the information sharing aperture by declassification of information and development of commonly shared information platforms such as the All

Partners Access Network (APAN).<sup>3</sup> Another effective tool to facilitate partner subject matter expert participation is the use of online conferencing, video teleconferencing, and collaboration web-based portals. Interaction can be enhanced by recording and archiving information for unavailable participants to review later.

**b. Support to the Battle Rhythm.** Ideally, interagency, interorganizational, and policy advisors support the planning process and other staff efforts by providing subject matter expertise directly to battle rhythm events in support of the commander's decision cycle. However, physical



presence in all pertinent events may not be feasible so gaining their insight may prove challenging. The SJA is a valuable link for authorities issues between working groups and partner subject matter experts.

Typically, although also considered a high-demand/low-density asset, the SJA will have a more robust capability to participate in a broader range of battle rhythm events than interagency and interorganizational representatives. The steady state duties of the staff legal advisors will expose them to policy and other authorities from organizations and

agencies with overlapping interests in the commander's area of responsibility. The legal advisors often have points of contact for subject matter expertise that can provide critical information on non-DOD authorities.

Leveraging the SJA legal assets can effectively aid working groups and planning teams to fill in gaps in authorities and understand the overlaps and potential conflicts. While all planning processes require active participation by subject matter experts on authorities, some, such as those involving rules of engagement (ROE), contracts, fiscal matters, cyberspace operations, and movement of forces through the sovereign land, air, or sea territory of another nation require a great deal of focused participation by these advisors, particularly the legal advisor. Participating in the planning process is much more than simply providing a review of the final product. A best practice is to include broad cross-functional membership in working groups and to develop a battle rhythm coverage plan that assigns legal and other subject matter experts to the most critical events. Developing a detailed coverage plan for legal advisors begins with a SJA review of the battle rhythm events supporting the commander's decision cycle to determine which events require legal support.

We have seen successful legal staffs use a deliberate approach to review required battle rhythm participation, prioritize events requiring SJA support, and capture the coverage plan in a publishable document. In assigning legal assets, the SJA should consider factors such as each attorney's knowledge level, strengths and weaknesses, clearances, and individual workload. The SJA may need to weigh requirements against available assets and decide where to accept risk. A

<sup>3</sup> The All Partners Access Network (APAN) is an unclassified, non-.mil network providing interoperability and connectivity among partners over a common platform. APAN fosters information exchange and collaboration between the United States Department of Defense (DOD) and any external country, organization, agency, or individual that does not have ready access to traditional DOD systems and networks.

coverage plan can also identify the duties, roles, and responsibilities of the advisors covering each battle rhythm event, including primaries and alternates fostering the development and review of all plans, orders, ROE requests, and target packages. The coverage plan also facilitates effective cross training and sharing of information within the staff.

In addition to SJA battle rhythm coverage plans, battle rhythm event binders with primary reference material and notes from working group or planning team sessions can help maintain situational awareness across the legal staff. We have observed this method as an especially powerful information management tool when used in conjunction with an interactive portal page spreadsheet for tracking authorities issues. This practice allows the internal SJA and greater staff sections to quickly share the information from the operations center and battle rhythm events ensuring a more timely understanding of events. Use of post-battle rhythm event reports detailing significant issues can serve as a source document for information sharing via the staff portal, email, and chats. This process boosts understanding prior to attending decision boards and other events, and, in the case of the SJA, fosters timely, direct engagement with other staff principals on legal issues.

#### Insights:

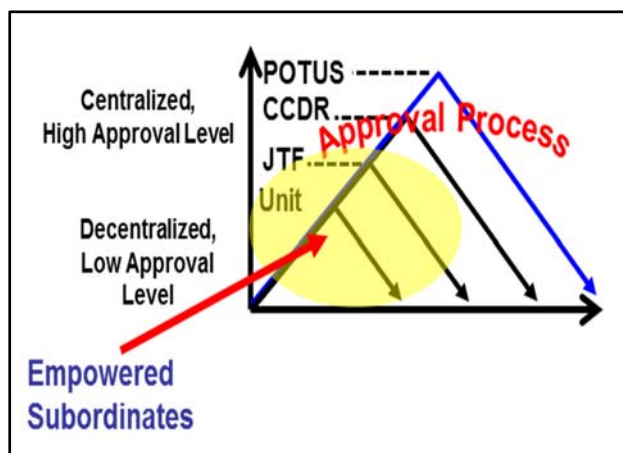
- Anticipate and request mission essential authorities early in design and planning.
- Include internal and external policy and authority subject matter experts in planning.

### **4.0 CHALLENGE: DELEGATING AND COMMUNICATING AUTHORITIES.**

**a. Mission Command.** The CCJO identifies the concept of Globally Integrated Operations as a means of addressing future challenges to national security. Among the eight key elements of Globally Integrated Operations identified in the CCJO, three are of particular interest from the perspective of authorities: a commitment to mission command; speed in decision-making; and partnering to integrate non-DOD expertise and resources. Each of these has a large footprint in the authorities arena. As portrayed in the figure below, the operationalization of mission command fosters delegation of authority and speed in decision-making by pushing approval levels lower in the chain of command. However, delegation of authority entails

***“Successful mission command demands that subordinate leaders at all echelons exercise disciplined initiative and act aggressively and independently to accomplish the mission.”***

***- JP 3.0, 11 Aug 2011***



some risk. Achieving a balance between delegation of authority and manageable risk involves trust, confidence, and a clear and common understanding of authorities. All echelons must understand and adhere to the authorities that support and limit military operations. A uniform understanding of these authorities horizontally and vertically fosters planning and execution in keeping with the commander's guidance and intent and decreases the chances of conflicting plans or actions at different levels of command. As approval levels are driven down, achieving a

common and shared understanding of authorities becomes critical to support trust and confidence and expedite decision-making.

**b. Dialogue and Translation.** Early dialogue and translation between echelons and across organizational, command, and national boundaries in the planning process and through mission execution is essential to achieving a common and shared understanding of all matters in a mission command environment. Early dialogue is especially important to identify, develop, and request authorities that impact mission accomplishment. Through dialogue and translation, subordinate commanders should identify the authorities they need to accomplish the mission and seek approval or delegation of those authorities from higher headquarters. This is part of the co-creation of context at the heart of mission command.

Understanding operational authorities is more difficult when partnering with non-DOD organizations that possess their own unique disparate authorities. A best practice employed by successful staffs is to utilize authorities matrices. These documents can assist in ensuring a common and shared understanding of authorities throughout the staff. The authority matrix shown here tracks approval authorities, but other matrices we have observed provide snapshots of available mission-critical authorities, often grouped by mission type.

# Authority Matrix

	<div> <div>G</div> <div>R</div> <div>Y</div> </div> <div>                     Authority to approve                      May not approve                      Coordination required                 </div>	Levels of Authority Required				
		SECDEF	GCC	JTF XX	Component	
Lethal Actions	JOA strikes against targets in GCC AOR		G	R	R	
	Mainland X Planned Attacks	G	G	R	R	
	Attacks in X and National Airspace above X			G	R	
Actions	Entry into Mainland X and X-claimed land territory is authorized to conduct Personnel Recovery (PR) operations			G	R	
	Entry into National Airspace of X is authorized to engage components of the X Network capable of threatening satellites	G	R	R	R	
		SECDEF	GCC	JTF XX	CYBERCOM	STRATCOM
Non Lethal Actions	Authority to conduct OCO against computers, computer networks, nodes, and systems that constitute valid military targets outside X mainland and JTF XX JOA	G	Y	R	R	Y

When used not as a substitute for in-depth legal advice, but rather to supplement legal advice, these tools foster broad staff awareness of the critical authorities and are excellent briefing tools to provide the commander situational awareness and speed decision-making.

Some staffs have used a working group to bring operators, subject matter experts, and advisors together to better understand the authorities, both law and policy, necessary to support the planning effort. Information from the working group is then passed to the commander and staff to clarify policy and ensure a uniform understanding of authorities. A similar process could be used to provide answers to complicated authorities questions raised during design and planning that require a multi-disciplinary approach for resolution. Another best practice we have observed involves establishing an authorities community of interest for information sharing and collaboration between DOD, agency, organizational, and partner nation authority and policy experts. When developed and used to inform commanders and their staffs, these tools help the planning effort gain ground truth and avoid wasted planning effort.

#### Insights:

- Develop a shared and common understanding of authorities through horizontal and vertical dialogue and translation.
- Delegate authority, as appropriate, to speed decision-making. Communicate clear guidance and intent to minimize risk associated with delegation of authority.
- Use tools such as an authorities matrix to display and track authorities granted and required to aid in planning and mission execution.
- Establish an authorities community of interest with superiors, subordinates, and mission partners.

#### Best Practices:

- Facilitate participation of high-demand, low-density subject matter experts in the battle rhythm through innovative information sharing processes and tools.
- Leverage the broad role of the legal advisors in gaining authorities information outside of traditional DOD boundaries.

### **5.0 CHALLENGE: CLARIFYING USE OF FORCE AUTHORITIES AND GUIDANCE.**

One type of authority common to virtually every military operation is the authority to use force. The use of force is governed by international law (chiefly the principles of the Law of Armed Conflict), national law, national and coalition ROE (and Rules for the Use of Force in domestic operations), national caveats, and guidance and intent from superior commanders.

**a. Law of War.** Understanding the authority to use force begins with understanding the four pillars of the use of force under international law. It is DOD policy that members of the DOD Components comply with the law of war during all armed conflicts, regardless of how a conflict is characterized. Law of war principles to consider during the planning process include:

(1) Military Necessity. The principle of military necessity justifies those measures not forbidden by international law that are necessary to accomplish the mission. However, this principle is not applied in a vacuum and must be applied in conjunction with other law of war principles. Military necessity generally prohibits the intentional targeting of protected persons (civilians, hostile personnel who have surrendered or are otherwise "out of combat," etc.) and places (objects or locations that are used for purely civilian purposes, such as hospitals, schools, and cultural property that have not been converted to or for military/hostile use) because they do not constitute legitimate military objectives in furtherance of the accomplishment of the mission.

(2) Distinction. This principle requires parties to a conflict to distinguish between combatants and noncombatants and to distinguish between military objectives and protected property and places. Parties to a conflict must direct their operations only against military objectives. Military objectives are combatants and those objects which by their nature, location, purpose, or use make an effective contribution to military action and whose total or partial destruction, capture, or neutralization, in the circumstances ruling at the time, offer a definitive military advantage. Defensively, the principle of distinction requires that military forces "distinguish" themselves from the civilian population so as not to place the civilian population at undue risk.

(3) Proportionality. The principle of proportionality prohibits attacks that may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage expected to be gained. As such, this principle is only applicable when an attack may possibly affect civilians or civilian objects, and, thereby, may cause collateral damage. Proportionality is a way in which a military commander must assess his or her obligations as to the principle of distinction, while avoiding actions that are indiscriminate.

(4) Unnecessary Suffering. The principle of unnecessary suffering forbids the employment of means and methods of warfare calculated to cause superfluous injury or unnecessary suffering. This principle acknowledges that combatants' necessary suffering, which may include severe injury and loss of life, is lawful. This principle largely applies to the legality of weapons and ammunition. Generally, weapons and ammunition that have been issued by DOD have been



reviewed to ensure compliance with the law of war and this principle. However, approved weapons and ammunition may not be used in a way that will cause unnecessary suffering or injury. A weapon or munition would be deemed to cause unnecessary suffering if, in its normal use, the injury caused by it is manifestly disproportionate to the military necessity for it, that is, the military advantage to be gained from its use.

**b. Rules of Engagement.** The definition of ROE, noted in the figure, is taken from JP 1-02 and CJCSI 3121.01B. The word “will” in this definition can more accurately be interpreted as “are authorized to” to reflect the fact that approved ROE measures outline the use of force permitted in a given situation, but do not direct when or where the use of force will be employed. Ultimately, within the guidelines of the ROE and the commander’s guidance and intent, commanders and operators decide whether available force will be used, by whom, and how. Correct decisions on use of force require a solid understanding of the situation, mission, and commander’s guidance and intent. In some cases, these may dictate restraint rather than using force.

**Definition of ROE:**

***“Directives issued by competent military authority that delineate the circumstances and limitations under which United States forces will initiate and / or continue combat engagement with other forces encountered.”***

- JP 1-02, DOD Dictionary and CJCSI 3121.01B,  
13 June 2005, U.S. Standing ROE

U.S. commanders always have the authority and responsibility to use force as necessary in unit self-defense. Considerations regarding the use of force in self-defense are provided in the Standing Rules of Engagement (SROE). The SROE also provide a method and format for requesting supplemental ROE measures from higher headquarters. The supplemental measures can be taken from the extensive list of measures contained in the SROE or can be tailored specifically for a particular mission requirement. Developing ROE and managing ROE measures is a J3 or J5 staff function – guided by the commander. Legal, interagency, interorganizational, and policy advisors support this function, but they do not lead it. In particular, the legal advisor’s role is to assist in the preparation of ROE supplemental measure requests and justifications to higher authority as well as the subsequent authorization messages along with guidance and intent to subordinate commands.

Each nation, including the U.S., brings different limitations (caveats) and capabilities driven by their national laws, interests, and policies. Achieving a single set of ROE within a coalition without national caveats is unlikely. Legal, interagency, interorganizational, and policy advisor assistance in developing ROE measures and balancing these caveats and considerations is important to achieving understanding and unity of effort. Additionally, successful coalition staffs and operational planners include partner nation representatives in their planning efforts.

The different national policies and restrictions on the use of force in coalition operations can cause dilemmas for commanders involving the use of force. Personal interaction between the commander and coalition commanders on capabilities and caveats fosters trust and confidence and promotes better understanding of challenges and opportunities. We have seen successful commanders benefit by asking a coalition partner what they “can do,” rather than engaging in a less useful approach by asking what they “cannot do.”

One approach is to provide coalition partners typical mission scenarios, discuss allowable actions, and provide partners a releasable version of the US ROE. An observed best practice is to use a matrix to depict ROE measures and the caveats associated with each coalition member, including the U.S. As the figure to the right demonstrates, an ROE matrix can aid in establishing a common and shared understanding of the capabilities and use of force limitations that each partner nation brings to the fight.

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# ROE Matrix (Notional)

EXERCISE: ROE DO NOT restrict or permit restriction of the inherent right and obligation of self defense under each participating nation's national policy	Authority Restriction	NATIONAL CAVEATS / EXCEPTIONS												
		BLZ	BNA	CAN	CHL	COL	DOM	ECU	SLV	OTM	HND	MEX	NIC	PAK
ROE MEASURES														
Use of Force in Individual Self-Defense	ALL													
Use of force, up to and including deadly force, in individual self-defense is permitted	ALL													
Use of Force in Unit Self-Defense	ALL													
Use of non-deadly force in unit self-defense of MNF's forces in JOA is permitted	ALL													
Use of force, up to and including deadly force, in unit self-defense of MNF's in JOA is permitted	ALL													
Use of Force for the Protection of Others	ALL													
Use of force, up to and including deadly force, for the protection of MNF's forces is permitted	ALL													
Use of force, up to and including deadly force, to defend CDR MNF's designated non-combatant civilians against attack is permitted	ALL													
Use of force, up to and including deadly force, to defend CDR MNF's designated non-combatant civilians against imminent attack is permitted	ALL													
Use of Force for Mission Accomplishment	ALL													
Use of non-deadly force to accomplish the MNF's mission is permitted	MNF's													
Use of force, up to and including deadly force, to accomplish the MNF's mission is permitted	SOUTHCOR													
Upon approval by the GCP, use of force, up to and including deadly force, to defend the Panama Canal and its approaches against attack or threat of imminent attack is permitted	MNF's													
Use of force, up to and including deadly force, to counter force used to interfere with the MNF's mission is permitted	COMPONENT													
Protection of Freedom of Movement Doctrine														
Use of non-deadly force to prevent the interference of with the freedom of movement of persons assigned to MNF's is permitted	UNIT													
Use of force, up to and including deadly force, to prevent interference with the freedom of movement of persons assigned to the Multinational Force is permitted	MNF's													

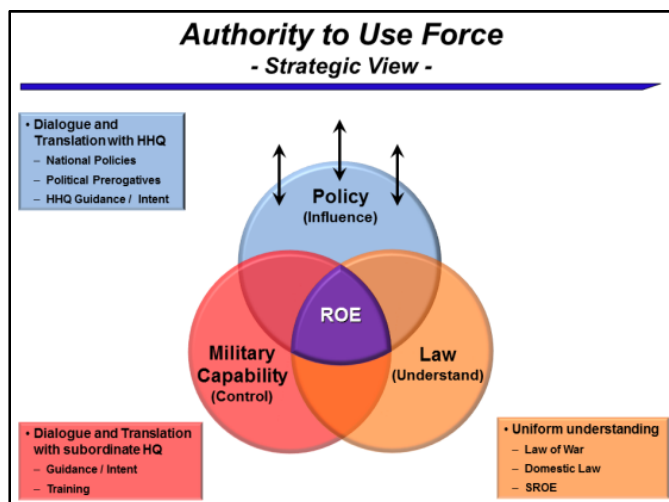
**R = Retained** by National Authority

**D = Delegated** to MNF-S Commander

**C = Delegated** to Component Commander

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The figure below depicts how ROE is shaped at the national and strategic level. The law relating to the use of force is relatively stable and slow to change. The military capability is also well-known and largely controlled by the military commanders. Policy, however, is fluid and subject to sudden and unpredictable change, making planning for the authorized use of force difficult. Commanders clearly cannot control policy, but can and should influence policy through dialogue and translation with higher headquarters early in the planning process. This becomes especially important between military commanders and civilian leaders at the national level.<sup>4</sup>



To develop flexible and adaptable ROE, successful staffs use a formal and repeatable process which synchronizes ROE across staff directorates, battle rhythms, echelons, mission partners, and planning horizons. Using a formal, repeatable process in steady state to develop ROE both anticipates crisis and facilitates transition to crisis. The need for supplemental ROE measures arises both during steady state in planning and during crisis in execution. While requests for supplemental ROE and ROE clarification questions usually arise from subordinate

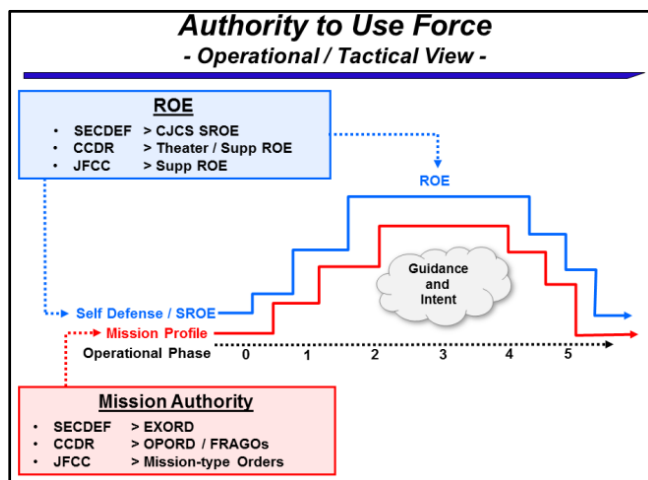
commands or as the result of additional planning efforts by a joint task force (JTF) staff in response to changes in the mission or the operating environment, direction from higher authority can often result in changes to ROE. A formal and repeatable process enables staffs to successfully respond to these unanticipated ROE requirements.

A Rules of Engagement Working Group (ROEWG) is not only a best practice we have observed in many successful staffs, but also found in doctrine in JP 3-33. We have seen staffs use the formal, repeatable process of a ROEWG to proactively develop ROE and respond to requests for

<sup>4</sup> Developing ROE to support information and cyberspace operations can prove challenging due to compartmentalized or closely-held authorities, requiring increased dialogue with national authorities and reliance on subject matter experts.

additional ROE measures.<sup>5</sup> The ROEWG includes the necessary experts and partners for each mission, including legal, interagency, interorganizational, and policy subject matter experts, under the leadership of the J3 or J5. We have observed that informal ROE processes where the legal advisors take too large a role in developing the ROE or where the development process between the operators and advisors is not part of a structured battle rhythm often get overwhelmed in transition to crisis.

Additionally, we have observed successful staffs designate a watch stander in the joint operations center (JOC) who is responsible, along with operations, to identify and monitor ROE and other use of force issues. In practice, this is often the JOC legal watch stander. The use of such a watch stander creates a linkage between the ROEWG and the JOC and can be an effective tool in tracking the processing of ROE requests. In this way, the staff is able to stay ahead of events in the deliberate planning process and react quickly in crisis action planning to ensure that the joint force has the necessary use of force authority to accomplish the mission.



The figure on the left illustrates a view of ROE and use of force from the tactical and operational levels. The red line represents the changing mission while the blue line represents the evolving ROE. The figure depicts the best practice of proactive development of supplemental ROE measures and commander's guidance and intent to set conditions (e.g., necessary authorities) for anticipated and sudden changes to the mission profile. We have seen instances where a reactive ROE development approach has lagged behind operational requirements potentially placing mission

accomplishment and forces at risk. We have also seen instances where unclear or misunderstood guidance from the commander has led to confusion in executing the approved ROE. Staffs that proactively generate appropriate and robust supplemental ROE measures stay ahead of operational requirements and minimize those vulnerabilities. Clear, concise guidance, a clear statement of the commander's intent, and timely, accurate responses to new missions or sudden changes to missions also mitigate vulnerabilities. This proactive approach allows time for subordinate commanders to understand and train their forces to the approved ROE measures.

**c. Guidance and Intent.** Ultimately, ROE provide authority for use of force and the range of force authorized to accomplish the assigned missions. How and when to apply force is determined at each level of command based on both the approved ROE and the amplifying guidance and intent provided by the commander. This combination of ROE and guidance and intent forms a comprehensive use of force policy that adequately supports the mission profile. Guidance and intent can be provided along with supplemental ROE or separately, such as with

<sup>5</sup> Among the authorities that need to be identified very early in planning are supplemental ROE addressing nonlethal actions to assist in shaping the operational environment. Nonlethal measures are often needed early in mission execution and usually require clearly defined justifications and more time for approval, dissemination, and training. A common example involves planning for the use of riot control agents (RCA) as a crowd control measure in noncombat situations during NEO or personnel recovery operations.

the use of tactical directives, and must be read in conjunction with the approved ROE to understand what you should do as well as what you can do.

Tactical directives have proven an effective tool for the commander to guide the use of force. Examples from operations in Iraq and Afghanistan include directives governing direct and indirect fires and Escalation of Force (EOF) directives. These directives can provide detailed procedures for tactical actions that can have a strategic effect, but have proven most effective when issued as part of a holistic approach. Commander's guidance does not change the ROE or the inherent right to unit self-defense. Rather, it assists the force in determining when and how to employ authorized force. For example, the EOF process helps determine if a potential threat is real and provides tailored responses that help discern hostile intent. EOF is a process by which the commander seeks to match force to the threat, through guidance and intent promoting mission accomplishment and force protection, while preventing unnecessary civilian casualties.

#### Insights:

- Use of force is regulated by ROE, authorized by the chain of command, and executed within commander's guidance and intent.
- Commanders can influence factors such as higher level policy that constrain ROE in order to gain authorities to support operations.
- ROE development and management is an operations and planner responsibility, with proactive ROE development assisted by legal, interagency, interorganizational, and policy advisors. This includes having a system in place to ensure timely dissemination, training, understanding, and implementation of ROE.
- Proactive ROE development supports the plan and anticipates branches and sequels to help mitigate potential vulnerabilities.

#### Best Practices:

- The use of a repeatable process, such as an ROE or Authorities Working Group, with the proper membership and J3 or J5 leadership to enable proactive, focused development, and management of supplemental ROE measures.

## **GLOSSARY**

### **Abbreviations and Acronyms**

AMIO – Alien Migrant Interdiction Operations  
APAN – All Partners Access Network  
CT – Counterterrorism  
DAFL – Directive Authority for Logistics  
DIME – Diplomatic, Informational, Military, and Economic  
DSCA – Defense Support of Civil Authorities  
EOF – Escalation of Force  
FHA – Foreign Humanitarian Assistance  
JOC – Joint Operations Center  
NEO – Noncombatant Evacuation Operations  
OPCON – Operational Control  
UCP – Rules of Engagement  
ROEWG – Rules of Engagement Working Group  
SJA – Staff Judge Advocate  
SROE – Standing Rules of Engagement  
TACON – Tactical Control  
UCP – Unified Command Plan  
UNSCR – U.N. Security Council Resolution







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