

Making a Difference

Navy judge advocates and legalmen excel in the counter-insurgency fight

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Active and Reserve Navy and Marine Corps judge advocates and legalmen are assigned throughout Afghanistan, with opportunities to deploy expected to increase over the next six to twelve months. The versatility and initiative of these Sailors and Marines have allowed them to make significant contributions to the counter-insurgency fight, often in roles very different from traditional Navy work. COL Rich Gross, the staff judge advocate, for the International Security Assistance Force (ISAF), is a firm believer in the value of having lawyers and paralegals from each of the services on his team. "It's critical to have a joint legal team here in this complex combat environment -- judge advocates from the different services bring different perspectives, skill sets, and experiences to the fight, and it makes the joint legal team much more effective than one dominated by a single service."

In his December 2009 speech at West Point, President Obama announced a troop increase that, over the next year to eighteen months, will provide "the resources that we need to seize the initiative, while building the Afghan capacity that can allow for a responsible transition of our forces out of Afghanistan." Judge advocates and legalmen are actively and integrally engaged in every facet of this mission.

Tip of the spear: Navy lawyers on the cutting edge of NATO operations

Deputy Legal Advisor to ISAF Joint Command LCDR Mike Adams has plenty of experience in Afghanistan, having deployed here on five previous occasions with Naval Special Warfare units. However, his assignment to ISAF Joint Command (IJC) has added a new dimension to his operational law expertise. Led by LTG David "Rod" Rodriguez, IJC oversees the day-to-day operations of coalition forces in Afghanistan. As Deputy Legal Advisor, LCDR Adams helps lead a diverse group of eight coalition lawyers advising LTG Rodriguez, 17 ISAF/NATO general and flag officers, and the IJC staff. LCDR Adams focuses largely on operational law and the rule of law. He has contributed to the development of much of the guidance promulgated to ISAF and Operation

Enduring Freedom forces since September 2009 on rules of engagement, tactical directives, targeting guidance, and rule of law initiatives. Serving on a NATO staff provides unique opportunities to work with legal advisors from other nations, including training the incoming IJC headquarters staff during a two-week exercise in Stavanger, Norway.

LCDR Sylvaine Wong works with lawyers from Great Britain and the Netherlands to advise the British general commanding ISAF Regional Command South, headquartered in Kandahar. As an operational law attorney, she tackles the diverse issues that arise in a multinational environment, including those arising during the planning and execution of Operation Moshtarak, the largest offensive in Afghanistan to date. As the overall operational focus shifts from kinetic operations to population-centric counterinsurgency operations, LCDR Wong and her colleagues have had to tackle new legal questions arising in the areas of biometrics, counternarcotics, reintegration, humanitarian relief, and strategic communications.

Serving in a NATO mission is providing these operational lawyers with skills unique among U.S. judge advocates.

Navy Judge Advocates at the Forefront of Rule of Law Initiatives

As U.S. legal advisors to the Afghan Ministry of Interior Chief of Legal Affairs, CDR Scott Thompson, LCDR Dave Gonzalez, and their team of three Afghan attorneys provide Afghan National Police (ANP) legal advisors the knowledge and skill to begin training Afghan police in the law. Turning non-lawyers into capable legal advisors for the ANP and Afghan Ministry of Interior is a momentous challenge, but the hard work of the many Navy judge advocates that have served in Combined Security Transition Command Afghanistan (CSTC-A) is bearing fruit. As one Afghan police colonel commented, "the law is the soul of the police," and capable legal advisors are critical to building a police force that Afghan citizens can trust and respect.

When LCDR Gonzalez arrived at NATO Training Mission (NTM-A)/CSTC-A last May, the ANP had recently added seven legal offices throughout the country. All seven offices required training and equipment to become fully operational. Building on the excellent foundation set down by their Navy predecessors, CDR Caren McCurdy and CDR Tracy Clark, LCDR Gonzalez and CDR

in Afghanistan



LT John Butler, visiting from Kandahar, prepares for a convoy with CDR Scott Thompson and LCDR Dave Gonzalez in Kabul, Afghanistan.

Thompson launched an aggressive development program that will extend the reach of the ANP legal corps by adding 51 new offices this year.

COL Rick Rousseau, staff judge advocate for NTM-A/CSTC-A, observed that, “as a combined joint office, as well as a NATO legal office, the Navy judge advocates bring skills and a perspective on the rule of law that is often different from an Army or Air Force judge advocate. The adaptability and flexibility of the Navy judge advocates to become a part of the legal team has been seamless.”

In addition, working closely with the U.S. Marshals Service and the U.S. Embassy, LCDR Gonzalez has

spearheaded the expansion of a police unit that provides security to judges in key courts. The judges are better able to render decisions without fear of threats to themselves and their families. Navy judge advocates have been a driving force in bringing this important element of the U.S. Rule of Law Strategy for Afghanistan to life.

Opportunities for judge advocates to contribute to the rule of law in Afghanistan are growing. The Navy was recently asked to lead the development of the Afghan National Army (ANA) Legal School. CDR Trevor Rush will soon report to NTM-A/CSTC-A as the Chief of ANA Legal Training, joined shortly thereafter

by LT Bill Geraty and colleagues from the Army and Air Force JAG Corps. LT Ryan Forbes, LT Mark Rasmussen, LT Jasmine Scott, and LT Rob Singer will arrive in Afghanistan this summer as the first Navy judge advocates assigned to Combined Joint Task Force 82 (CJTF-82) to work with Afghan judges, prosecutors, and other justice officials in Regional Command East. There is no more exciting or interesting job for a young judge advocate right now than helping to build rule of law in the heart of Afghanistan.

Judge advocates are also in high demand at Task Force 435 (TF-435), the new task force responsible for U.S. detention operations in Afghanistan.

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In addition to the care and custody of detainees, TF-435 oversees detainee review processes, programs for the peaceful reintegration of detainees into society, and coordination with other agencies and partners for the promotion of the rule of law in Afghanistan. CAPT Pat McCarthy, staff judge advocate for TF-435, headquartered in Kabul, provides legal advice to the TF-435 commander on the full spectrum of legal issues at the operational and strategic level.

CAPT Greg Belanger is the director of legal operations in Bagram and reports to the TF-435 commander on detainee review board processes. CAPT Belanger and his sixty-three person legal team execute the new detainee review boards under new guidance that provides for a fully informed administrative hearing in every detention case. Under the new rules, detainees have confrontation rights, the right to reasonably available evidence, and representation at the hearings, unprecedented under the law of war. The detainee review boards are on pace to complete more than 2,000 hearings this year. At the same time, TF-435 is partnered with Afghan judges, attorneys general and security directorate investigators to transition national security detentions to Afghanistan under Afghan law. This is a fascinating and exciting opportunity for litigation attorneys and legalmen that want to participate in high profile terrorism and law of war cases involving forensic evidence and live

testimony in a fast paced environment. Serving in TF-435 provides judge advocates an opportunity to participate in a strategic mission that is building rule of law capacity in Afghanistan within an organization that is having a direct and substantial impact every day. In order to be fully staffed, TF-435 needs more volunteers of the highest caliber.

Flexibility and initiative key to mission accomplishment

LCDR Michael Lawrence is paving new ground as the first legal and policy advisor to the Armed Contractor Oversight Directorate at U.S. Forces Afghanistan. When he arrived in Afghanistan, LCDR Lawrence had the advantage, and challenge, of reporting to a position that never existed prior to his arrival. He has literally written the book on legal issues associated with armed contractor oversight in Afghanistan. These contractors are increasingly under scrutiny by the U.S. Congress as well as the Afghan Government. LCDR Lawrence is a key contributor in developing new procedures to gain better oversight over about 24,000 armed contractors operating throughout Afghanistan. Within 24 hours of arriving in country, LCDR Lawrence met with the Committee on Wartime Contracting and days later participated in two days of discussions with the U.S. Government Accountability Office. He engages regularly with officials from the U.S. Department of State, U.S. Agency for International Development (USAID), and the Afghan Government. His important contributions



LCDR Dave Gonzalez, deputy chief of police legal development, and LTC David Flannigan meet with Afghan police legal advisors in their office at Kabul City Police Command. As a result of LCDR Gonzalez and his team of Afghan attorney-trainers' efforts, the Afghan National Police legal advisors in Kabul are now able to train local police in the law without assistance from the international community.

have helped ensure the ability of U.S. and ISAF forces to provide security for supply convoys and bases, even as the Government of Afghanistan seeks to reduce, and eventually eliminate, private security companies.

Other legal professionals from the sea services are providing similarly important service throughout Afghanistan. Marine Corps Maj Elizabeth Harvey is the staff judge advocate for U.S. Forces Afghanistan – South. She advises not only the Deputy Commander but also subordinate commands that lack a legal staff. Maj Harvey explains that to be an effective legal counsel in a joint environment, “I have had to use both my background in Navy and Marine Corps military justice and investigations as well as what I learned at the Army Judge Advocate General Legal Center and School in this job.”

Navy legalmen are having impact in Afghanistan too. LN1 Rowena Tolentino is the sole legalman for the 22nd Naval Mobile Construction Battalion (NMCB), but she has also lent her expertise to the 649th Joint Sustainment Command and helped provide legal assistance to the Army garrison on Kandahar Air Field. LN1 Tolentino said the difference between Navy and Army paralegals was really highlighted when her Army colleagues commented that Navy legalmen have more responsibility and independence entrusted to them in overseeing the nonjudicial punishment process.

LCDR Kevin Yusman, a mobilized reservist, was assigned to the DoD Criminal Investigation Task Force (CITF) for a period of 12 months. Shortly after reporting to CITF, LCDR Yusman was deployed forward to the detachment in Afghanistan. CITF is responsible for conducting worldwide criminal investigations to substantiate or refute terrorist acts committed against the United States, its people, or its interests. In Afghanistan, CITF focuses on the high-level terrorists, insurgents, and corrupt officials operating within the country’s border. CITF investigations have involved Taliban, Al-Qaeda financiers, other terrorist organizations, narcotic traffickers, and corrupt Afghan government officials. As the Staff Judge Advocate, LCDR Yusman is involved in all levels of the investigations including inception, targeting, and the legal review of the investigation packages. CITF is also heavily involved in the detainee operations process. This aspect allowed LCDR Yusman to witness the transformation of the detainee review board process at internment facilities. In February, in addition to his duties as staff judge advocate, LCDR Yusman assumed the duties as the officer-in-charge of the newly created Detainee Criminal Investigations Detachment (DCID) for TF- 435. Composed of Army, Navy, Air Force, and civilian law enforcement professionals, the DCID is diverse. Located at the new detention facility in Parwan the DCID is responsible for conducting investigations of all detainees and the preparation of investigation reports for the board hearings on each detainee.



LCDR Dave Gonzalez and NTM-A/CSTC-A interpreter Haroon Zeya visit the National Police Academy of Afghanistan.

LCDR Rob Monahan serves as the chief of operational law at NTM-A/CSTC-A. Another example of a Navy judge advocate breaking new ground, LCDR Monahan has helped expand the role of CSTC-A’s operational lawyer beyond just detainee operations. He provides direct support to the command’s operations and intelligence directorates on matters such as international law, the law of armed conflict, rules of engagement, intelligence/information law, and anti-corruption initiatives. He is a key member of a combined interagency working group focused on increasing the effectiveness of Afghan national security prosecutions. LCDR Monahan, reflecting on his experience, believes that Navy attorneys are well-suited to serving on joint staffs. “Navy judge advocates are expected to be versatile and adaptable. They are able to quickly assimilate into the battle rhythm and meet the demands of the mission.”

The high regard for the Navy and Marine Corps legal team is expressed by COL Gross, the senior legal advisor in Afghanistan. “Navy and Marine judge advocates are fully integrated throughout our legal offices, and as I’ve told the Navy JAG, I’ll take as many as he is willing to send -- they’re invaluable to the fight.”