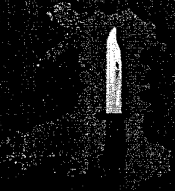


PLATOON COMMANDERS BATTLE COURSE



RULES OF ENGAGEMENT



RECRUITING
& TRAINING

Army Recruiting and Training Division

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- Let class settle. Nominate one of the students to tell a funny joke, preferably a crowd pleaser to lighten the tone.

AIM

- Increase your awareness of the ROE as a planning consideration in the Contemporary Operating Environment



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□ **Introduction:** Operating in the contemporary operating environment has brought complexities when operating within ROE which high intensity warfare does not. Op HERRICK 4 saw the widespread use of Rule 429. In subsequent HERRICK's, with political pressure from Hamid Karzai and outrage at large civilian casualties, Card Alpha is now predominant throughout Helmand Province. Rule 429 can be requested and has been used in various Op Boxes and for limited periods of time to facilitate offensive operations, i.e. retaking of MUSA QALAH Dec 07.

□ **State the aim:** Therefore the aim of the presentation is to, **Increase awareness of the ROE as a planning consideration in the Contemporary Operating Environment.**

SCOPE

- Legal Position of Multinational Forces
- Freedom or Constraint?
- Legal Implication
- Planning Considerations



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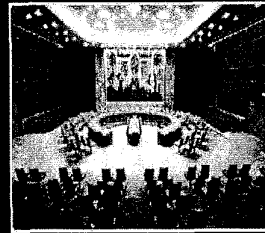


- a. Question Policy
- b. Notes Policy
- c. Lesson Content
- Scope: The presentation will cover the following:
- ROE Freedom or Constraint
- Legal Implications
- Planning Considerations

Legal Position of Multinational Forces

- 2 Ops in Afghanistan
 - Op Enduring Freedom (OEF)
 - International Security Assistance Force (ISAF) (Op HERRICK)

- Different legal basis
 - Self-defence/Afghan Consent
 - UNSCR 1806/Afghan Consent



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□ We will now look at Afghanistan: It is worth setting the scene to explain where we are in Afghanistan:

□ It started with 9/11 and the attacks on the World Trade Centre. It was found out afterwards that Al Qaeda was harbouring in Afghanistan, re-organising and training themselves, effectively being sheltered by the then Taliban Government of Afghanistan.

□ Now under the international law of self-defence, a country may attack first if it has evidence that it is about to be attacked. It was expected that Al Qaeda was going to strike again against the United States. So instead the US took the war to Afghanistan, and received full international support for doing so. The Operation was called '**Operation Enduring Freedom**'.

□ The US action was quickly bolstered by a series of UN Security Council Resolutions which established the International Security Assistance Force (shortened to ISAF), made up of a coalition of forces, to help the new emerging Afghan Government to get on its feet by bringing security and stability to the region. The UK contribution to ISAF is named 'Op HERRICK'.

□ The influence of ISAF used to only cover a small part of the Afghan territory, but since it was set up in December 2001, it has expanded in several stages until its operations now extend across all of the country. It is very much a Peace Support Operation, to assist the democratically elected Afghan Government.

Are ROE a Freedom or Constraint?

- Rules of engagement allow UK forces to take action within a legal and legitimate framework thereby giving us the freedom to act.
- Provides the legal framework which protects you as an individual.



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□ **Freedom:** The Rules of engagement are a framework for which force can be applied by UK forces. To date it has acted as a freedom which has allowed UK forces to employ force without prosecution, though continually under public scrutiny.

□ **Constraint:** Rules of engagement prevent UK forces from indiscriminately using force.

Your Legal Position

- UK Armed Forces subject to:
 - UK Criminal Law
 - Military Law
 - Human Rights Law
 - International Law
- UK Trial/Court Martial not Afghan Criminal Law



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□What laws apply to me when I am in Afghanistan?

□The Afghan locals are subject to their own Afghan law. It does not apply to our forces, although we must respect the local law.

□The law that does apply is firstly the UK Criminal law. Conduct that constitutes an offence under UK law if committed in the UK would also be an offence if it took place in the Naafi on one of our overseas bases. How do we know it applies? The Army Act 1955 states that wherever in the world our forces are deployed, they remain subject to the laws of the UK.

□Secondly, as well as the Criminal Law, Military Law also applies to us. Under the Army Act 1955, there are some military offences that apply only to military personnel and not to ordinary civilians (apart from a few who deploy with us as an integral part of our operating forces), such as the offences of Sleeping on Duty, Damage to Service Property or Neglect of Duty.

□Thirdly, you are required to respect Human Rights Law. The UK Government is one of the parties to an international treaty called the European Convention on Human Rights, which guarantees for the peoples of those parties a number of fundamental human rights, such as the basic right to life, the right not to be tortured, the right to liberty, the right to freedom of religion. (These rights have now been brought into our own UK Law by a UK Act Of Parliament called the Human Rights Act (1998).) We, as members of the Armed Forces, and therefore an extension or an arm of the Government are required to respect these human rights for all those we come into contact with during our operations such as any criminal detainees (which I will mention again later on). As a result of the recent case of Smith, (Ct of Appeal 18 May 09 which dismissed MODs appeal) the Human Rights Act 1998 applies to British troops, even on operations overseas. "The judgment in Smith **does not** alter a commander's authority to make operational decisions and does not leave them open to personal legal challenge. Any claim would be brought against the MOD and not individual commanders". (CDS quote set out in Defence Internal Brief dated 18 May 09).

□The last item on the list is the International Law, which is the body of laws which regulate the relationship between states (i.e. countries), so International Law will naturally apply to operations overseas which involve the forces of other countries in a coalition.

□Something I need to stress is that under a special agreement between the Governments of the UK and of Afghanistan, the UK has what we call 'jurisdiction' over its personnel. This means that if any of our soldiers have committed an offence, which may have been against an Afghan citizen or involving the Afghan authorities, then the UK has the right to demand that the soldier be handed over to the UK military authorities so that he or she can be dealt with under the UK system. So that would be through the UK Courts Martial, or in very serious cases by the UK courts, or by Commanding Officer's Summary Dealing. You would not be left to the mercies of the local jails!

LEGAL IMPLICATIONS

- Qualified Personnel to instruct
- OPTAG Conducts courses
- ROE brief legal requirement prior to deployment
- Required to Zero Personal Weapons every month
- Ultimately judged by society



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Legal Implications:

Qualified: Only OPTAG qualified personnel are legally qualified to instruct personnel in the current Rules of engagement. This brief covers the planning considerations when using the rules of engagement and will not cover the detail of Card Alpha and Rule 429.

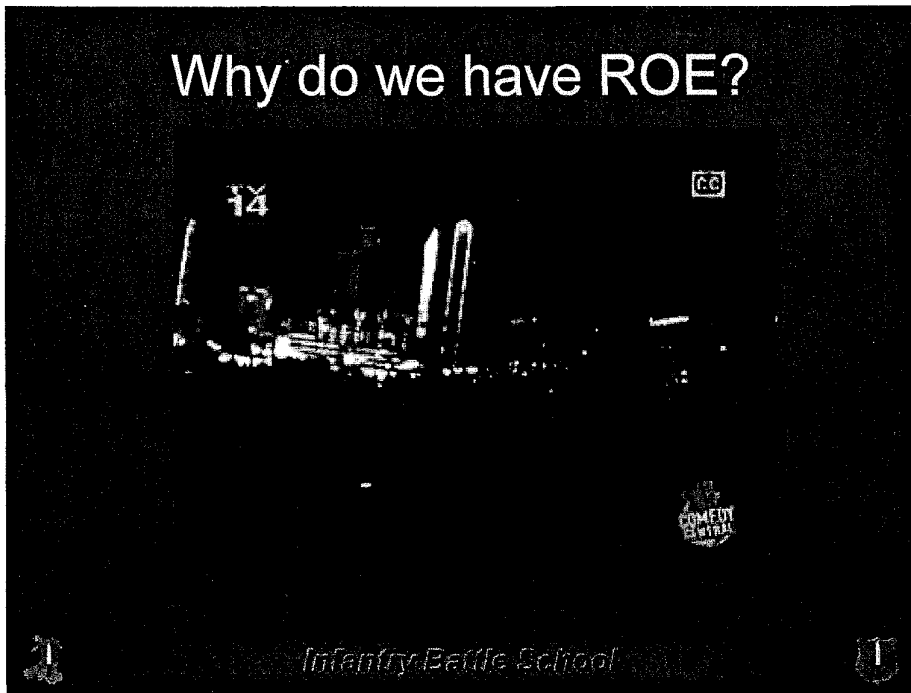
Courses: OPTAG conducts the course to qualify personnel in your unit.

ROE: Prior to deployment all personnel must receive a brief on the current in theatre ROE.

Zeroing: Weapons must be zeroed every month whilst on operations.

Prosecution: Our actions will ultimately be judged by society in a court of law if we step outside of the ROE.

Why do we have ROE?



ROE

- Card Alpha (JSP 398)
 - *Inherent right to self defence*
 - *Mainly used in a defensive poise*
- 421. Attack anyone demonstrating hostile intent – not constituting an imminent attack.
- 422. Attack anyone committing a hostile act – not constituting an actual attack.
- 429A. Attack PID EF



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□ DO NOT EXPAND ON THE DETAILS OF CARD ALPHA AND 429 (YOU ARE NOT QUALIFIED)

□ Students will be aware of Card Alpha from EX BROADSWORD at Sandhurst but may not have heard of Rule 429.

□ Previously the only offensive ROE was 429A. ROE 421-424 were restricted to self defence, that is lethal force could only be used where there was an imminent threat to life. This nexus has now been broken. In this respect UK ROE is now more in line with ISAF ROE.

□ ROE 429A has to be authorised for pre – planned or hasty use. As of 01 May 09, COMD TFH has authorised 421/422 as standing ROE to all land – based and avn FEs operating under OP HERRICK. Therefore, there is no longer a requirement for UK FEs to apply to HQ TFH or RC(S) for the grant of pre – planned or hasty ROE 421/422.

□ Hostile Intent (not constituting an imminent attack) is defined as 'a likely and identifiable threat recognisable on the basis of both of the following; CAPABILITY and preparedness of individuals, groups of personnel or units which pose a threat to inflict damage; evidence, including intelligence, which indicates an INTENT to attack or otherwise to inflict damage. Examples may include moving in range of organic weapons systems, and warlike gestures. Isolated acts of harassment, without intelligence or other information indicating an intention to attack or otherwise inflict damage, will NOT normally be considered hostile intent.

- o Hostile Act (not constituting an imminent attack) is defined as persons in the target set who commit or directly contribute to any intentional act causing serious prejudice or serious danger to ISAF/OEF forces. Examples would include EF mine laying on ISAF likely routes, and breaching or attempting to breach an ISAF camp perimeter, **INTENTIONALLY** impeding ISAF/OED led military operations.
- o Note that **ROE 423 and 424**, which are also now standing, allow the use of offensive force where a hostile intent or hostile act is committed against Persons of Designated Special Status (PDSS). As of 18 April 2009, ANSF have such special status when actively participating in Operations in conjunction with ISAF forces.

Correct Use of Force?



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PLANNING CONSIDERATIONS

- Estimate - constraints
- Time/Space/Bdy's
- Political
- Request to change/time/POC
- OS
- CAS
- Dickers/Suspicious Activity
- Coalition/Host Nation ROE

Planning Considerations:

Estimate: As a constraint it will appear in Question 1 with Time/Space/Resources/ROE/Political

Time: 429 may be in effect for a limited period of time and will have an impact in the way in which operations can be conducted.

Space: Rules of engagement will vary in Op boxes and the commander must be aware of these as it will impact on the COA chosen.

Political: Political pressure has seen the change from Card Alpha to 429 in Helmand Province.

Request to change: The Bde Comd may have the authority to permit a change in ROE. It may require higher authority, i.e. RC (S). Commanders should be aware of the time required for a change of ROE.

OS: ROE will have a significant impact on the use of OS. The use of pre-fires will be prohibited under Card Alpha.

CAS: At times it is possible to have CAS stacked in an area to support ground troops when contact is likely/has occurred lots previously.

Dickers: A robust approach must be adopted. Detention of the individual may not be possible but confiscation of comms devices and photograph essential. In some instances Dickers may be viewed as a legitimate target when in contact.

- o **Coalition:** ROE will differ from Nation to Nation. The US Army in Helmand are able to conduct offensive operations with wider ROE. Therefore some tasks may be pushed their way for an immediate result. Similarly the Dutch in Gereshk may have ROE which will inhibit them operating alongside UK forces.

PLANNING CONSIDERATIONS

- Offensive Action (Red/Green)
- Defensive Action



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Offensive Action: ROE and the situation En Forces will determine whether we can enter a building red or green.

Defensive Action: In a defensive location 429 will allow the use of force if En Forces are seen moving into position or acting suspiciously. Card Alpha will not allow the use of force until the En display the intent to harm someone.

PLANNING CONSIDERATIONS

- Constraint if not considered when planning
- Training/Judgemental training
- Post Op report process
- Use on Battle Camp/effect on mission



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□**Constraint:** The ROE will be a constraint if commanders fail to consider it during the estimate process.

□**Training/Judgemental Training:** The judgemental trainer in the DCCT can be conducted by qualified personnel (Trained by OPTAG) to train soldiers in the implementation of the ROE.

□**Post Op Report Process:** After an incident a hot debrief may take place to ascertain that no unlawful action was carried out by UK forces. In the event of a UK fatality the RMP will conduct a thorough investigation, interviewing those persons present, to form a report for the coroner's inquest.

□**Battle Camp:** During Battle Camp there will be times when the battle picture changes from high intensity to low intensity and as such so will the ROE.

QUESTIONS?



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□Any Questions?

□**Summary:** This presentation has briefly covered some of the considerations that as commanders you must include within your estimate process.

□**Look forward:** EX GRIM WARRIOR will provide the opportunity to include ROE in the planning process.