

The Jungle is Neutral: *Four Lawyers in Jungle School*

COL CHRIS MARTIN
MAJ WILL ROTHSTEIN
MAJ NICK ALLEN
CPT CODY WAAGNER

Four 25th Infantry Division military lawyers recently spent 12 days in the Lightning Academy's Jungle Operations Training Course (JOTC), a course that emphasizes squad-level infantry tactics and jungle survival.¹ Why? For the same reason that our classmates included Infantry Ranger lieutenants, finance clerks, intelligence specialists, medics, and at least one environmental science officer: because understanding the operational environment in which we are called to train and, if necessary, fight, is a task for every rank, background, and military occupational specialty (MOS). The jungle, as we learned, is neutral.² It plays no favorites and imposes its challenges on the Infantryman and the lawyer alike, and all must be ready. While the practice of law is our lens for interpreting this experience, we are confident that our lessons learned extend, by analogy, to any Soldier called to be ready for jungle operations.

Our roles in the division include serving as the commanding general's senior legal advisor (staff judge advocate), the senior operational law advisor (national security law [NSL] chief), a brigade legal advisor (brigade judge advocate), and a prosecutor (trial counsel). The fact that all four of us found that jungle training enhanced our ability to perform our specialized legal roles within the division underscores the broad value of this training. Regardless of MOS, we think the benefits boil down to three tangibles: character, credibility, and competence.³



A Soldier in the Jungle Operations Training Course crosses a water obstacle using a one-rope bridge on 24 September 2022. (Photo by SGT Daniel Proper)



A 25th Infantry Division Soldier briefs his squad before conducting a patrol lane during the final week of the Jungle Operations Training Course at Schofield Barracks. (Photo by 1LT Angelo Mejia)

As to character, any course that poses mental and physical challenges hones desirable traits like tenacity and endurance. We found this to be true in JOTC. Even seasoned operators frequently comment that the jungle is no joke. The same strength of character that helped us have our wits about us and persevere while conducting land navigation in dense terrain, or laboring up and down ravines with ropes and rucks, is the same strength we can draw upon when called to resolve a late-night legal issue for a commander or assemble a closing argument in a contentious court-martial. Thankfully, jungle operations are not a solo sport. Most JOTC tasks are performed as a squad. Solving challenges like setting up an overnight shelter using only scavenged materials requires teamwork and team building, which develops leadership and followership traits.⁴ All of us benefit by practicing the art of being better leaders and followers.

As to credibility, the lawyer's perspective is simple: know your client. As military lawyers, our client is the Army. The Army, to repeat the harsh rhetoric, kills people and breaks things. The Army in Hawaii, spearheaded by the 25ID, operates in the most consequential region in the world today alongside a multitude of Indo-Pacific partners and allies across harsh and varied terrain.⁵ An NSL chief who has experienced the on-the-ground realities of jungle operations is better equipped to introduce legal planning considerations into large-scale combat operations in a way that the G3 team is likely to understand and accept. A brigade judge advocate who has trained the same way that his or her unit fights is more likely to gain respect and recognition during tactical-level working groups with the brigade staff. A prosecutor who has earned a Jungle tab operates with more credibility when he or she is advising a commander or recommending case disposition regarding a Soldier who's trained in that same environment. Sharing common ground helps foster shared understanding. This leads to increased trust.⁶ While our examples are lawyer-focused because that is what we know, we again believe that these takeaways can apply to any MOS.

Credibility, as the examples above make clear, segues into competence. None of the lawyers writing this article are Infantry officers.⁷ None of us are likely to take point during a clearing operation or ambush in actual combat. As lawyers, we want to be better at our jobs and understand as much as possible what it is really like for the Soldiers and leaders who do take point, plan the movement, or command the operation. The jungle plays no favorites and does not differentiate between the lawyer and the Infantryman. Success in the jungle requires both physical and mental preparedness. The judge advocate who has personally experienced exhausting movements through jungle terrain, and the difficulty of spotting the enemy in dense brush, is better equipped to advise on more sensible rules of engagement, gauge the application of the Laws of Armed Conflict, effectively advise joint air-ground integration centers, and weigh and advise on risk.

As lawyers to a combat division, we don't practice in office high rises because that's not where our Army fights. We must be ready to advise leaders, administer legal support, and pursue justice in the conditions in which we may be called to train and fight. Part of that includes enduring realistic training to experience being "comfortable with being uncomfortable" in the wet, the cold, and the austere. Does knowing how to set up a one-rope bridge, rappel down a cliff, or execute squad ambushes in jungle terrain make us better Army lawyers? Our unequivocal answer is "yes." As a lawyer, I may not need to know how to tie a double figure-eight knot in the courtroom. Then again, I might — if an investigation or case involves, for example, an accident during training or combat.⁸ Or, if a forward command post that includes a judge advocate comes under enemy attack, all hands must engage.⁹ Judge advocates are Soldiers, too.¹⁰ We think this analogy applies to every MOS and specialty skillset: The better we each understand our common operating environment, the more we can learn to use that environment as a force multiplier rather than a distractor — working with the jungle, as opposed to against it.

Certainly, not every lawyer or paralegal in our division has attended JOTC, nor has every medic, squad leader, logistics officer, or even infantry leader. Not everyone may have the opportunity. Our suggestions here take nothing away from the fact that these leaders of varied experiences and backgrounds can no doubt perform their roles brilliantly without JOTC. But we remain convinced, for those able and willing to partake, that jungle training has immeasurable benefits for anyone called to operate in this unique environment.

Notes

¹ The four authors did not all attend at the same time; this article reflects our collective experiences across three JOTC iterations spanning just over 12 months.

² F. Spencer Chapman, *The Jungle is Neutral* (NY: W.W. Norton 1949).

³ We gleaned these traits as related, but not identical to, the Army Ethic which expresses "character, competence, and commitment" as moral principles that guide the Army profession. Army Doctrinal Publication (ADP) 6-22, *Army Leadership and the Profession*, July 2019, Figure 3.



Students attending the Jungle Operations Training Course execute the course's culminating event, the Green Mile, on 23 September 2021 at Schofield Barracks, HI. (Photo by SPC Jessica Scott)

⁴ See ADP 6-22, 1-90 through 1-104 (discussing the role of both leadership and followership).

⁵ The 2022 National Security Strategy remarks that in the “decisive decade” of the 2020s, the “pacing challenge” of the United States is the People’s Republic of China and that the Indo-Pacific region will be the “epicenter of 21st century geopolitics.” White House, National Security Strategy 6, 20, 37 (October 2022). Among numerous other recent statements by U.S. leaders, Secretary of Defense Lloyd Austin remarked in a May 2023 interview that “no region is more consequential in shaping the world we live in today — and the course of the 21st century.” Ryo Nakamura, “Indo-Pacific Is Most ‘Consequential’ Region for 21st Century: Austin,” *NikkeiASIA*, 31 May 2023, accessed from <https://asia.nikkei.com/Editor-s-Picks/Interview/Indo-Pacific-is-most-consequential-region-for-21st-century-Austin>.

⁶ See, e.g., Chaplain (MAJ) Jared L. Vineyard, “Trust: A New Formulation of a Fundamental Principle,” *Infantry* (Fall 2022) (urging a renewed emphasis on trust as a fundamental principle of Army leadership).

⁷ Though not currently employed as Infantry officers, there are numerous former Infantry officers and Rangers, as well as many other branches, among the ranks of judge advocates, who are recruited for the unique value they bring to the Army JAG Corps. See the Funded Legal Education Program at <https://www.jagcnet.army.mil/GoArmyJAG/Funded-Legal-Edu-cation-Program>.

⁸ Military trial law allows, for example, the use of in-court demonstrations when they will help the factfinder to better understand evidence or testimony.

⁹ The war in Ukraine provides a clear-eyed view of how modern intelligence, surveillance, and reconnaissance (ISR) and weapons render traditional command posts easy and effective targets, requiring every member of a command post to be ready to move and defend themselves on a moment’s notice. For a thorough analysis of modern command post vulnerabilities, see LTG Milford Beagle, BG Jason Slider, and LTC Matthew Arrol, “The Graveyard of Command Posts: What Chornobaivka Should Teach Us About Command And Control In Large-Scale Combat Operations,” *Military Review* (May-June 2023), accessed from <https://www.armyupress.army.mil/Journals/Military-Review/English-Edition-Archives/May-June-2023/Graveyard-of-Command-Posts/>.

¹⁰ No one better describes the Soldier-legal dual professional role better than the JAG Corps’ own Regimental Command Sergeant Major: “As dual professionals, we need to leverage our experiences, training, and technical expertise — as well as our education — to support lethality... Regardless of our technical Military Occupational Specialty (MOS), our field craft is our foundation for service. We serve to fight and win our Nation’s wars.” CSM Michael J. Bostic, “Tactically and Technically Proficient: Balancing Lethality with Technical Competence in a Comprehensive Field,” Order of the JAGWAR, 16 June 2021, accessed from <https://orderofthejagwar.com/news/csm-bostic-dual-profession>.

COL Christopher E. Martin is the Staff Judge Advocate (senior legal advisor) for the 25th Infantry Division and U.S. Army Hawaii. He previously served as a brigade, division, and corps legal advisor at various units throughout the United States and Korea, including deployments to Iraq and Afghanistan. COL Martin holds a Bachelor of Arts in international law and East Asian studies from the University of Southern California, a Juris Doctor from UCLA School of Law, and a Master of Laws in military law from the Army Judge Advocate General’s Legal Center and School (TJAGLCS), with a concentration in international and operational law.

MAJ David “Nick” Allen, at the time of this article, served as the chief, National Security Law, 25th Infantry Division and U.S. Army Hawaii. His recent operational experience includes training and deployments throughout the Asia-Pacific region and Afghanistan. MAJ Allen currently serves at the brigade judge advocate for the 1st Security Force Assistance Brigade at Fort Moore, GA. Major Allen holds a Bachelor of Arts in classical studies from the University of Florida, a Juris Doctor from the University of Baltimore School of Law, and a Master of Laws in military law from TJAGLCS, with a concentration in national security law.

MAJ Will Rothstein, at the time of this article, served as the brigade judge advocate for the 2nd Infantry Brigade Combat Team, 25th Infantry Division and U.S. Army Hawaii. In this role he participated in brigade operations throughout the Asia-Pacific region. Among other operational experience, MAJ Rothstein deployed to Iraq as a legal advisor to the 4th Infantry Division at Fort Carson, CO. He currently serves as a regional complex defense litigator for the U.S. Army Trial Defense Service at Fort Campbell, KY. MAJ Rothstein holds a Bachelor of Science from Suffolk University, a Juris Doctor from Vermont Law and Graduate School, and a Master of Laws in military law from TJAGLCS.

CPT Cody J. Waagner serves as a trial counsel at the 25th Infantry Division and U.S. Army Hawaii. CPT Waagner joined the Army Judge Advocate General's Corps on active duty after prior service in the Louisiana National Guard. His active-duty assignments include serving as an operational law attorney for the 3rd Brigade Combat Team, 1st Cavalry Division at Fort Hood, TX. He holds a Bachelor of Science in psychology from Northwestern State University and a Juris Doctor from LSU School of Law.