



HANDBOOK



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J I M R C



ROE Vignettes

Observations, Insights, and Lessons

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Foreword

Units preparing to deploy to Afghanistan have a tremendous amount of training and learning to accomplish. One of the absolute keys to our success in the operational environment (OE) we find ourselves in is the ability to apply our rules of engagement (ROE) and escalation of force (EOF) procedures properly so that we protect ourselves, the civilian populace we are dealing with, and our Soldiers' well-being then and for the future. Units must understand that restraint is a critical consideration in the use of force when operating in a counterinsurgency (COIN). U.S. forces must work at maintaining the support for our actions by the populace in Afghanistan and abroad, ensure that our actions do not encourage and lead to new recruitments for our enemies, and not put Soldiers in positions where they end up killing innocent civilians and having to live with what may have been a tragic mistake.

All of this is a relatively tall order. The ability to adequately practice restraint, limit civilian casualties, and infrastructure damage — while still protecting ourselves — is a complex endeavor. This ability is predicated on every leader and Soldier being able to:

- Understand the basics of COIN and its application — developing the intuitive knowledge of why it is important to absolutely limit civilian casualties.
- Thoroughly understand our ROE, especially for defensive engagements, but also for offensive ones, so Soldiers know the range of options available in certain situations.
- Be able to automatically execute appropriate EOF techniques in all types of operations — the use of the equipment we provide to produce stand-off and warning, selection of routes, how and where to halt, or when to even apply EOF at all. Soldiers must know the options and choose the appropriate one.
- Understand the OE — What is the threat? What does “right” look like? What are the patterns of life? What does hostile intent or acts in this location at this time look like? Do we even need to worry about EOF?

- Be expertly trained on their weapons so they have full confidence in their ability to use them — buying the ability to take an extra second or two to make those life or death decisions since we know what we can do.

None of this comes easy in a combat environment where there is potential danger to our mission, our buddies, our partners, and ourselves lurking at every turn. But, if we want to end this conflict and come home, we have to operate in a fashion that entails a certain amount of risk by operating with restraint, but a restraint that is mixed with the points above so the right thing gets done, at the right time, for the right reason, and without being told.

The vignettes in this handbook were started by the 3rd Brigade Combat Team, 1st Infantry Division (Task Force Duke) during its predeployment training and continued during operations in Afghanistan, and then completed by the observer/controller-trainer team at the Joint Multinational Readiness Center (JMRC) as a tool to provide junior leaders with examples on this difficult subject. The handbook provides a series of vignettes that relate potential situations that could come up (or did — many are based on actual operations) where junior leaders and Soldiers must apply the fundamentals of ROE and EOF to make the right choice in a given situation. This handbook is intended to be a hip-pocket training resource where squad or platoon leaders can engage with their Soldiers and provide more examples to look at so that when their unique situation comes up, they have some basis of experience to rely upon, not just static PowerPoint slides on hostile intent, imminent threat, and standard distances at which to place the concertina wire.

Use these during predeployment training, during deployments as part of precombat inspections and rehearsals, and whenever you hit that hurry-up-and-wait point — like when you get stuck three days at the transit center at Manas, Kyrgyzstan, en route to theater.

Review of two vignettes per week were required training in Task Force Duke, and we think the training made a difference.



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CENTER FOR ARMY LESSONS LEARNED

The Secretary of the Army has determined that the publication of this periodical is necessary in the transaction of the public business as required by law of the Department.

Unless otherwise stated, whenever the masculine or feminine gender is used, both are intended.

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Introduction

Vignettes put the rules of engagement (ROE) into context. Rules can be memorized, but without context, those rules have little meaning or value.

There is not a repository of vignettes readily accessible to Soldiers. This handbook addresses that shortcoming for units heading to Afghanistan.

Soldiers can use this handbook individually, but its value is greatly increased through group discussion and interaction with leaders and judge advocates.

Key Lessons

- Soldiers must understand the basic definitions of hostile act, hostile intent, and what constitutes positive identification. Soldiers must be able to apply — not just know — those definitions in a dynamic, confusing, and dangerous environment.
- Determining what is a threat is dependent upon what you know about your situation. Your knowledge needs to extend beyond your sector of fire to the culture, the patterns of life, and the second- and third-order effects of your actions.
- The ROE are generally permissive. It is a Soldier's responsibility to know the ROE and the environment to make the ROE an integral part of accomplishing the mission.

Introduction for Soldiers

The usual instructor for a ROE or escalation of force (EOF) class is the local unit judge advocate or your company commander. These individuals generally have expertise and a solid understanding of the legal and policy underpinnings of the ROE. However, you are a Soldier preparing to deploy and you want the Soldier's perspective on how these rules apply in the field, in combat. The ability to recite the legal definition of hostile act may be an indication that you understand the concept, but knowing the definition is not the same as being able to apply a measured and proportional response in a dynamic, confusing, and dangerous situation. What you need is street smarts when it comes to applying the ROE. Helping you gain instinctive understanding within the context of the theater of operations is the intent behind this compilation of vignettes.

The vignettes come from the streets. They come from the experiences of Soldiers deployed to combat theaters — primarily Afghanistan. The ROE that are applied here are those for Soldiers operating under the International Security Assistance Force (ISAF) rules of engagement. If you previously deployed, you may notice some differences under the ISAF rules. If you see

those differences in these vignettes, point them out during the discussions. Highlighting the differences can help others internalize the ISAF rules. Always remember that regardless of subtle differences in terminology or definitions, your right to self-defense remains unchanged. Even if you have a previous deployment as part of ISAF, you may not have heard of the *Tactical Directive*, the *Tactical Driving Directive*, or the *Commander's Counterinsurgency (COIN) Guidance*. These documents contain additional rules, but for the most part, they re-emphasize the importance of protecting the civilian population. Along those lines, you will see many of the discussions turning away from what would be allowed under the ROE to what you really think you should do under a particular set of facts. This is the “can I?/should I?” analysis that should be at the forefront of your discussions.

These vignettes do not work alone. They are intended to be used in group environments and as the spark to ignite further discussions at the fire team and squad levels. In many cases, you will find that a vignette asks a distinct question and gives an exact “right/wrong, yes/no” answer. In other cases, you will find the discussions less concrete. That is the reality of the complexity of the battlefield. Challenge the scenarios as you work through them, but keep the basic concepts of the ROE and COIN doctrine intact. There may be policy or legal constructs with which you disagree, but your goal should be to prepare yourself and your battle buddies to operate in the current legal and policy environment.

This is not a compilation that should necessarily be read cover to cover. It is an interactive compilation. Take your time on each vignette — the value of the training will be directly related to the effort you put forward as an individual and as a member of a fire team or squad. There are no additional resources required, no time limits, and no grades. The real test will come in a combat theater, and success will be measured in human life.

Introduction for Leaders

These vignettes are designed for you. Whether you, your commander, or your unit's judge advocate initially presents your Soldiers the rules — the law of armed conflict (LOAC), ROE, EOF standing operating procedures (SOP), detainee operations SOP, et al. — you are uniquely situated to incorporate the rules into your unit's mindset as you develop its discipline and warrior ethos. These vignettes are a tool you can use to help you do just that.

As an artisan can make a tool do far more work than a beginner could, you can make these vignettes more effective as you craft their use. Most of your Soldiers can read them and understand most of the ideas presented. If you read your Soldiers the question and answer and do nothing more, you have

added command emphasis and perhaps clarified some ambiguities. But you can maximize the effectiveness of this tool if you use these vignettes as a stepping-off point to further discussion.

How can you best use this tool? Hypothetically, place your tactical unit in the position each vignette describes. Discuss the tactical situation and strategic ramifications of following or violating the rules in the scenario. Ask your Soldiers questions like, “Could you have placed yourself in a better situation?” “How can you best resolve the situation tactically and legally?” “What is likely to follow?” Inject alternative scenarios, such as “What if the man was carrying an AK-47 instead of a rocket-propelled grenade (RPG) or standing in front of a home instead of an empty field?” After you answer the question “*Can you?* (do something legally),” ask the question “*Should you?*”

Walk your Soldiers through the legal analysis. When they get the right answer, ensure they can articulate why — well-reasoned but in their own words. This should sharpen their reaction time as they develop confidence in their responses. Additionally, this training should help them provide more detailed reports and statements during your tour when called upon to do so.

Changes to the rules and an evolving area of operations may tweak the best response on one or more of these vignettes. When in doubt as to the correct answer for today, consult your commander or your unit judge advocate.

The COIN environment in which we operate today in Afghanistan is complex. Day-to-day success is measured less by mission accomplishment and more by whether our actions have moved the population closer to the Afghan government or closer to the insurgents. How your Soldiers react will shape your area of operations and can contribute significantly to our ultimate success. The rules will help your Soldiers focus on the mission by freeing them from destructive urges and encouraging actions that advance our goal of separating insurgents from the population. These vignettes can help you hone your Soldiers to operate successfully within the rules on today’s complicated battlefield.

Consequently, the success of these vignettes rests upon you, for their success and yours will be measured by how well your Soldiers perform in the heat of battle when unexpected situations arise and they are called upon to decide in an instant how to apply their tactical training and the rules.

Introduction for the Judge Advocate

From a teaching standpoint, bullet comment slides are likely not the preferred method for educating an Army at war on the frustrating complexities of restraining the use of force. Rote memorization of the definitions of hostile act and hostile intent will have little value for a Soldier

faced with split-second, life and death decisions. The COIN Soldier needs an in-depth understanding of the political, tactical, strategic, and cultural environments in which he will operate. Situational awareness coupled with an understanding of the ROE requires more than a quarterly 50-minute block of instruction. Accordingly, this collection of vignettes is intended to pick up where the judge advocate class ends. The key to success is support from the tactical leaders to dedicate time and energy to working through the scenarios. However, continued engagement with the judge advocate is essential to quality control and building a Soldier's confidence in his ability to implement the ROE on the battlefield.

These vignettes were compiled and the discussions prepared by judge advocates. Where possible, the discussions and answers provide concrete answers to black letter legal issues. In other scenarios, the discussion is meant to go beyond the ROE and LOAC. These may prove to be the most valuable discussions. The ROE are generally permissive. The strategic implications of a single Soldier's actions require very junior personnel to go beyond the ROE analysis of whether the use of force is authorized. The judge advocate needs to take that additional step as well. These vignettes provide the judge advocate the opportunity to assist Soldiers in problem solving rather than simply giving an answer.

In creating this compilation, the concept was to develop a resource for junior leaders to train their Soldiers wherever and whenever the opportunity arises. Thus, the product is created as a tool for squad-level "hip-pocket" training. Do not let this format prevent you from utilizing the vignettes in other ways. Judge advocate ROE training can often be frustrating for both the Soldier and the instructor. Judge advocates tend to think of the ROE in academic terms — definitions and rules. Soldiers tend to operationalize the materials (i.e., put the rules in terms of something that has happened or a set of facts they can visualize). In other terms, the judge advocate tends to think about the ROE in paragraphs. The Soldier wants to see it in high-definition color. These scenarios can work to bridge that gap for the judge advocate.

The discussions and answers are based upon the legal opinions of the authors applying the ISAF ROE, U.S. Standing ROE, and the LOAC as of the publication of this edition. The judgment of the authors should not be substituted for that of another judge advocate. The passage of time will also affect the law and policy upon which the discussions and answers are based. That being said, these scenarios have been carefully researched and compiled. They should be an asset for Soldiers, leaders, and judge advocates.

Rules of Engagement/ Law of Armed Conflict Vignettes

Vignette #1

Situation:

You are patrolling a main supply route (MSR) that has suffered several improvised explosive device (IED) attacks in the last week. At 0300 hours, you notice a white Toyota pulled off to the side of the road. A man and a teenage boy are digging at the side of the road. You have not been told of any authorized construction projects on the MSR this evening. You see no weapons.

Question:

What can you do under the rules of engagement (ROE)?

Vignette #1 (continued):

Answer:

The circumstances suggest these personnel may be demonstrating hostile intent. However, hostile intent results from the threat of imminent use of force. In this situation, you should use graduated, nonlethal force to determine their intent or to detain these individuals for their suspicious behavior. If you determine at any time they are an imminent threat to you or others, you may engage the targets with deadly force.

Generally, the International Security Assistance Force (ISAF) ROE and the U.S. Standing ROE allow for the use of deadly force for self-defense against a hostile act/hostile intent. Here, the situation appears to fall short of self-defense or hostile act/hostile intent. The ROE allows minimal force to accomplish the mission. Here, our mission includes maintaining the security of the MSR. The escalation of force (EOF) continuum embedded in the ROE does two things for us here. First, it enables you to determine the minimum amount of force needed to accomplish the mission. Second, it enables you to determine whether the subjects are showing hostile act/ hostile intent.

Detention is authorized only for:

- a. force protection.
- b. self-defense.
- c. accomplishment of the mission.

Once each of these conditions no longer exists, we must release the detainee at or near the point of capture (as circumstances permit). Assuming at least one of these conditions (a, b, or c) continues to exist, you must document the circumstances that justify initial and continued detention before you can hand over any detainee to a higher headquarters or proper Afghan authority.

Vignette #2

Situation:

You are a member of a five-vehicle convoy conducting route security operations during daylight hours.

1. A vehicle with four male occupants merges into your convoy. The vehicle does not fit the profile of a vehicle-borne IED (VBIED). They are mocking you. Your reaction?
2. The occupants continue to mock you, and you see weapons in the vehicle. Your reaction?
3. Two of the men point weapons at your driver. Your reaction?

Vignette #2 (continued):

Answers:

1. A vehicle entering your convoy is not a demonstration of hostile intent. The policy for driving in Afghanistan has changed and requires that convoys be prepared to intermingle with traffic. The convoy should obey the rules of the road and be courteous to other drivers. The fact that the passengers in the vehicle are mocking you is also not an indication of hostile intent or a hostile act. The passengers are clearly attempting to get some reaction out of you. Do not play into their hands. You must remain courteous and professional, but you should also maintain observation on the vehicle and its passengers.
2. The weapons inside the vehicle are also not an indication of hostile act/hostile intent. Afghans are allowed to possess weapons. The mere presence of weapons in the vehicle does not trigger the use of force in self-defense. You should continue to monitor these individuals. However, because of the presence of the weapons, allowing the vehicle to intermingle in the convoy may no longer be tactically reasonable. Consider using EOF measures short of deadly force to encourage the vehicle driver to get out of the convoy or take other action in the convoy to get the vehicle out of the ranks of your vehicles (pull over, slow down, speed up, etc.).
3. Once the passengers point the weapons at your driver, they are demonstrating hostile intent, and you may engage them with deadly force. You may also use EOF measures to de-escalate the situation. Be aware that once you engage the vehicle, it may become a threat to other drivers.

Vignette #3

Situation:

You are the senior person on a dismounted patrol. You have seen no sign of possible enemy positions or movement. Three mortar rounds impact at 10-second intervals 400 meters west of you, 250 meters east of you, and 200 meters west of you. You immediately receive grid coordinates for the point of origin.

Question:

Are you authorized to call for fire?

Vignette #3 (continued):

Answer:

You, as the on-scene commander, have the authority to call for fires if you believe you are receiving effective fire and immediate response is necessary for self-defense. Effective fire is any fire which, if allowed to continue, poses an immediate threat to life or limb.

In this case, the incoming fire appears to be placing you in an immediate self-defense situation. It appears that the incoming fire is being bracketed in on you, and the risk of the next round being at or near your exact location is very high.

Because of the increasing accuracy of the rounds, it is possible that the mortar firers are using a spotter to walk their rounds in on the intended target — you. What if you observe an elderly man alone on the ridgeline? Could you use deadly force against him in the belief that he is the spotter? No. There is not enough information available to you with these few facts to draw a reasonable conclusion that a person on the ridgeline is engaged in a hostile act or demonstrating hostile intent. However, you could temporarily detain the individual for force protection concerns.

Vignette #4

Situation:

Your patrol continues down a trail between rolling, lightly wooded hills. You halt your patrol as you see two males in traditional local clothing and apparently carrying AK-47s walking on a side path that runs parallel to your trail. They stop as they appear to spot you, turn off the path, and run away from the patrol into a shoulder-high crop off the side of the trail. You are concerned they could attempt to set a hasty ambush where their path crosses your trail.

Question:

Can you engage the men under the ROE?

Vignette #4 (continued):

Answer:

No, you may not use deadly force at this time. The issue is whether these men are demonstrating hostile intent. In this situation, hostile intent would be the threat of imminent use of force against U.S. forces. Afghans are allowed to possess firearms. They have shown no indication of intent to use them against you.

Generally, the ISAF ROE and the U.S. Standing ROE allow for the use of deadly force for self-defense against a hostile act/hostile intent. Here, the situation appears to fall short of self-defense or hostile act/hostile intent.

This scenario should generate discussion on possible best course(s) of action, a question the ROE do not answer. The ROE do give guidelines to help retain focus on accomplishing the mission in a manner compatible with national interests.

The ROE allows minimal force to accomplish the mission. Here, our mission includes force protection for the patrol. Assuming you can catch the individuals, can you detain them? Detention is authorized only for:

- a. force protection.
- b. self-defense.
- c. accomplishment of the mission.

Once these conditions no longer exist, we must release the detainee at or near the point of capture (as circumstances permit). Here, if you are concerned about an ambush from these men, you can detain them long enough to determine whether they are a threat to force protection. Assuming at least one of these conditions (a, b, or c) continues to exist, you must document the circumstances that justify initial and continued detention before you can hand over any detainee to a higher headquarters or proper Afghan authority.

Does minimal force include deadly force? Generally, only for self-defense against a hostile act/hostile intent. Here, the EOF continuum embedded in the ROE does two things for you. First, it enables you to determine the minimum amount of force to accomplish the mission. Second, it enables you to determine whether the subjects are showing hostile act/hostile intent. In this case, if you wanted to detain them, you would use EOF to try to stop them (you may want to use maneuver to put yourself in a better position to do this rather than start from where you are currently located).

Vignette #5

Situation:

You are in the lead HMMWV (high-mobility multipurpose wheeled vehicle) of a five-vehicle convoy. Two buildings are on either side of the road in front of you on the outskirts of the village you are approaching. Suddenly, you hear and feel a loud explosion behind you (you immediately think IED), and you quickly assess the situation. Dust and smoke block your view to the rear.

1. Two local nationals 100 meters to your right are running for an orchard 50 meters beyond.
2. A local national is firing toward you (small arms fire) from beside one of the buildings at your 1 o'clock position about 150 meters away.
3. Another local national is crouching behind a trough beside the other building at your 12 o'clock position about 80 meters away. You spot nothing significant from the flooded fields to your left.

Questions:

Whom may you engage? What are some of your concerns?

Vignette #5 (continued):

Answer:

You may engage the person shooting at you; he is engaging in a hostile act. You should seek to minimize collateral damage while decisively engaging him. The other individuals have not shown hostile act/hostile intent.

In general, a hostile act is an attack or other use of force on U.S. forces; hostile intent is the threat of imminent use of force. Here, someone has apparently engaged in a hostile act in detonating an IED, and you may act in self-defense. The problem is, from your initial assessment you do not have positive identification — a reasonable certainty you have the culprit — on the person who detonated the IED. While the runners may be fleeing their detonation site, they may be innocent and running just because they think the Americans are likely to start shooting after having been attacked. Similarly, the croucher could be at the site where he detonated the IED or he could be innocent and hiding so he does not draw your fire.

Some concerns:

- The shooter.
- You may have just entered an ambush, possibly cut off for the moment from the rest of the convoy with restricted movement to your left and cover for possible enemy positions to your front and right.
- You may have casualties in your convoy.
- The other three individuals you see may engage in hostile act/hostile intent.

While beyond the scope of ROE, leaders can use this scenario to discuss possible and best courses of action in this situation.

Vignette #6

Situation:

1. Your squad is on a dismounted patrol in a village. Several people are moving about, others seem to be staring at you. You see one man with a weapon; he is standing in front of a building with an AK-47 rifle. He appears to be standing and looking around. He is not pointing the weapon at anyone. Can you attack him?
2. You don't attack him, but start to approach him. The man now points his weapon at a member of your squad. Can you attack him?
3. Discuss the principles of de-escalation and proportionality as they apply here.

Vignette #6 (continued):

Answers:

1. No, you cannot attack. The man is not showing hostile act/hostile intent. In this situation, hostile intent would be the threat of imminent use of force against U.S. forces. Afghans are allowed to possess firearms. He has shown no indication of intent to use his weapon against you.
2. Yes, you may shoot to kill. The man is showing hostile intent. You can engage in self-defense. Self-defense includes defense of others in your unit.

Generally, the ISAF ROE and the U.S. Standing ROE allow for the use of deadly force for self-defense against a hostile act/hostile intent. In general, a hostile act is an attack or other use of force on U.S. forces; hostile intent is the threat of imminent use of force.

Here, the situation in (1) falls short of hostile act/hostile intent. The situation in (2) is hostile intent — the threat of imminent use of force. You don't need to wait for the hostile act — pulling the trigger.

3. De-escalation: When time and circumstances permit, a person showing hostile act/hostile intent should be warned and given opportunity to withdraw or cease threatening actions. De-escalation is especially important in a counterinsurgency (COIN) mission. In this case, however, time and circumstances do not permit de-escalation.

Proportionality: Force used in self-defense should be sufficient to respond decisively to hostile act/hostile intent. Such force may exceed the means/intensity of the hostile act/hostile intent, but the nature, duration, and scope of force used should not exceed what is required. Here, all members of your squad may engage the man — it doesn't have to be a fair fight — but you would not be permitted to spray the general area in front of you with gunfire or continue to shoot into him after he is clearly no longer a threat to your unit.

Vignette #7

Situation:

Your squad is on a dismounted patrol in a fairly open area approaching a village. As you approach the first house, which has in front of it a Charlie Med HMMWV with a red cross on its side, you see a pickup truck with the civilian driver and single passenger as the only apparent occupants come over a low hill to your right about 100 meters away. The truck approaches slowly to about 70 meters away, when a third local national pops up out of the bed, points an AK-47 in your direction, empties a magazine in your direction (but fails to hit anyone), and throws the rifle out of the pickup.

Question:

As the truck speeds away back toward the hill to get away, which of the following are options for you under the ROE?

- a. Target the shooter.
- b. Target the driver.
- c. Target the passenger.
- d. Target the truck.
- e. Call for an airstrike of the truck.
- f. Take the HMMWV to catch the truck.

Vignette #7 (continued):

Answers:

- a. Target the shooter? Yes. He has committed a hostile act. You may engage him in self-defense. In general, a hostile act is an attack or other use of force on U.S. forces; hostile intent is the threat of imminent use of force. Here, the passenger attacked you. You may act in self-defense. Although he threw his weapon away, he may have another, and they may be repositioning.
- b. Target the driver? Yes. He has committed a hostile act. You may engage him in self-defense. The issue is whether you have positive identification — a reasonable certainty you have the culprit — of someone committing a hostile act. While it is possible the driver was unaware of his passenger's intent (and then sped away fearful of your response), the entire course of conduct could give you a reasonable certainty of his intent to participate in this attack.
- c. Target the passenger? Maybe. The issue is whether you have positive identification of someone committing a hostile act. Better to target someone else. Though reasonable minds could disagree with this analysis, the better answer is "no." The only indication that the passenger is supporting the attack is his mere presence. Positive identification, a reasonable certainty that he is participating in the attack, is close. Thus, at this point, he may represent a collateral risk rather than a lawful target. Under these circumstances, such a collateral risk would be a reasonable risk if you chose to target one of the others in self-defense.

What if you "guessed wrong" and targeted the passenger? Because reasonable minds could disagree in these circumstances, if a later investigation found the passenger to not be a lawful target, it would be extremely unlikely you would be prosecuted even if you targeted the passenger. Still, it is better to target the others instead until you develop positive identification on this person.

- d. Target the truck? Yes. EOF measures allow you to attempt to disable the truck.

Recall that EOF measures do not require you to use all of the prior steps before using this one. This EOF measure is a response to hostile act/hostile intent considered to be deadly force and can be authorized by the on-scene commander, i.e., the senior member present in your patrol.
- e. Call for an airstrike of the truck? Maybe. You would have to have positive identification of the target. Additionally, because you are using self-defense authority, the strike would have to be reasonably near in time. Practically, this might not work. You would probably need to scramble up or around the hill and hope you can identify the truck on the other side of the hill and then maintain positive identification until a requested air strike could take place.
- f. Take the HMMWV to catch the truck? Not with the Red Cross symbol attached. This could be viewed as misuse of a protected symbol under the law of war

Vignette #8

Situation:

Review Situation 7:

Your squad is on a dismounted patrol in a fairly open area approaching a village. As you approach the first house, which has in front of it a Charlie Med HMMWV with a red cross on its side, you see a pickup truck with the civilian driver and single passenger as the only apparent occupants come over a low hill to your right about 100 meters away. The truck approaches slowly to about 70 meters when a third local national pops up out of the bed, points an AK-47 in your direction, empties a magazine in your direction (but fails to hit anyone), and throws the rifle out of the pickup. As the truck speeds away back toward the hill to get away, which of the following are options for you under the ROE?

You choose to target the driver and shooter. As the pickup goes over the hill, you hear a crash. Your squad follows and, as you crest the hill, you see the pickup overturned. The shooter is lying on the ground moaning and motionless in a pool of blood, with his hands empty and visible. The driver is wobbly on his feet and disoriented. The passenger is lying on the ground, bleeding profusely from his gut and leg. He spots you and reaches for a rifle lying just beyond his arm's reach; it is unlikely he'll be able to reach it.

Questions:

1. Whom may you target?
2. Whom may you detain?
3. Identify some concerns if you detain any of these individuals.

Vignette #8 (continued):

Answers:

1. Although it is still hard to tell, it appears that you might not be able to target any of them. Although you had positive identification on the driver and shooter for a hostile act, both appear to be noncombatants now. The passenger may be trying to show hostile intent, but if he can't reach the rifle, an attack is not imminent. Approach all three cautiously, as the situation could rapidly change.

Your authority under the ROE to target any of these individuals in Situation 7 was self-defense. The U.S. Standing ROE principle of proportionality states that force used in self-defense should be sufficient to respond decisively to hostile act/hostile intent. Such force may exceed the means/intensity of the hostile act/hostile intent, but the nature, duration, and scope of force used should not exceed what is required. Here, the driver and shooter do not appear to be a threat to you or your squad. The passenger is closer to being a threat, but if he is unable to reach the firearm, he does not threaten you.

2. You may detain any or all of them. The ROE allow you to detain individuals for any of the following three reasons: force protection, self-defense, or mission accomplishment. Here, at least two, more likely all three, were involved in an attack against you. You could definitely detain them for force protection reasons. The on-scene commander evaluates whether you have sufficient grounds to detain personnel.
3. If you detain any of them: Treat them with dignity and respect; treat their wounds; document everything thoroughly — the who, what, when, where, and how. Photograph all evidence, and photograph the individuals with the evidence. Photograph their injuries for documentation purposes. You can treat their wounds without detaining them. Do not forget that Charlie Med should be just over the hill you just came over.

Careful documentation is critical. The U.S. will need to release these individuals or turn them over to Afghan authorities in the next few days. Your documentation will help the decision-maker decide whether to release or turn them over. Additionally, if turned over to the Afghan authorities, your documentation may be used as evidence in the criminal trial of these individuals, or at least in evaluating the case. It can only help keep them detained and bring a conviction if it is accurate and thorough. Photographs are very helpful for these purposes.

Additionally, this incident may be investigated, especially if one of these individuals dies. This does not mean you did anything wrong; the investigation in this case should validate that you did everything right. Thorough documentation will help the investigator and the command come to the right conclusions. Carefully inventory their property. Assume they will later claim something is missing. If you conduct a thorough inventory as near in time to the point of capture as possible, their claim will probably not be believed. Carefully document their injuries at point of capture. Assume they will accuse you and your squad of detainee abuse. If you document their injuries, their claim that you caused the injuries while in detention will not be believed.

Vignette #9

Situation:

Your convoy begins to receive small arms fire and RPG (rocket-propelled grenade) rounds from an ambush positioned in the hills on the left side of the highway. Your squad responds with deadly force, inflicting casualties. None of the attackers appear to be in any uniform. Some of the attackers begin to leave their ambush positions, withdrawing further into the hills.

Questions:

1. Did the ROE allow you to respond with deadly force when you did?
2. Can you target the wounded attackers?
3. Can you pursue the withdrawing attackers?

Vignette #9 (continued):

Answers:

1. Did the ROE allow you to respond with deadly force when you did? Yes! The ROE allow you to respond in self-defense to hostile acts with force that is necessary and proportional to the threat. Deadly force is necessary when lesser force is inadequate to defend you from force that could cause serious bodily injury or loss of life. Proportional force tells you to fire the minimal shots necessary, fire only aimed shots, fire only at those individuals committing hostile acts or demonstrating hostile intent, and stop firing when the threat is countered.
2. Can you target the wounded attackers? This depends — the vignette does not give you enough information. You may not target the wounded who are out of combat. If your attackers are wounded so they are no longer taking up arms against you, the law of armed conflict (LOAC) does not allow you to target them anymore. If they are still in the fight, you may continue to target them.

Follow-up Question:

What if you cannot tell whether they are still taking up arms against you? After all, they were probably hiding in the rocks.

Answer:

You can continue to target them. The law holds Soldiers responsible for their actions based upon what they knew at the time, not upon the actual situation. If an attacker is out of the fight due to his wounds but you don't know that (and it is reasonable you do not know that), you may continue to target him.

3. Can you pursue the withdrawing attackers? Probably. Self-defense includes the authority to pursue and engage forces that have committed a hostile act (or demonstrated hostile intent) if those forces continue to commit hostile acts (or demonstrate hostile intent). You must stop using force as soon as the hostile act (or demonstrated hostile intent) is past and you and your fellow Soldiers are safe. Here, as the attackers withdraw, you probably cannot know if they are withdrawing from the attack or maneuvering to another point of attack. You may continue to pursue and target them as long as you maintain positive identification of them as your attackers.

Vignette #10

Situation:

Recall vignette #9. One of your attackers got away. The next day you are on patrol in a village and see the same individual walking in the village holding a rifle — same distinctive robe, belt, headgear, recognizable face, and prominent scar. His face appears bloodied, and he has a new bandage on his hand.

Questions:

1. Do the ROE allow you to target him with deadly force?
2. Do the ROE allow you to detain him?
3. If you detain him, what concerns should you have concerning his injuries?

Vignette #10 (continued):

Answers:

1. Target him with deadly force? No. Although you had authority to pursue in self-defense yesterday, that pursuit must be continuous. Thus, his hostile act yesterday (the attack) does not give you authority to use deadly force today in self-defense.

Obviously, you will keep your eye on him. You can fire at him once he shows hostile intent.

2. Detain him? Yes. The ROE allow you to detain an individual if necessary for (a) force protection, (b) self-defense, or (c) mission accomplishment. Here, force protection (for one) would provide sufficient grounds to detain him.

You would probably like to see him punished for yesterday's attack. Of course, you cannot do that. The better you document yesterday's attack and his involvement, the better chance you have of Afghan authorities trying, convicting, and punishing him.

3. You have two main concerns. First, ensure he gets proper treatment for his wounds. Once we take control of him, we have responsibility for him and his health concerns. Second, document his wounds thoroughly as well as the circumstances around his detention. Assume he will complain to the International Committee of the Red Cross or file a claim with the U.S. government that we caused his injuries while detained. By documenting well at this point, you could make a subsequent investigation unnecessary or at least easier, and you could reduce his chance at getting money from the U.S. for his injuries.

Vignette #11

Situation:

You are moving with your unit near the outskirts of an Afghan city. You see a hospital that is flying the red crescent and notice that it is being used as an observation post (OP). When you get in better position to observe, you notice the occupants have binoculars, radios, AK-47s, and RPGs. They do not appear to observe your unit at this time.

Questions:

1. What do you do?
2. Your unit begins receiving fire from the hospital. What do the ROE allow you to do?

Vignette #11 (continued):

Answers:

1. Notify higher headquarters immediately of the situation. Do not fire! Hospitals are protected places and thus are not to be attacked except in self-defense. Placing an OP and weapons (such as the RPGs) other than for strictly defensive purposes in the hospital — a protected place — is forbidden under the LOAC and will cause the hospital to lose its protected status after it is warned and given a reasonable time to comply. When higher headquarters notifies your company commander that the hospital has been warned and that reasonable time for compliance has passed with the OP still in position or offensive weapons on the premises, you may be authorized to attack the enemy soldiers. If so, you must limit destruction to what your mission requires.

Having AK-47s at the hospital is not necessarily a LOAC violation. Medical personnel are permitted to defend themselves with small arms, to include an AK-47, without losing their protected status.

2. Can you return fire? Yes. You may use self-defense measures in response to the hostile attack on you. You may target those individuals attacking you; you may not indiscriminately target the hospital as a whole unless absolutely necessary. You must minimize collateral damage. You must stop firing when the threat is eliminated.

Should you return fire? This depends. You must weigh the necessity of self-defense with the probable outcome of firing at a hospital. The enemy would use even your lawful actions in firing at or damaging a hospital against the U.S. and the unit's mission. This could possibly erode civilian support for the coalition, increase insurgent numbers, and make the mission more difficult. If you can disengage safely without firing, you should do so.

Vignette #12

Situation:

Propaganda emanating from a nearby city has claimed that ISAF forces killed several civilians at what was reported to be a wedding party last month. As your convoy moves along the outskirts of this city, a crowd of about 25 people in civilian clothes approaches, blocking the road. They come within 100 meters, shouting insults in Pashtu and broken English. Some of the people have sticks, hammers, and clubs, but you see no firearms.

Questions:

1. Do the ROE allow you to target this group with deadly force?
2. What do the ROE allow if the civilians move in front of your formation, impeding your movement?
3. If necessary, do the ROE allow you to detain them?

Vignette #12 (continued):

Answers:

1. No. In general, you may only use deadly force in self-defense against individuals or groups who have demonstrated a hostile act or hostile intent. Further, your response to hostile act/hostile intent must be proportional to the threat to yourself and your unit — you may engage decisively but not in excess of what is required to alleviate the threat. Here, the crowd has not committed a hostile act; it appears to have displayed hostile intent. Though the crowd is unfriendly and has the means to inflict harm from very close range, it is not yet necessary to harm the civilians, given the protection afforded by your weapons and the standoff range you enjoy.

In general, a hostile act is the use of force on U.S. forces; hostile intent is the threat of imminent use of force.

2. You may use the minimal force necessary to accomplish the mission. If you can redirect the convoy to accomplish the mission in a timely manner, that would be the minimum force necessary. That may be impracticable, in which case a gradual escalation of force is authorized, deadly force being authorized only when consistent with answer #1.

Here, the EOF continuum embedded in the ROE does two things for us. First, it enables us to determine the minimum amount of force needed to accomplish the mission. Second, it enables us to determine whether the subjects are showing hostile act/hostile intent.

3. Yes. The ROE allow you to detain an individual if necessary for (a) force protection, (b) self-defense, or (c) mission accomplishment. Here, force protection (for one) would provide sufficient grounds to detain individuals in the crowd.

From a practical standpoint, detaining a large part of the crowd would consume considerable time and resources and would likely impede your mission. For each person detained, this would include the need to document in detail what that person was doing to warrant detention, inventory his effects, document his physical condition, and assume responsibility for his physical well-being.

Vignette #13

Situation:

You are among some local refugees at their refugee camp. You observe several of the refugees stealing cases of meals, ready-to-eat rations from a storage area, and they are running away.

Questions:

1. What do you do?
2. Do you have authority to use force against the thieves? Do you have authority to use deadly force against the thieves?

Vignette #13 (continued):

Answers:

1. Order them to stop. Attempt to stop them and have them return the food. Report to Afghan law enforcement (if available), request support, and continue to observe. Pursue the individuals by foot or vehicle.
2. You may use the minimum force necessary to accomplish the mission. The use of deadly force would NOT be authorized in this scenario.

Deadly force can be authorized for defense of certain designated property (designated by the secretary of defense), but property designated as such is unlikely to be in your area of operations and definitely would not include food.

Generally, deadly force is authorized only in self-defense and then in response to demonstrated hostile acts or hostile intent. Here, no hostile acts or hostile intent have been demonstrated.

In general, a hostile act is the use of force on U.S. forces; hostile intent is the threat of imminent use of force.

Vignette #14

Situation:

You are providing security for a food distribution site and are approached by a local woman. She states that armed bandits are stealing food from the civilians as soon as they receive it. She points out some local men as the armed bandits. Each is carrying a rifle.

Questions:

1. What do you do?
2. Do you have authority to use force against the men? Do you have authority to use deadly force against the men?

Vignette #14 (continued):

Answers:

1. If you are partnered with Afghan authorities (such as the Afghan National Army), allow them to handle this situation and provide them any support needed. This is a situation for which they should be better suited — looking into whether certain local personnel are involved in local crime and how to prosecute them.

If Afghan authorities are unavailable to resolve the situation, you should work to resolve it. You may detain the persons she identifies; if so, perform the 5 Ss and T procedures (see below), and report it to headquarters. Otherwise, you should attempt to safely engage the men in conversation to see what they are doing.

The ROE allow you to detain an individual if necessary for (a) force protection, (b) self-defense, or (c) mission accomplishment. Here, mission accomplishment (providing security for food distribution) would provide sufficient grounds to temporarily detain the men.

The 5 Ss and T procedures are:

- Search (disarm).
 - Segregate (by military rank, civilians from military, military from militia).
 - Silence.
 - Speed (turn over to proper Afghan authorities or to a detention facility per headquarters instruction).
 - Safeguard (protect from further harm).
 - Tag (document the detention/detainee).
2. You may use the minimum force necessary to accomplish the mission. The use of deadly force would NOT be authorized in this scenario without a response from the men showing hostile act or hostile intent.

Generally, deadly force is authorized only in self-defense and then in response to demonstrated hostile acts or hostile intent. Possession of rifles, legal in Afghanistan, in itself is not hostile intent.

An increased response (EOF) may be used to meet harassment incidents or threats to property and mission accomplishment.

Vignette #15

Situation:

Yesterday, a 6-year-old girl approached U.S. Soldiers with a small package in her outstretched arms. As the Soldiers unwittingly accepted the package from her, the grenade it contained exploded, killing two Soldiers and the child. You are in a parked HMMWV when you see a small boy walking slowly toward the vehicle. It appears that he is carrying a small box. He is approximately 100 meters away at this time.

Questions:

1. What do you do?
2. He continues to move toward you at a fast pace, and it appears that he is going to toss the box in your direction. What do you do now?

Vignette #15 (continued):

Answers:

1. Under the ROE, you must not harm civilians unless necessary to defend yourself or others or to protect designated property. If time permits and the boy is far enough away, use measures short of deadly force to defend yourself and determine the boy's true intentions: shout at him to stay away, display your weapon, etc. If the situation permits, keep your distance by moving the HMMWV while you continue to warn the boy through an interpreter or other means.

Here, the EOF continuum embedded in the ROE does two things for us. First, it enables us to determine the minimum amount of force needed to accomplish the mission. Second, it enables us to determine whether the subject is showing hostile act/hostile intent.

2. You are authorized to target him and use deadly force. In general, you may only use deadly force in self-defense against individuals or groups who have demonstrated a hostile act or hostile intent. Further, your response to hostile act/hostile intent must be proportional to the threat to yourself and your unit — you may engage decisively but not in excess of what is required to alleviate the threat.

Here, the boy has demonstrated hostile intent. Hostile intent is the threat of imminent use of force. He is running towards a U.S. military vehicle with what may be a weapon. It appears that he is going to toss the box in your direction. Based on the events of yesterday and the failed attempts to warn him, it is reasonable under the circumstances to assume that he has the intent of imminently using force.

The law holds Soldiers responsible for their actions based upon what they knew at the time, not upon the actual situation. The boy may not have a grenade in the box, but you do not know that (and it is reasonable you do not know that), so you may target him considering the circumstances of the prior day.

Vignette #16

Situation:

You are on guard at a checkpoint. There is a populated village approximately 300 meters away. Two shots are fired from the village and you hear the rounds whiz by. You think you saw a muzzle flash from one of the huts.

Question:

What do you do?

Vignette #16 (continued):

Answer:

Take cover, continue to observe, and report.

In general, you may use deadly force in self-defense against individuals or groups who have demonstrated a hostile act or hostile intent. However, you must use proportionality in applying self-defense. This means that though you should respond decisively to hostile act/hostile intent and the use of force may exceed the means and intensity of the hostile act/hostile intent, the nature, duration, and scope of force used should not exceed what is required. Your fire should be aimed fire at the source of the fire you are receiving. You must have a reasonable certainty that your target is the source of the hostile act/hostile intent before targeting in self-defense.

Here, it does not appear you have a reasonable certainty of the source of the fire you are receiving. Further observation may provide this degree of certainty.

Further, to minimize collateral damage, a careful assessment should be made of the risk to innocent bystanders before making a decision on returning fire.

If returning fire, use the weapon that provides decisive response and is least likely to cause collateral damage; for example, single, aimed rifle shots instead of automatic fire or grenade launchers. Though deadly force may be used, use of deadly force that significantly increases the risk of death or serious bodily harm to innocent persons should be taken only in extreme necessity or with approval from a higher commander.

Vignette #17

Situation:

Your unit is working with the British army in your area of operations. You have positively identified a sniper, who is atop a civilian housing building in a small village. The sniper is firing at a British patrol, and one British soldier is down. You are in rifle range.

Questions:

1. Can you fire at the sniper? Why or why not?
2. You have the authority to call for artillery fire if the situation warrants. Should you call for artillery?

Vignette #17 (continued):

Answers:

1. You may fire on the sniper. He has committed a hostile act against a member of the coalition force. You may use deadly force as necessary to protect coalition service members. The analysis is the same as if the British soldiers were American Soldiers.

In general, you may use deadly force in self-defense against individuals or groups who have demonstrated a hostile act or hostile intent. However, you must use proportionality in applying self-defense. This means that although you should respond decisively to hostile act/hostile intent and the use of force may exceed the means and intensity of the hostile act/hostile intent, the nature, duration, and scope of force used should not exceed what is required. Your fire should be aimed fire at the source of the fire you are receiving. You must have a reasonable certainty that your target is the source of the hostile act/hostile intent before targeting in self-defense.

2. Call for artillery? No. While the situation may develop to make use of artillery acceptable, for now use aimed direct fire to minimize collateral damage and reduce the likelihood of injury to others. Artillery in this situation does not appear to meet the law of war concept of proportionality and may also raise concerns with the *Commander ISAF (COMISAF) Tactical Directive*.

Proportionality exists when loss of civilian life and damage to civilian property (collateral damage) is not excessive in relation to the concrete and direct military advantage gained by an attack. Use aimed direct fire to minimize collateral damage.

Vignette #18

Situation:

You are in a four-vehicle convoy driving on an MSR in a broad, flat uninhabited plain. You see three civilian pickup trucks approaching with machine guns mounted in the bed of each pickup. The bed of each appears empty of personnel, with the guns pointed down into the pickup bed.

Questions:

1. What do you do?
2. Same situation, except you see locals in the beds of the trucks, the guns pointing down. What do you do?
3. Same situation, except the vehicles are coming on line, locals are loading ammo in the machine guns, with the barrels pointing in your general direction. What do you do?
4. You are at the edge of effective fire range. You have the authority to call for artillery fire if the situation warrants. Can you call for artillery?

Vignette #18 (continued):

Answers:

1. Watch them and report. You cannot engage them because there is no imminent threat of hostile intent or act by the mere presence of unmanned guns, even if they are not legal except for Afghan military or law enforcement personnel.
2. Halt and prepare to defend yourself; report in as you are able. Use EOF procedures if they continue to approach while manning the machine guns. EOF procedures should develop the situation to the point you can tell whether they have hostile intent.
3. Engage immediately and report. Assuming you are in range or are approaching the range of their weapons and assuming they see you (and these actions are a good indication they do see you), they are exhibiting hostile intent. You may use deadly force as necessary in self-defense against hostile intent.
4. Could you call for artillery? Yes. Proportionality is only a consideration when collateral damage is an issue. Here, the only personnel or property in the area are valid military targets, and so collateral damage is not an issue.

Vignette #19

Situations:

Your platoon's latest mission is to provide security at a refugee camp. In briefing the platoon for this mission, your commander states that (1) self-defense rules for this mission extend to the defense of U.S. forces, coalition forces, U.S. civilians, Afghan National Security Forces (ANSF), Red Cross/Red Crescent personnel, and U.N. personnel; (2) you can defend any civilians in imminent danger of death or serious bodily injury. You encounter the following situations.

1. A local national with an AK-47 hanging on his back begins shoving a Red Cross worker outside a food distribution tent as words are exchanged between the two. What should you do?
2. A local national with an AK-47 hanging on his back begins shoving a civilian just outside the refugee camp fence. You recognize the civilian as a German volunteer who works with Doctors Without Borders, one of the relief organizations working on the refugee camp. What should you do?
3. A local national chases down a female local national outside the refugee camp fence. He grabs her by her arm, pulls out a knife, and slashes at her throat. She slips his grasp, eluding the knife, but she falls to the ground. He continues his attack on her. What should you do?

Vignette #19 (continued):

Answers:

1. Use the minimum force necessary to protect the Red Cross worker. Your mission ROE authorize you to defend Red Cross personnel as you would a fellow Soldier in the same situation. You should use EOF measures to deter the attack, to use the minimum force necessary, and to determine the level of threat the local national poses. At this point, deadly force is not authorized because the Red Cross worker is not threatened with loss of life or serious bodily injury.

In general, you may use deadly force in self-defense against individuals or groups who have demonstrated a hostile act or hostile intent. However, you must use proportionality in applying self-defense. This means that although you should respond decisively to hostile act/hostile intent and the use of force may exceed the means and intensity of the hostile act/hostile intent, the nature, duration, and scope of force used should not exceed what is required. If deadly force is appropriate, your fire should be aimed fire at the hostile source.

2. You should use the minimum force necessary to de-escalate the situation for mission accomplishment — providing security for the refugee camp. Though outside the wire, this incident threatens the security of the camp, and so you have the authority to use the minimum force necessary to stop the physical altercation.

Recognize that you are not acting under your self-defense authority; your mission ROE do not give you the authority to use force in this situation in self-defense. If the situation escalates to where the German worker is in danger of death or serious bodily injury, you would be authorized to use the minimum force necessary in self-defense to defend the worker.

3. You should use the minimum force necessary to defend the female. If you have time to employ EOF measures before using deadly force, you should do so. A shout and a show of force could deter the man from continuing the attack. However, you may reasonably believe, under the circumstances, EOF is impractical, in which case you could use deadly force (as the minimum force necessary) to neutralize the threat to the woman.

Vignette #20

Situation:

Your platoon is moving to secure a bridge across a river in the center of a town. You come under fire from several insurgents who are not wearing uniforms and who are positioned with small arms in a building to your front. After a brief exchange of fire, all of the insurgents surrender. When they exit the building, one of them speaks for the others and demands that they be given status as enemy prisoners of war.

Question:

What do you do?

Vignette #20 (continued):

Answers:

Perform the 5 Ss and T procedures — **S**earch the captured individuals, and seize valuable information and weapons; **S**ilence them; **S**egregate them into groups in such a way that they are easier to control; **S**afeguard them; **S**peed them to the rear; and **T**ag them (document the incident and their physical condition thoroughly). In other words, treat them as any other detainee, whether or not they are granted enemy prisoner-of-war status. The determination of whether they actually are enemy prisoners of war as a matter of status under the law of land warfare will be made at higher headquarters. In all cases, you will treat detainees humanely.

Vignette #21

Situation:

You and your squad are attempting to conceal your approach on foot toward a building you have been ordered to clear. As you stoop behind a wall to avoid being seen by the suspected enemy defending the building, a young boy approaching from the other direction sees one of your squad mates and begins shouting and pointing toward his location. The suspected enemy defending the building begins to fire at your squad mate. The boy then sees you and is about to begin shouting and pointing in your direction.

Question:

What do the ROE allow you to do?

Vignette #21 (continued):

Answer:

Under the ROE, you must not harm civilians unless necessary to defend yourself or others or to protect designated property. Civilians are protected from intentional targeting under the LOAC as long as they do not take an active part in the hostilities. Here, the boy is directing enemy fire on friendly forces. He has thus taken an active part in hostilities and has facilitated a hostile act against U.S. forces. He is also demonstrating hostile intent by attempting to pinpoint your location for the enemy. As a result, he has made himself a legitimate target and you may target him.

In general, you may use deadly force in self-defense against individuals or groups who have demonstrated a hostile act or hostile intent against you or ISAF forces. However, you must use proportionality in applying self-defense. This means that although you should respond decisively to hostile act/hostile intent and the use of force may exceed the means and intensity of the hostile act/hostile intent, the nature, duration, and scope of force used should not exceed what is required. If deadly force is appropriate, your fire should be aimed fire at the hostile source.

His taking an active part in hostilities by participating in a hostile act/hostile intent against U.S. forces has stripped him of his protection as a civilian/noncombatant. You may target him with deadly force.

Depending on the specific circumstances, you may still be able to effectively eliminate the enemy threat and detain the boy without targeting him and using deadly force.

Vignette #22

Situation:

You and your squad are clearing a building that has been used to target your unit with effective fire. As you enter a room on the second floor you immediately notice four children and an adult woman. You then see a man behind them with an AK-47 in his hands and an RPG on the floor. After looking startled at the entry of you and your squad mate, he raises his AK-47 and is about to fire at your squad mate. You have an unobstructed sight picture of the man.

Question:

What do the ROE allow you to do?

Vignette #22 (continued):

Answer:

This situation raises the issue of hostile intent and the possible problem of the man using civilians as human shields, a practice that clearly violates the law of war. Under the ROE, you must not harm civilians unless necessary to defend yourself or others or to protect designated property. Civilians are protected from intentional targeting under the LOAC as long as they do not take an active part in the hostilities, such as demonstrating hostile act/hostile intent.

This requires that you make every reasonable effort to avoid civilian casualties and, if time and circumstances permit, to attempt less-than-lethal means and graduated force (warning, display of weapon, etc.) before resorting to deadly force. In the close-quarters firefight depicted here, however, you may not have the luxury of using graduated force.

The man in the room has demonstrated hostile intent by raising his AK-47 and targeting your squad mate. There is also an RPG on the floor. The ROE allow you to target the man to defend yourself or others. You need not endanger yourself or your squad with hesitation. You may target the man with deadly force and should attempt to do so without harming the civilians in the room by using aimed fire at the hostile source.

If the civilians being used as human shields attempt to interfere with your mission of clearing the building, you have the authority to detain them. The ROE allow you to detain an individual if necessary for (a) force protection, (b) self-defense, or (c) mission accomplishment. Here, mission accomplishment would provide sufficient grounds to detain.

Vignette #23

Situation:

Your platoon's current position is on the outskirts of a large town. The town is known to be unfriendly toward ISAF forces and may house many suspected members of the Taliban as well as suspects from a previous attack on ISAF forces. A squad leader radios you to report that he has identified a power generation facility in the town. He proposes that mortar fire be used to destroy the facility in the city, which, because it is nighttime, appears empty of workers. He says that the section of town powered by the facility is probably hiding enemy forces and "it'll be harder to hide'em if we get rid of their power."

Question:

Can you target the power facility under the ROE?

Vignette #23 (continued):

Answer:

No. Under the ROE, the platoon should not target the power generation facility unless necessary for self-defense or if ordered by your commander for some lawful purpose. A higher commander has reserved the authority to target important infrastructure, such as public works, commercial communication facilities, etc. Report to higher headquarters that your platoon has confirmed the location of the power facility and await further guidance. There may be a future operation in coordination with the Afghanistan National Army or Afghanistan National Police in this particular town.

Targeting in Afghanistan at the troop level will often be based on a justification of self-defense or otherwise briefed to you by the commander. Here, there has not been a recent hostile act or hostile intent emerging from the power facility. You also do not have positive identification of any lawful targets in the power facility. The power facility is not a lawful target under the LOAC, as it is not a valid military objective.

A lawful target under the LOAC must first satisfy the principle of military necessity. By military necessity, the target (here the power facility) must be a valid military objective and it must not otherwise be unlawful to target it. Under the current facts, the power facility does not qualify as a military objective either by its nature, location, purpose, or use. Military expediency does not justify a violation of the LOAC.

Targeting the power facility for the purpose of “smoking out” the enemy is not only unlawful under these facts but also counterproductive. You may injure innocent civilians, create new enemies, or further enrage those hostile to ISAF forces. This is a critical mistake in a COIN conflict like Afghanistan.

Vignette #24

Situation:

Your platoon has moved to the outskirts of another town in a location that allows easy observation. A squad leader radios that he observes four men in an open street that are known to be involved in attacks on ISAF forces. He wants to target them with sniper fire, indirect fire, or call up to higher headquarters to drop “some 500-pound bombs” on the narrow street. Before a decision is made, he radios back that the four men have entered a fertilizer plant that is suspected of facilitating the making of IEDs. It is also a main source of economic stability for the town. The platoon has been trying to get these four men for weeks, although they have not had constant observation. The squad leader strongly recommends targeting the fertilizer plant with indirect fire immediately to prevent future attacks.

Question:

Can you target the fertilizer plant under the ROE?

Vignette #24 (continued):

Answer:

No. Under the ROE, you should not target the fertilizer plant unless necessary for self-defense or if ordered by your commander for some lawful purpose. A higher level commander has reserved the authority to target important infrastructure. Report to higher headquarters that your unit has confirmed the location of the four men and await further guidance. There may be a future operation in coordination with the Afghanistan National Army or Afghanistan National Police. If the situation and facts develop further, higher headquarters may target the four men inside the plant or the plant itself (although see below for COIN and environmental considerations).

There has not been a recent hostile act or hostile intent to justify self-defense. More information is needed on the suspected link to IEDs. The men may be on a targeting list that allows us to bypass a self-defense justification, but higher headquarters must be notified and they will provide further guidance.

Targeting the individuals inside the plant or simply targeting the plant with indirect fire from the platoon is not permitted under these circumstances and could be counterproductive. This plant is known to be an economic resource to the people of the town. You may injure innocent civilians, create new enemies, or further enrage those hostile to ISAF forces. This is a critical mistake in a COIN conflict like Afghanistan.

There are also serious environmental concerns with targeting a fertilizer plant that could further endanger the local populace and ISAF forces.

Vignette #25

Situation:

You and your squad are clearing a building that has been reported to contain preschool-age children and their teachers as well as several enemy personnel who have been ranging your company with effective machine gun fire. As you enter a room on the second floor, you immediately notice that behind four children and an adult woman is an enemy with an AK-47. After looking startled at the entry of you and your squad mate, he raises his rifle and is about to fire at your squad mate.

Question:

What do you do?

Vignette #25 (continued):

Answer:

Immediately shoot center of mass at the enemy until he is no longer a threat. This situation raises the problem of the enemy using civilians as human shields, a practice that clearly violates the law of war. The ROE require you to do no harm to civilians unless necessary to defend yourself or others. This requires that you make every reasonable effort to avoid civilian casualties and if time and circumstances permit attempt less-than-lethal means and EOF (warning, display of weapon, etc.) before resorting to deadly force. In the close-quarters firefight depicted here, however, you do not have the luxury of using graduated force. Do not endanger yourself or your squad with hesitation. Shoot immediately. If the civilians being used as human shields continue to interfere with your mission of clearing the building, you have the authority to detain them temporarily.

If riot control agents are authorized under the ROE, you could use them under these conditions considering the facts. Using civilians as a human shield is one of the few situations in which, according to the U.S. position on the LOAC, riot control agents are permissible.

What follow-up measures are necessary in this situation? At the earliest opportunity, report this as an enemy law-of-war violation to higher headquarters. A law-of-war violation by the enemy may have significant media and information operations impact. Higher headquarters will seek to document such a violation. You or another response team may be assembled to secure the scene and gather preliminary facts, with a formal investigation to follow as appropriate. Information operations Soldiers will seek to disseminate examples of enemy law-of-war violations as well as examples of U.S. adherence to the law of war and the ROE, restraint, and respect for civilian lives. Media representatives, combat camera crews, and other enablers embedded in our combat forces will provide channels and means with which to achieve this dissemination.

Vignette #26

Situation:

Your mission-specific ROE include the following: “We are conducting a cordon and search operation in village X with elements of the ANSF. The right of self-defense extends to the defense of ISAF units and ANSF. We will establish a cordon; the ANSF will conduct the search. Under no circumstances will ISAF forces enter a house as part of the operation.”

Your platoon establishes the cordon, and you and your buddy find yourself in a reasonably concealed position on the outskirts of the village, 20 meters away from a house. The house appears lived in, but you’ve seen no sign of activity there for the hour you’ve been in position.

Suddenly, you hear shots fired from the direction of the house and see that rounds are coming from a rifle barrel sticking out of a window of the house. The rounds are being fired at ANSF forces outside another house about 150 meters away.

Question:

Under the ROE, can you enter the house where the rifleman is located?

Vignette #26 (continued):

Answer:

Yes, you may enter the house in self-defense.

You may act in self-defense of yourself, U.S. forces, and the ANSF. The rifleman committed a hostile act against the ANSF. Therefore, you can use force in self-defense.

The ROE concerning searches do not apply here — this is not a search. If you choose to enter the house in self-defense, you are not entering the house as part of the cordon and search, and so you are not violating the ROE concerning searching houses in the village.

Your ROE would probably have made this clear (remember, this scenario only gave you partial mission-specific ROE), saying something to the effect of “the restrictions pertaining to searches do not apply when you see a hostile act or demonstration of hostile intent coming from an Afghan structure.” Even without such a statement, the U.S. Standing ROE concerning self-defense continue to apply under the ISAF ROE and will continue to apply unless clearly and specifically superseded by other ROE.

A second question to ask (after “Can you?”) is “Should you?” While it is difficult to lay out all of the circumstances in a vignette, it appears this may be the right thing to do here. While we must be culturally sensitive and avoid offending the populace by intruding into their homes, here self-defense would appear to be an overriding consideration, and this may be the most effective way of dealing with the threat. Once the threat is eliminated and you are able safely to do so, allow the ANSF to take over any actions regarding the house and resume your cordon mission.

Vignette #27

Situation:

Your squad is on patrol with a scout weapons team (SWT), which includes two OH-58D aircraft armed with 50-caliber machine guns and rockets. Your patrol comes under fire from attackers using RPGs and small arms. Before you can call the SWT over to support, the enemy drop their weapons and begin to flee.

Question:

Can the ground commander of the platoon or squad still direct the SWT to engage the fleeing enemy they still have in sight?

Vignette #27 (continued):

Answer:

Yes. If you are reasonably certain that these personnel have committed a hostile act (or demonstrated hostile intent), you may use deadly force as necessary to eliminate the threat. These personnel have become combatants by engaging in a hostile act and have not taken themselves out of combat — you would be reasonable to think they may be repositioning to a location with other weapons. They remain combatants for now until they surrender or are taken out of combat due to injuries.

That being said, if lesser means can be deployed to defend yourself and complete the mission of taking the attackers out of the fight, such as detaining them, then the lesser means should be used. Communicate well with the SWT so they know your intent and the expected threat posed by the attackers.

If you are reasonably certain they are fleeing combat and no longer present an imminent threat, neither you nor the SWT can shoot. When force is necessary in self-defense, U.S. forces will apply the minimum level of force required to eliminate the threat. You now have a situation in which detention is appropriate; now the OH-58s can use the minimum force required to accomplish the detention mission.

Vignette #28

Situation:

You are a squad leader who has been working in your area of operations near the border of Pakistan for the past eight months and have seen many people dressed in quite a variety of styles, usually civilian, and including Pakistani military. Today, while your squad is on patrol close to the border, you see something new. Two squad-size elements of men armed with small arms appear to have infiltrated the border and are about 50 meters apart and 200 meters from you. All are dressed in an unfamiliar uniform that strikes you as neither Afghan nor Pakistani.

Questions:

1. What do you do?

You receive instructions to assume a defensive posture, remain unseen if possible, and continue to monitor the situation. As you continue to monitor the movement of these soldiers, suddenly someone from the squad to your right begins to fire in your direction, and that squad comes on line to fire toward you. The other squad stops at the sound of the gunfire but seems disoriented at the moment.

2. What do you do now?
3. Can you fire at both squads?

Vignette #28 (continued):

Answers:

1. Report in immediately. A confrontation with what appears to be a military from some unknown nation is likely to be detrimental to the mission. Perhaps your higher headquarters can provide you some clarity or guidance. You may not use force against them under the ROE because they have not committed a hostile act or demonstrated hostile intent.

If you are unable to receive guidance from your higher, you will need to rely on your patrol's mission to know how best to react. Among those actions that could be best depending on your mission are: (a) address them to determine their intent, (b) assume a defensive posture and monitor the situation, and (c) attempt to exfiltrate from your position to avoid contact.

2. Do what you need to for self-defense. Assuming the unknown soldiers are firing at your squad, they still may not know against whom they are firing because you have not announced yourself as U.S. or ISAF forces. You may respond with force in self-defense, to include deadly force if necessary, because they have engaged in a hostile act against your squad. However, if possible without further endangering your squad, attempt to de-escalate the situation.
3. See #2 above. Based on the information given, you can assume that both squads are acting in concert and are part of a larger unit. With that assumption, the ROE would allow you to engage both squads in self-defense; you may engage those threatening you decisively, using the minimum force necessary to eliminate the threat.

The next question to ask (after "Can you?") is "Should you?" Based on the information given, the squad to your left might not actually threaten you, even if the squad on your right does. A better outcome may be possible if you refrain for now from engaging the squad to your left.

Vignette #29

Situation:

Your squad is on patrol close to the border of Pakistan. You see two squad-size elements of men armed with weapons (small arms) that appear to have infiltrated the border and are about 50 meters apart and 200 meters from you. All are dressed in various forms of civilian attire common to the region.

As you attempt to remain unseen while continuing to monitor the movement of these squads, suddenly someone from the squad to your right begins to fire in your direction, and that squad comes on line to fire toward you. The other squad stops at the sound of the gunfire but seems disoriented at the moment.

Questions:

1. What do you do?
2. Can you fire at both squads?

Vignette #29 (continued):

Answers:

1. Do what you need to for self-defense against the group to your right. Assuming the group to the right is firing at your squad, they still may not know against whom they are firing because you have not announced yourself as U.S. or ISAF forces. Even so, you may respond with force in self-defense, to include deadly force if necessary, against the group to the right because they have engaged in a hostile act against your squad and are showing further hostile intent. However, if possible without further endangering your squad, attempt to de-escalate the situation.
2. No. Unlike vignette #28, in which both squads were similarly uniformed, you cannot impute the acts of one squad to the other. And while both squads may be acting in concert and are part of a larger unit, you do not have enough information to consider the group to the left to have committed a hostile act. Thus, the ROE would not allow you to engage the squad to your left in self-defense.

Of course, additional information may be sufficient to make you reasonably certain the squads are working together. Even so, unless you could be reasonably certain they are organized under common command and control, you cannot impute the acts of one group to the other — they may be sufficiently independent that the group on your left would not engage you.

The presence of the group on your left may inhibit any response you have with calling for indirect fire against the group on your right, because the group on your left represents collateral risk objects until they show hostile intent or commit a hostile act.

Thus far, this scenario only dealt with hostile acts. Clearly, an armed squad-size element infiltrating across the border into your area of responsibility is not a purely innocent activity. What additional facts, if available, would assist you in ascertaining whether the second group of armed individuals is demonstrating hostile intent? Consider intelligence reporting, recent activity in your area and adjacent areas and the observable actions of the individuals.

Vignette #30

Situation:

Your squad is on patrol moving through a small village area. You observe several armed individuals in the village. As you patrol through the village and are nearing the far side, a shot rings out. Your squad takes cover and continues to receive effective small-arms fire from one of the buildings. As the shots rang out, several of the individuals carrying weapons ran into other buildings to seek cover.

You identify the window from which the insurgent is firing and prepare to return fire. As you are about to squeeze the trigger, you notice your battle buddy is firing at one of the buildings where the people on the street sought cover.

Question:

What do you do?

Vignette #30 (continued):

Answers:

First, recognize that this is a difficult situation. In the fog of war, your battle buddy may have seen a hostile act that you did not see while you were pinpointing the source of the incoming small-arms fire. For purposes of this vignette, however, we will assume you are reasonably certain of the facts as given, and there was no hostile act or show of hostile intent to be seen from the group to the left.

1. Stop your battle buddy and redirect him towards the hostile fire coming from the building you are preparing to engage.

If the armed individuals who were merely seeking cover begin to fire on you, whether or not in response to your battle buddy's actions, you can respond in self-defense. If you stop your battle buddy, that may de-escalate the situation with the group on your left, enough so that deadly force is not necessary against them, and you can focus on the group to your right. If they still threaten you, however, your self-defense rules still apply.

2. After the engagement, report the incident to your chain of command without delay.

This reporting is required by law; failure to report could be a LOAC violation. Reporting is also the right thing to do, though possibly one of the most difficult duties asked of you. However, any ensuing investigation will in all likelihood turn out better for your buddy, your unit, and the U.S. Army if it is initiated immediately. Further, assuming your battle buddy is as well-trained and disciplined as you, he will in all likelihood come out fine as either (1) having committed an honest and reasonable mistake in perception or judgment (for example, he mistakenly thought he saw hostile intent) or (2) having been actually justified in his action so that there was no actual ROE or LOAC violation (for example, he actually did see hostile intent).

Vignette #31

Situation:

Your platoon is conducting a mission requiring movement through a particularly vulnerable canyon. You are on the route recon/clearance team. As you are clearing the canyon, you come across a “team” of local civilians appearing to set themselves up in a position that would threaten your platoon’s movement. Each is armed with an AK-47; no other weapons are apparent.

You recall from your mission-specific ROE briefing first, that you may detain individuals only for (a) force protection, (b) self-defense, or (c) the accomplishment of the mission; and second, you may not detain individuals solely for questioning.

Question:

Can you detain the civilians to question them about their activities in the area?

Vignette #31 (continued):

Answer:

Yes. You are detaining these individuals as a force protection measure, for one. (Arguably, you could be detaining them for self-defense or mission accomplishment reasons, but this case fits force protection best.) Your questions would be to ascertain how much of a threat these individuals are to your platoon's movement.

The ROE prohibit you from detaining anyone solely to question them, but that is not the situation here. That prohibition generally refers to questions concerning something that has happened in the past — e.g., rounding up all of the villagers to ask them what they know about the IED that exploded just outside their village last week.

Vignette #32

Situation:

Your platoon is conducting a mission requiring movement through a particularly vulnerable canyon. You are on the route recon/clearance team. As you are clearing the canyon, you come across a “team” of local civilians appearing to set themselves up in a position that would threaten your platoon’s movement. Each is armed with an AK-47; no other weapons are apparent.

You recall from your mission-specific ROE briefing first, that you may detain individuals only for (a) force protection, (b) self-defense, or (c) the accomplishment of the mission; and second, you may not detain individuals solely for questioning.

(Up to this point, this is the same as vignette #31.)

You question the individuals, and they deny any malicious intent. You decide it is impractical to continue detention of these persons.

Question:

Can you seize their weapons as a force protection measure? If so, what are some of the considerations?

Vignette #32 (continued):

Answer:

Yes. You may seize property for the same reasons you may detain personnel: (a) force protection, (b) self-defense, or (c) accomplishment of the mission. In this case, if you believe these individuals would constitute a threat to your patrol if armed, you may seize their weapons.

Once the reason for seizure is no longer applicable, you would need to release the property to the owners. In this case, you would release the weapons to their owners after the patrol completes its mission.

You must provide a receipt for any private property seized and instruct the owner how he can file a claim for (or recover) his property.

Finally, after answering the question, “Can you?” you should answer the question, “Should you?” This vignette will be unable to answer that question. However, some questions you might consider: Are you endangering these individuals by stripping them of their weapons and leaving them alone in this location? In a region where owning an AK-47 is often considered culturally a passage to manhood, would this be considered such an affront to these individuals that this incident would push them into the insurgency? Are there other ways to accomplish the mission with minimal risk?

Vignette #33

Situation:

You are on a dismounted patrol hours from your combat outpost (COP). It is a hot, sunny day in the mountains. While on patrol, you are involved in a firefight with enemy combatants — local nationals in civilian attire. Your battle buddy is severely wounded in the fight and may not make it. You are able to wrestle one fighter down on the rocks after his weapon apparently jams — he suffers minor injuries and a broken arm in the process. He apparently lost his head covering during the fight and has no pack. The other fighters escape.

Questions:

1. Which of the following **must** you do?
2. Which of the following **can** you do?
 - a. Treat him with dignity and respect.
 - b. Threaten him so he will tell where his base camp is.
 - c. Photograph his injuries.
 - d. Search him for weapons and contraband.
 - e. Ask him where his base camp is.
 - f. Photograph him with one of your fellow Soldiers.
 - g. Provide him water.

Vignette #33 (continued):

Answers:

- a. Treat him with dignity and respect. You **must** do this. Humane treatment is the bare minimum (however, you do not have to trust him). Keep up your guard.
- b. You cannot threaten him so he will tell where his base camp is. You may not use any special tactics (for example, intimidation or harsh treatment) when you ask him questions.
- c. Photograph his injuries. You **should** do this as part of the detainee intake process. Remember to do the 5 Ss and T (as applicable) — **S**earch captured individuals, and seize valuable information and weapons; **S**ilence them; **S**egregate them into groups in such a way that they are easier to control; **S**afeguard them; **S**peed them to the rear; and **T**ag them (document the incident and their physical condition thoroughly). This is part of the “tag.”
- d. Search him for weapons and contraband. You **must** do this as a force protection measure; it is part of the 5 Ss and T (see [c] above).
- e. Ask him where his base camp is. You **may** do this. You are allowed to engage in tactical questioning. You may not use any special interrogation techniques. Ask straightforward questions.
- f. You may not photograph him with one of your fellow Soldiers. Photographing enemy combatants for “trophy shots” violates General Order #1 and is counterproductive to the mission. Photographing to document his capture and condition for intelligence purposes and for law enforcement purposes is acceptable and usually recommended.
- g. Provide him water. You **must** do this if he needs water. You have assumed responsibility for his well-being; you must safeguard him and take care of him as well as your situation allows.

Vignette #34

Situations:

You are the senior-ranking Soldier at a checkpoint through which no civilians are to pass. You have a four-man team with an interpreter.

You have signs in the local language telling civilians to keep away. You have a speaker system you can activate to tell civilians to keep away. You have pen flares set up to use in your EOF procedures.

1. Six people approach. They appear to be a family — father, mother, and four children ranging in ages from about 4 to 10. Their dress seems slightly different than that of most of the local civilians. You go through all of the EOF steps. They seem disoriented by it all and unnerved when you point your weapons at them. Still, they persist in slowly approaching you. Must you proceed to the use of deadly force?
2. Six people approach. They appear to be a family — father, mother, and four children ranging in ages from about 4 to 10. Their dress seems slightly different than that of most of the local civilians. You shout at them. The man and the largest child pull rifles out from their loose garments and aim toward your position. Must you proceed through the additional EOF steps?

Vignette #34 (continued):

Answers:

1. No. You may use your discretion as to whether to proceed to the next step of the EOF. The EOF can be used not only to deter would-be approaching personnel but to determine whether approaching personnel are engaging in hostile acts or a show of hostile intent and to determine the minimum force necessary to resolve a situation. Here, prudent use of your interpreter may resolve the incident without further escalation — a good result.

Continue to be vigilant —

- a. Their posture could change at any time, requiring you to escalate your response.
 - b. They could be distracting you (intentionally or not) from someone else's hostile movement.
2. No. You may immediately use deadly force if you have positive identification of hostile acts or a show of hostile intent and you believe shooting is necessary for self-defense. This may be that situation; they are showing hostile intent. Respond decisively against those who threaten you — apparently the man and the largest child — until the threat (not necessarily the person behind the threat) is eliminated.

Although part of the ROE, EOF can be understood as a guide you generally follow when applicable. You may depart from the EOF steps in two circumstances, as shown in this vignette: You have discretion to not escalate to higher steps, even if the EOF would allow you to, when not escalating may further your mission. You have the discretion to skip steps when time and circumstances do not allow for them.

Vignette #35

Situation:

You are on watch at your COP. You have at your disposal your M4 rifle, M2 .50-caliber heavy machine gun, and Mk19 grenade launcher. You spot an individual setting up a mortar tube near the crest of a hill; he is clearly outside the maximum effective range of your M4 but within range of your M2 or Mk19. Your unit has set up an alternate firing position 200 meters away from your COP that would put you inside minimum effective range of your M4.

Questions:

1. Can you target the individual (disregard weapons' ranges for this question)?

Assume you answered question 1 with, "Yes." The next question you should ask is, "Should I target this individual?"

2. What are some of reasons why you may not want to target him now?

Assume you answer the question, "Should I?" with "Yes, ASAP." No other human activity or structure is in the target's vicinity.

3. How do I target him? (Do you have to use your M4 at the alternate firing position?)

Vignette #35 (continued):

Answers:

1. Yes. Assuming you are reasonably certain he is setting up the mortar tube and reasonably certain the mortar tube threatens an imminent attack on your COP, U.S. personnel, ANSF, or coalition personnel, you may target him for self-defense purposes. You may target him because he is demonstrating hostile intent — showing that an attack is imminent. Even if you knew he didn't have mortar rounds with him, an attack is imminent — it doesn't have to be immediate.
2. Here are three reasons why you may not want to target him now; you may come up with more:
 - a. Severity of possible and likely collateral damage, if any (none is indicated in this vignette).
 - b. Ability to detain and question the individual.
 - c. Intelligence value in keeping him under observation.
3. You can target him with any weapon at your disposal. Collateral damage is not an issue, so the LOAC principle of proportionality does not apply. The principle of unnecessary suffering does not apply to weapon selection — all weapons in the U.S. inventory are deemed acceptable when used in approved fashion. You need not expose yourself or others and (according to your decision that immediate action was best) delay your attack to get into M4 range. The ROE allow you to respond decisively. Use either the Mk19 or M2.

Vignette #36

Situation:

You are a squad leader. Your squad is at the provincial capital as it is going through a period of unrest. You are tasked to secure a bridge over a river on the outskirts of town. The town is on one side of the river; an American provincial reconstruction team is occupying a camp on the other side.

A mob of several hundred people forms in town and approaches the bridge in an angry mood and yelling anti-American statements and threats.

Questions:

1. Hostile act or hostile intent? Can you shoot in self-defense? If yes, should you?

Someone (you can't tell who) in the crowd throws a rock at your squad.

2. Hostile act or hostile intent? Can you shoot in self-defense? If yes, should you?

It seems most people in the crowd are throwing rocks. Up until now, you have not shot at anyone in the mob. Some of your squad members start taking minor injuries.

3. Hostile act or hostile intent? Can you shoot in self-defense? If yes, should you?

Vignette #36 (continued):

Answers:

1. No hostile acts have been taken; no hostile intent is demonstrated. You cannot shoot. Report the incident and continue to monitor. Consider how and whether to start EOF measures.

In general, a hostile act is an attack or other use of force on U.S. forces; hostile intent is the threat of imminent use of force.

2. This is a hostile act. Still, you may not shoot. In general, the ROE allow you to use the minimum force necessary to eliminate the threat. On the other hand, ROE also direct us to limit collateral damage. Further, to shoot would violate the LOAC. The LOAC principle of proportionality would not allow shooting a single rock-thrower mixed in the crowd. The anticipated collateral damage — the likelihood of hitting non-attacking civilians — would be excessive in relation to the concrete and direct military advantage — possibly eliminating the threat of the one person of possible bruising or other relatively minor injuries and extremely unlikely possibility of death or serious injury. Report the incident as you are able and continue to monitor. Consider how and whether to start EOF measures.
3. This is a hostile attack. While the EOF may still be used here, the ROE would seem to allow you to skip to deadly force. Proportionality itself is not so clear cut against returning fire — your threat is greater and the proportion of non-attackers to attackers in the crowd is greatly reduced; those not throwing rocks can be considered assisting those who are. You can shoot. You probably should not shoot. The crowd will likely run out of steam soon if you continue to exercise restraint and don't escalate the situation. If you shoot, the result would likely be seen by the media as a massacre. To shoot these civilians would likely (a) erode support back home and among coalition partners and allies and (b) fuel the insurgency. The best outcome for the insurgency is for us to kill several of these civilians. The insurgents are likely not in the crowd or, at most, are minimally represented. Exercise restraint.

Vignette #37

Situation:

You are the gunner in the lead HMWWV of a convoy on a narrow and rocky mountain road. A large civilian cargo truck (a jingle truck) is moving toward you at a relatively high rate of speed as you have both entered a one-lane section of the road. You see a driver and passenger in the cab. There is no maneuver room either to the right (cliff face) or the left (sheer drop to the river).

Questions:

1. What do you do?
2. Do you have authority to use force against the truck?
3. Do you have authority to use deadly force against the driver/occupants?

Vignette #37 (continued):

Answers:

1. Be aware that the jingle truck may simply be a bad driver with poor situational awareness. He may even be carrying supplies for ISAF forces. If the road conditions permit, make space for the vehicle to pass. Under ISAF driving policy, you are not authorized to use force simply to keep vehicles a certain distance away from your convoy. However, if the actions of the jingle truck driver are endangering your safety, you may respond proportionally to protect yourself and your unit. Employ EOF measures. Go through as many of the steps as time and circumstances permit until the truck is no longer a threat, i.e., it stops. Non-deadly force measures start with ordering them to stop. Attempt to stop them by using visual signals, gestures, and then a show of force (pointing weapons system). Use any nonlethal force measures you have available that may be effective.
2. You may use the minimum force necessary to accomplish the mission.
3. Generally, deadly force is authorized only in self-defense and then in response to demonstrated hostile acts or hostile intent. Further, deadly force should not be used unless you or coalition forces are threatened with death or serious bodily injury.

Vignette #38

Situation:

You are the gunner in your truck and the lowest-ranking member of the patrol. Your mounted patrol takes a break at a location you consider to be relatively safe. You are in the turret on watch during the break. The other vehicle occupants are outside the vehicle. Your vehicle is positioned best to cover a slight draw approaching your position.

A local national male of military age appears in the draw and rapidly approaches your position. You begin using EOF procedures — yelling at him to stop, waving at him to stop, and then pointing your weapon toward him. You are unsure where the rest of your patrol is while you continue to monitor the man, though from your vantage point you know they are not in your field of fire and they are nearby. He continues to approach at a high rate of speed and has closed to within 20 meters. You cannot tell what his intentions are. You shout for your team leader, but he does not hear you. Suddenly the man removes an RPG from under his loose clothing and kneels down into a firing position.

Question:

Do you have the authority to fire at this man?

Vignette #38 (continued):

Answer:

Yes. Your right to individual self-defense is part of the unit's right to self-defense. Unless you are briefed otherwise for a specific mission, you do not have to ask permission before defending yourself. In this scenario, you may fire in self-defense immediately.

Under the Standing ROE, individual self-defense is a subset of unit self-defense. However, unit self-defense takes priority over individual self-defense. In very rare instances, a commander may limit individual self-defense if it directly impacts unit self-defense. These cases are very rare and require notification through the chain of command all the way up to the secretary of defense.

Can you think of any historical examples of limiting individual self-defense? How about the famous quote from the revolutionary war, "Don't fire until you see the whites of their eyes." This was a limitation of individual self-defense, especially for the front ranks. But, unit self-defense was furthered by better massing of fires and conservation of ammunition.

Vignette #39

Situation:

You are overwatching a particularly dangerous stretch of the Ring Road — an area that is known for IEDs and complex ambushes. You observe a car with four passengers pull over to the side of the road. Two adult males exit the vehicle and begin digging a hole on the side of the road. One of the men goes to the trunk of the car and removes what is clearly an IED. You also observe that the two passengers who did not exit the vehicle are a woman in traditional dress and a 6-year-old girl.

Questions:

1. Can you engage the two men with small-arms fire? Can you engage with your vehicle-mounted MK 19?
2. Can you call for close air support or indirect fire on the two men digging the hole?
3. What considerations should you take into account in deciding how to react?

Vignette #39 (continued):

Answers:

1. Yes. You can engage the two men with small-arms fire. They are committing a hostile act (emplacing an IED). The weapons system you choose to engage the two men should be the weapons system that will effectively reduce or eliminate the threat while inflicting the minimum amount of collateral damage. Depending on the range to the IED emplacements, the MK 19 may be a more effective weapons system for reaching the target. However, you should also consider the increased collateral damage that the less discriminating high-explosive ammunition will inflict — the woman and child have not demonstrated hostile intent or committed a hostile act, and they would likely be killed or injured if they are in close proximity to the men.
2. Yes. You may call for air or indirect fire support, but approval will have to come from higher headquarters. You should fully describe the scene in your request to ensure that the higher-level commander has the necessary information to make a fully informed decision regarding the collateral damage that is likely to occur — the death of a woman and child.
3. There are many operational factors to consider in deciding how and if to lethally engage the two men. Some of the issues to consider include:
 - Can you easily detain these individuals?
 - Do you have assets available to follow the men to possibly uncover additional information (caches, other insurgent locations, etc.)?
 - Will firing weapons systems at the men destabilize the IED and make the explosive ordnance disposal unit's mission much more dangerous?
 - Can the IED be exploited?
 - If you kill these men today, will there be 20 more to replace them tomorrow?

Vignette #40

Situation:

An unmanned aircraft system (UAS) is observing activity along a particularly dangerous stretch of the Ring Road — an area that is known for IEDs and complex ambushes. In the tactical operations center, the commander is watching the infrared feed of the UAS and observes a car with four passengers pull over to the side of the road. Two individuals exit the vehicle and begin digging a hole on the side of the road. One of the individuals goes to the trunk of the car and removes what appears to be an IED. Only two individuals have exited the vehicle. The other two passengers remain in the vehicle (these passengers have not been identified as a woman and child as they were in the previous scenario).

Question:

What factors should the commander consider in deciding whether or not and with what weapons systems to engage the IED emplacers?

Vignette #40 (continued):

Answer:

This scenario presents a challenging situation for the commander. The individuals are demonstrating hostile intent (imminent threat of the use of force) by emplacing the IED. Unlike the previous scenario, the commander has not identified a noncombatant and may reasonably assume that the two passengers who remained in the vehicle are also directly involved in the hostile act. However, the commander should also be aware that this is not an immediate self-defense situation. The location of the IED has been identified and can be reduced and exploited. Additionally, the *COMISAF COIN Guidance* dictates that the objective is not to kill the insurgents, but to influence the population. Exploiting the IED, following the vehicle to collect further intelligence, and detaining the IED emplacers are efforts that will support the COIN mission. Engaging the individuals with deadly force may have a deterrent effect on other IED emplacers, and time and circumstances may not always allow the tracking of vehicles. Each situation is unique. However, the use of immediate deadly force in this situation should not be the only option you consider.

Vignette #41

Situation:

You are a squad leader conducting a dismounted patrol. You enter a small village and observe an agitated and angry crowd of about 30 people in the center of a small market. The patrol approaches cautiously. Suddenly, three men jump from the center of the crowd and begin running away from your patrol.

Questions:

1. What actions can you take with regard to the fleeing individuals?
2. What actions can you take with regard to the crowd?

Vignette #41 (continued):

Answers:

1. The actions of the fleeing individuals and the crowd suggest that something is amiss in the town market. The crowd could be upset about a simple domestic issue or something as serious as the Taliban implementing a violent Shariah punishment. However, without further information you do not have a reasonable belief that the fleeing individuals have committed a hostile act or have hostile intent or that you are in a self-defense situation. Therefore, you may not engage these individuals with any weapons systems. Warning shots may not be used under these facts. (See your latest guidance with regard to warning shots.) However, the fleeing individuals fled from the center of the crowd and are likely related to whatever is causing the disturbance in the village — you have reasonable grounds to temporarily detain the individuals to fully assess whether they pose a threat. If you are unable to catch the individuals, they will likely get away.
2. In this scenario, you have very little information on which to base your actions. You must take into account the enemy situation and everything you know about this town — the more you know, the better equipped you will be to make split-second decisions. Not every agitated crowd requires or should involve ISAF intervention. Assess the situation to the best of your ability. Determine whether immediate intervention is required. Utilize the ANSF elements in your patrol (a civil disturbance should be handled by Afghan elements). Can you speak with someone on the periphery to gain insight into the disturbance? What equipment do you have to deal with a crowd?

Vignette #42

Situation:

You are a squad leader conducting a dismounted patrol. You enter a small village and observe an agitated and angry crowd of about 30 people in the center of a small market (same as scenario #41 to this point). You approach the crowd and observe two men in a heated argument. You have no idea what the argument is about, but you see that the two men have started shoving each other.

Questions:

1. Can you intervene to stop the fight?
2. If you do intervene, how should you proceed?
3. What additional considerations should you incorporate into your response?

Vignette #42 (continued):

Answers:

1. You are authorized to use force to defend a civilian Afghan from a hostile act that will result in death or serious injury. The shoving and yelling in this argument does not amount to a serious threat, and you are not authorized to use force to intervene. This is likely a local matter and should be handled at a local level. However, you can talk to the people in the crowd or the local elder to learn why the incident is occurring and gain insight into the tensions and feelings in this village. Every Soldier is a sensor; you cannot intervene with force, but you should gather as much information as possible about the incident.
2. You should not directly intervene in this argument unless the situation escalates to the point where there is a threat of death or serious bodily injury. Even in this case, the ANSF elements with which you are partnered should be your first resort for de-escalating the situation.
3. Although many remote areas of Afghanistan do not have access to a formal court system, Afghanistan does have a long-standing and functioning informal dispute-resolution system. The informal systems are varied but are generally viewed by the populace as a trustworthy and accessible system. While interacting with the populace in this scenario, you should take the opportunity to learn about what informal systems are in place in this village and allow those systems to run their course for the resolution of the dispute.

Vignette #43

Situation:

You are the M240B gunner in the lead HMMWV on a combat logistics patrol. You are moving in an area with no major urban towns, but your route passes by several small villages. The route is known for IED attacks and complex ambushes. However, there have been no attacks against ISAF forces in the last two weeks along this route. Suddenly, you receive small arms fire from the right side of the road as you move through a small village. You turn to the right quickly and see a man with a weapon slung over his shoulder crouched down below a wall on the roof of a small compound. You are not certain that this is the man who fired at your convoy.

Questions:

1. Can you engage the man with your M240B?
2. What factors should you take into account when deciding how to react?

Vignette #43 (continued):

Answers:

1. You have the right to defend yourself and your unit from a positively identified hostile act or hostile intent. The small-arms fire against your convoy is a hostile act. However, the problem here is determining whether you have positive identification of the person(s) who committed the hostile act. Positive identification does not require an absolute certainty. You have positive identification if you have a reasonable certainty that the person you are engaging is a military target. In this scenario, you would have to take into account all of the facts available to you. You would not necessarily need to see the person fire the shots to have positive identification. The trajectory of the rounds, the actions of the individual prior to the attack, and what you are currently observing could lead to a reasonable certainty.
2. Even if you do have reasonable certainty that the individual who fired the shots is the man crouching behind the wall, you must still decide whether you should engage. Are you in an immediate self-defense situation? He has his weapon slung. What is the risk of collateral damage? Could there be innocent civilians hiding behind the wall as well? What will firing at the individual accomplish? Do you have time to communicate with the rest of the convoy? Can you safely engage the man without further endangering the convoy? What effect does the residential compound have on how you decide to engage and what weapons systems you can use? Do you need to request permission from the convoy commander prior to engaging?

Vignette #44

Situation:

Same situation as #43, except now you are the M240B gunner on a UH-60 aircraft. The shots have been fired toward your aircraft.

Question:

1. How does the UH-60 change this situation?
2. What if the rounds were not fired at your aircraft but at a dismounted patrol that is in your immediate vicinity?

Vignette #44 (continued):

Answers:

1. Although the weapons system has not changed, the platform from which it may be fired is an additional consideration under the *COMISAF Tactical Directive* of 19 August 2010. Review this short document (see Appendix A) and discuss how it would affect your decision process. Keep in mind that you are now potentially utilizing air-to-surface munitions, you are potentially engaging a target that will have collateral affects against a residential compound, and a UH-60 aircraft can likely move quickly out of the cone of effective fire.
2. The right and obligation of self-defense extends to other U.S. and coalition forces in your vicinity. An attack does not have to be against your helicopter to trigger your right to use force in self-defense. Thus, you may use force to defend the dismounted patrol in your area. You must still have positive identification of a hostile act or hostile intent, and you must comply with the ROE for use of air-to-surface munitions against a residential compound. You should also consider what nonlethal resources you may leverage in support of the dismounted patrol. Do you have communications with the patrol? How quickly can you establish communications? Can you assist the ground unit in confirming or denying positive identification?

Vignette #45

Situation:

You are on guard at an entry control point (ECP) at a small, remote COP in southern Afghanistan. Your outpost has received sporadic indirect fire attacks over the past two months. The IED threat level in the surrounding area is set at amber, with no recent significant activity. A civilian vehicle approaches the ECP and is obeying all of your commands. The driver and two passengers exit the vehicle, but as you approach to conduct a pat down search, they get back in their car and begin to back out of the ECP.

Questions:

1. What should you do? Can you engage the vehicle with small-arms fire?
2. Can you pursue the vehicle? Detain the driver and passengers?
3. What information would you like to have prior to this event occurring?

Vignette #45 (continued):

Answers:

1. You should use nonlethal means to try to get the vehicle to stop. You have not observed a hostile act or hostile intent and do not have authority under the ROE to engage the vehicle with deadly force.
2. It is debatable whether the vehicle leaving the ECP is grounds to pursue and detain. There are only three grounds for detention under the ISAF ROE — for (a) force protection, (b) self-defense, or (c) mission accomplishment. Any detention under this scenario would likely be based under the force protection justification. This basis for detention gives ISAF forces broad discretion to institute short-term detentions when forces observe suspicious behavior. If you do pursue and stop the vehicle, the detention should only be long enough to determine whether the individuals pose an actual threat. Keep in mind that searches are culturally sensitive and considered degrading for many Afghans, especially if they are conducted in public view. If your ECP is not set up to provide privacy for searches, you may be in violation of COMISAF directives, and you may be providing a reason for Afghan visitors to suddenly decide to leave rather than be physically searched in public view.
3. As a member of the guard force, you would likely want to know of any expected visitors and the nature of their visit. You would also want to know the local threat levels and any intelligence that may require increased vigilance against potential vehicle or dismounted threats. Without this information, you likely do not have the situational awareness necessary to protect your fellow Soldiers living on the COP while minimizing the risk to the local population.

Vignette #46

Situation:

You are still on guard duty at the ECP in scenario #45. The scenario is the same except that a large explosion occurs to your north (off the COP) while you are approaching the vehicle to conduct the initial pat down. At the sound of the explosion, the driver and two passengers jump back in their vehicle and start to back out of the ECP. You contact the base defense operations center (BDOC) for guidance. The BDOC is in a state of disarray trying to assess the situation. The battle noncommissioned officer tells you to fire on the vehicle that is leaving the ECP.

Question:

1. Should you fire on the vehicle?
2. What could you do differently to prevent this scenario from occurring?

Vignette #46 (continued):

Answers:

1. In this scenario, the BDOC has placed the ECP guard force in a difficult situation. As the ECP guard, you are subordinate to the BDOC and are required to obey the lawful commands of the BDOC. However, the BDOC has not communicated a lawful basis for the use of force. The BDOC is not in a position to gain positive identification of a hostile act or hostile intent and is not in a self-defense situation. Without further information, you should not engage the civilian vehicle. Common sense would likely tell you that the civilians have been frightened away by the explosion. Your training and situational awareness may be the only means to keep this situation from unnecessarily escalating to deadly force. Immediately contact the BDOC to clarify the order.
2. One of the main problems in this and the previous scenario is that the vehicle backing out of the ECP has raised suspicions as to the motive and intent of the visitors. Can you set up an ECP to prevent vehicles from backing out without permission? The sequence of events is also compounding to create the potential for communication errors. The tone of your voice and your choice of words when contacting the BDOC could have a significant impact on how the BDOC reacts. Stay calm, provide pertinent information, and seek specific guidance.

Vignette #47

Situation:

Your platoon is operating in two mounted sections, and you are the M2 gunner for the platoon sergeant's vehicle. Your mission is to provide two blocking positions for the outer cordon of a large ANSF cordon and search. The other section of your platoon is about 350 meters to your north. You have overlapping sectors of fire but do not have direct line of sight to each other. The mission has been going on for several hours and not much has happened. However, over the last 45 minutes, you have observed a blue van "probing" several of the outer cordon positions. You watch as the vehicle disappears behind a terrain feature toward your sister section's position. The vehicle reappears from behind the ridge, moving at an increased rate of speed away from your blocking positions. Suddenly, you hear M240B fire coming from the other section.

Questions:

What should you do? Can you engage the vehicle?

Vignette #47 (continued):

Answer:

Your right to self-defense extends to the other section of the platoon. Thus, even though you and your section are not in a self-defense situation, you are authorized to use deadly force to defend your platoon mates. The problem here is that you do not have positive identification of a military target. You can hear the other section firing, but you do not know where or why they are firing. The situation is complicated by the fact that you do not have a direct line of sight with the other section. You will need to confirm with the other section before you engage the blue van.

The van has acted suspiciously by “probing” several outer cordon positions, but this activity does not amount to a hostile act or hostile intent. This activity does, however, create concerns for force protection and mission accomplishment, and you would be authorized to temporarily detain the individuals, even if only for the duration of the mission.

Would your answer change if you could observe the rounds of the other section impacting on or near the blue van? You should still confirm with the section before engaging. As discussed above, the van is likely not engaged in a hostile act or hostile intent, and the use of deadly force may not be authorized. You should not immediately engage just because you see another member of the platoon engaging. Use your own situational awareness and seek clarification when necessary.

When this scenario occurred, one section engaged the van without positive identification of hostile act or hostile intent. The other section observed the sparks from the impacting rounds and thought they were small-arms fire coming from the van. The driver, his wife, and two children were killed. They were trying to find their way home but kept running into road blocks.

Vignette #48

Situation:

You are the section leader for a route clearance team. You are being supported by an air weapons team (AWT). Your clearance route runs approximately two kilometers to the east of a densely populated area with a vibrant city market. As you pass by the town, the AWT begins receiving small-arms fire from a sniper near the market area. It is a Tuesday around 1030 hours. The market is heavily populated. Your clearance team is not in an immediate self-defense situation, and you do not have direct observation on the sniper's location or the market area.

Questions:

1. Do you have authority under the ROE to maneuver to engage the sniper?
2. Can you use the AWT to engage the sniper?
3. What would you do and why?

Vignette #48 (continued):

Answers:

1. This scenario is an example of extension of self-defense. The AWT is taking fire in an immediate self-defense situation. Under the ROE you are authorized to maneuver your element to defend the AWT. Although the ROE clearly authorize you to use force to defend the AWT, this may not be the most appropriate decision. The AWT can quickly move outside of the sniper's range while continuing to provide coverage.
2. The populated area in which the sniper is operating creates major issues for utilizing the AWT. In addition to restrictions present in COMISAF policy (see Appendix A), the collateral damage likely to be caused by engaging with an AWT raises LOAC issues with regard to discrimination and proportionality. The AWT should move out of the effective range of the sniper but should not attempt to engage the sniper according to these facts.
3. The sniper has likely angered you and the AWT, but you need to stay focused and clearheaded. If you rely on the general principles of the *COMISAF COIN Guidance*, you will likely elect to continue with your mission. Maneuvering into the town, though justified under the ROE, will likely not support your mission (route clearance or overall ISAF). The populated area and crowded market are hazards for potential collateral damage that may result in increased support for the insurgency. If you can safely bypass the threat and then engage the town leaders at a later date, you may find that the threat is eliminated while gaining popular support from the town. This tactic will require courageous restraint but will likely pay large dividends.

Vignette #49

Situation:

You are on a combined dismounted patrol on the outskirts of a medium-size village when you hear a large explosion. You move toward the smoke and see that the Afghanistan National Police station has been blown up by a VBIED. There is chaos in the street. You need to establish a command and control node and get your Soldiers into a defensible position. All of the buildings in the nearby area have been severely damaged except for one. Your Afghanistan National Army (ANA) partners immediately move into the building and establish security. As soon as you enter the building, you realize that it is the local clinic. The ANA are allowing the doctor to treat the victims of the bombing and have secured three of the examination rooms for their crisis command post.

Questions:

1. Does the use of the clinic violate the law of war? What are your options here?
2. What other locations or structures can you think of that would be unsuitable for military use?

Vignette #49 (continued):

Answers:

1. The use of the clinic is not a clear cut violation of the law of war. The ANA is assisting in a civil emergency rather than combat operations. In a combat operation, the use of a medical facility, to include a clinic, as a defensive position would cause the clinic to lose its protected status under international law and could possibly be a law of war violation — especially if there were other options available.

This clinic is a key facility immediately following the mass-casualty event. You should analyze the situation and determine if there are any other locations that will meet the requirements for a command and control node. The alternatives need not be as good as long as they meet the requirements.

The legality of the ANA using the clinic is debatable, but use of the facility will likely result in local and international scrutiny. In COIN, this type of scrutiny can have far-reaching effects that outweigh a detailed legal determination. Additionally, the ANA may be hampering the operations of the clinic staff. It is best to relocate the command and control node before it is fully established in the clinic.

2. The LOAC and your ROE identify many specific types of property and facilities that have a protected status. A protected status normally means that the location should not be used for military purposes. These types of locations include mosques, churches, schools, museums, and historical artifacts.

Vignette #50

Situation:

You are the truck commander of the lead vehicle in a five-vehicle convoy. As you pass near a small village, an IED detonates on the third vehicle in the convoy. You had not noticed anything out of the ordinary before the IED detonated. As you establish security, you identify a man of about 30 years of age. He is peeking his head around a 4-foot-high wall. The man is talking on his cell phone, and every time he sees you looking at him, he jumps behind the wall.

Questions:

1. Can you engage this man as the possible trigger man?
2. Can you detain this man?
3. How would your answers change if you identified this man observing the convoy in a suspicious manner from behind the wall prior to the detonation? Also, prior to the attack, you noticed that the town was completely empty of people except for this one man, who was crouching behind the wall and peeking at the convoy.

Vignette #50 (continued):

Answers:

1. You do not have positive identification of a hostile act or hostile intent. The man's behavior is suspicious, but it does not amount to a hostile act or hostile intent. His behavior may be peculiar simply because of the gravity of what just happened near his town.
2. There are three justifiable grounds for detention under ISAF ROE: (a) force protection, (b) self-defense, or (c) mission accomplishment. You may readily justify the detention of this individual for force protection or even as self-defense based upon his proximity to the IED attack and suspicious behavior. The detention should only be long enough to determine whether or not he is an actual threat.
3. The facts of question three provide a stronger basis to believe that this man is involved in the IED attack. He appeared to be trying to spot you, and it appears that the town was aware of a pending attack and chose to stay clear of the event. This is a borderline case for immediately engaging with deadly force. Detention would still be the better option. However, this individual is a likely candidate for longer-term detention and possibly interrogation.

Appendix A COMISAF Tactical Directive



HEADQUARTERS
International Security Assistance Force/
United States Forces - Afghanistan
Kabul, Afghanistan
APO AE 09356



4 July 2010

HQ ISAF

To the Soldiers, Sailors, Airmen, Marines, and Civilians of NATO's International Security Assistance Force:

We serve in Afghanistan at a critical time. With the surge in ISAF strength and the growth of Afghan forces, we and our Afghan comrades have a new opportunity. Together, we can ensure that Afghanistan will not once again be ruled by those who embrace indiscriminate violence and transnational extremists, and we can ensure that Al Qaeda and other extremist elements cannot once again establish sanctuaries in Afghanistan from which they can launch attacks on our homelands and on the Afghan people.

This has been a hard fight. As you have soldiered together with our Afghan partners to reverse the Taliban momentum and to take away Taliban safe havens, the enemy has fought back. ISAF and Afghan Forces sustained particularly tough losses last month. Nonetheless, in the face of an enemy willing to carry out the most barbaric of attacks, progress has been achieved in some critical areas, and we are poised to realize more.

This effort is a contest of wills. Our enemies will do all that they can to shake our confidence and the confidence of the Afghan people. In turn, we must continue to demonstrate our resolve to the enemy. We will do so through our relentless pursuit of the Taliban and others who mean Afghanistan harm, through our compassion for the Afghan people, and through our example and the values that we live.

Together with our Afghan partners, we must secure and serve the people of Afghanistan. We must help Afghan leaders develop their security forces and build their capacity to govern, so that they can increasingly take on the tasks of securing their country and seeing to the needs of the Afghan people.

This endeavor has to be a team effort. We must strive to contribute to the "Team of Teams" at work in Afghanistan and to achieve unity of effort with our diplomatic, international civilian, and Afghan partners as we carry out a comprehensive, civil-military counterinsurgency campaign.

We must also continue our emphasis on reducing the loss of innocent civilian life to an absolute minimum. We must never forget that the decisive terrain in Afghanistan is the human terrain.

Protecting those we are here to help nonetheless does require killing, capturing, or turning the insurgents. We will not shrink from that; indeed, you have been taking the fight to the enemy and we will continue to do so. Beyond that, as you and our Afghan partners on the ground get into tough situations, we must employ all assets to ensure your safety, keeping in mind, again, the importance of avoiding civilian casualties.

I appreciate your sacrifices and those of your families as we serve in a mission of vital importance to the people of Afghanistan, to our nations, and to the world. And I pledge my total commitment to our mission as we work together to help achieve a brighter future for a new country in an ancient land.

*It is a privilege to
serve with you.*

DAVID H. PETRAEUS
General, United States Army
Commander

Appendix B COMISAF Counterinsurgency Guidance



HEADQUARTERS
International Security Assistance Force/
United States Forces-Afghanistan
Kabul, Afghanistan
APO AE 09356



COMISAF/CDR USFOR-A

1 August 2010

FOR The Soldiers, Sailors, Airmen, Marines, and Civilians of NATO ISAF and US Forces-Afghanistan

SUBJECT: COMISAF's Counterinsurgency Guidance

Team, here is my guidance for the conduct of counterinsurgency operations in Afghanistan. In keeping with the admonition in this guidance to “learn and adapt,” I will update this document periodically in the months ahead. Indeed, this edition is my first update, as I received useful feedback on the initial draft from Afghan partners and also received advice from elders and Special Forces teams in Herat Province’s Zericho Valley. I welcome further feedback.

As I noted during my assumption of command remarks, it is a privilege to serve with each of you in this hugely important endeavor. And I appreciate all that you will do in helping to turn this guidance into reality on the ground.

Secure and serve the population. The decisive terrain is the human terrain. The people are the center of gravity. Only by providing them security and earning their trust and confidence can the Afghan government and ISAF prevail.

Live among the people. We can’t commute to the fight. Position joint bases and combat outposts as close to those we’re seeking to secure as is feasible. Decide on locations with input from our partners and after consultation with local citizens and informed by intelligence and security assessments.

Help confront the culture of impunity. The Taliban are not the only enemy of the people. The people are also threatened by inadequate governance, corruption, and abuse of power – recruiters for the Taliban. President Karzai has forthrightly committed to combat these threats. Work with our Afghan partners to help turn his words into reality and to help our partners protect the people from malign actors as well as from terrorists.

Help Afghans build accountable governance. Afghanistan has a long history of representative self-government at all levels, from the village shura to the government in Kabul. Help the government and the people revive those traditions and help them develop checks and balances to prevent abuses.

Pursue the enemy relentlessly. Together with our Afghan partners, get our teeth into the insurgents and don’t let go. When the extremists fight, make them pay. Seek out and eliminate those who threaten the population. Don’t let them intimidate the innocent. Target the whole network, not just individuals.

COMISAF

SUBJECT: COMISAF's Counterinsurgency Guidance

Fight hard and fight with discipline. Hunt the enemy aggressively, but use only the firepower needed to win a fight. We can't win without fighting, but we also cannot kill or capture our way to victory. Moreover, if we kill civilians or damage their property in the course of our operations, we will create more enemies than our operations eliminate. That's exactly what the Taliban want. Don't fall into their trap. We must continue our efforts to reduce civilian casualties to an absolute minimum.

Identify corrupt officials. President Karzai has said, "My government is committed to fighting corruption with all means possible." Help the government achieve that aim. Make sure the people we work with work for the people. If they don't, work with partners to enable action, or we will appear to be part of the problem. Bring networks of malign actors to the attention of trusted Afghan partners and your chain of command. Act with your Afghan partners to confront, isolate, pressure, and defund malign actors – and, where appropriate, to refer malign actors for prosecution.

Hold what we secure. Together with our Afghan partners, develop the plan to hold an area (and to build in it) before starting to clear or secure it. The people need to know that we will not abandon them. Prioritize population security over short-duration disruption operations. And when we begin to transition to Afghan lead, thin out rather than handing off and withdrawing, maintaining headquarters even as we reduce combat elements.

Foster lasting solutions. Help our Afghans partners create good governance and enduring security. Avoid compromises with malign actors that achieve short-term gains at the expense of long-term stability. Think hard before pursuing initiatives that may not be sustainable in the long run. When it comes to projects, small is often beautiful.

Money is ammunition; don't put it in the wrong hands. Institute "COIN contracting." Pay close attention to the impact of our spending and understand who benefits from it. And remember, we are who we fund. How we spend is often more important than how much we spend.

Be a good guest. Treat the Afghan people and their property with respect. Think about how we drive, how we patrol, how we relate to people, and how we help the community. View our actions through the eyes of the Afghans and, together with our partners, consult with elders before pursuing new initiatives and operations.

Consult and build relationships, but not just with those who seek us out. Earn the people's trust, talk to them, ask them questions, and learn about their lives. Inquire about social dynamics, frictions, local histories, and grievances. Hear what they say. Be aware of others in the room and how their presence may affect the answers you get. Cross-check information and make sure you have the full story. Avoid knee-jerk responses based on first impressions. Don't be a pawn in someone else's game. Spend time, listen, consult, and drink lots of tea.

COMISAF

SUBJECT: COMISAF's Counterinsurgency Guidance

Walk. Stop by, don't drive by. Patrol on foot whenever possible and engage the population. Take off your sunglasses. Situational awareness can only be gained by interacting face-to-face, not separated by ballistic glass or Oakleys.

Act as one team. Work closely with our international and Afghan partners, civilian as well as military. Treat them as brothers-in-arms. Unity of effort and cooperation are not optional.

Partner with the ANSF. Live, eat, train, plan, and operate together. Depend on one another. Hold each other accountable at all echelons down to trooper level. Help our ANSF partners achieve excellence. Respect them and listen to them. Be a good role model.

Promote local reintegration. Together with our Afghan partners, identify and separate the "reconcilables" from the "irreconcilables." Identify and report obstacles to reintegration. Help our partners address grievances and strive to make the reconcilables part of the local solution, even as we work with our partners to identify and kill, capture, drive out, or "turn" the irreconcilables.

Be first with the truth. Beat the insurgents and malign actors to the headlines. Preempt rumors. Get accurate information to the chain of command, to Afghan leaders, to the people, and to the press as soon as possible. Integrity is critical to this fight. Avoid spinning, and don't try to "dress up" an ugly situation. Acknowledge setbacks and failures, including civilian casualties, and then state how we'll respond and what we've learned.

Fight the information war aggressively. Challenge disinformation. Turn our enemies' extremist ideologies, oppressive practices, and indiscriminate violence against them. Hang their barbaric actions like millstones around their necks.

Manage expectations. Avoid premature declarations of success. Note what has been accomplished and what still needs to be done. Strive to under-promise and over-deliver.

Live our values. Stay true to the values we hold dear. This is what distinguishes us from our enemies. We are engaged in a tough endeavor. It is often brutal, physically demanding, and frustrating. All of us experience moments of anger, but we must not give in to dark impulses or tolerate unacceptable actions by others.

Maintain continuity through unit transitions. From day one, start building the information you'll provide to your successors. Share information and understanding in the months before transitions. Strive to maintain operational tempo and local relationships throughout transitions to avoid giving insurgents and malign actors a rest.

COMISAF

SUBJECT: COMISAF's Counterinsurgency Guidance

Empower subordinates. Resource to enable decentralized action. Push assets and authorities down to those who most need them and can actually use them. Flatten reporting chains (while maintaining hierarchical decision chains). Remember that it is those at tactical levels – the so-called “strategic sergeants” and “strategic captains” – who turn big ideas in counterinsurgency operations into reality on the ground.

Win the battle of wits. Learn and adapt more quickly than the enemy. Be cunning. Outsmart the insurgents. Share best practices and lessons learned. Create and exploit opportunities.

Exercise initiative. In the absence of guidance or orders, figure out what the orders should have been and execute them aggressively.



David H. Petraeus
General, United States Army
Commander, International Security Assistance Force/
United States Forces-Afghanistan

Appendix C
Rules of Engagement
Written Test

1. The use of deadly force is:
 - a. Always my first response when I feel threatened.
 - b. Defined as the force necessary to kill or cause great bodily harm.
 - c. Never allowed.
 - d. Authorized to protect all U.S. government property.
2. Deadly force is only authorized after you have received enemy fire.
 - a. True.
 - b. False.
3. Give three examples of a hostile act.

4. You see a civilian who is about to commit a violent crime against another civilian that may result in death or serious injury. To prevent that violent crime, you are authorized to use minimum force up to and including deadly force.
 - a. True.
 - b. False.
5. A U.S. Soldier can use force up to and including deadly force to (circle all that apply):
 - a. Stop a shoplifter.
 - b. Protect himself or a member of his unit.
 - c. Prevent someone from stealing a meal, ready-to-eat.
 - d. Protect an Afghan policeman from an insurgent attack.
 - e. Engage an Afghan man who is carrying a cell phone and observing his patrol.
 - f. Protect mission-essential equipment (e.g., vehicles and weapons) from theft.

6. If time and circumstances allow, escalation of force measures are intended to help you do the following (circle all that apply):

- a. Assist in identifying a potential threat.
- b. Utilize the minimum force necessary.
- c. Maintain proportionality in your response.
- d. Protect civilians and International Security Assistance Force (ISAF) personnel.
- e. Move the target into the kill zone.

7. As part of the counterinsurgency strategy, ISAF vehicles operating on Afghan roads will ensure that they (circle all that apply):

- a. Keep a protective buffer of 50–100 meters from all civilian traffic.
- b. Drive in the middle of the road away from curbs.
- c. Obey traffic laws, signs, and speed limits.
- d. Allow civilian traffic to pass ISAF convoys.
- e. Allow civilian traffic to move between ISAF vehicles.

8. When a situation requires the use of force, I should use:

- a. Deadly force immediately.
- b. No force unless I have been fired upon.
- c. The minimum amount of force necessary.

9. List three nonlethal escalation of force measures.

10. Give an example of hostile intent.

11. When was your last briefing or training on the rules of engagement (ROE)? _____

12. Do you have a ROE card with you right now? _____

Appendix D

Rules of Engagement

Written Test Answer Key

1. The use of deadly force is:

- a. Always my first response when I feel threatened.
- b. Defined as the force necessary to kill or cause great bodily harm.
- c. Never allowed.
- d. Authorized to protect all U.S. government property.

2. Deadly force is only authorized after you have received enemy fire.

- a. True.
- b. False.

3. Give three examples of a hostile act.

Someone shooting at me

Someone throwing a grenade at me

Someone attacking my convoy

4. You see a civilian who is about to commit a violent crime against another civilian that may result in death or serious injury. To prevent that violent crime, you are authorized to use minimum force up to and including deadly force.

- a. True.
- b. False.

5. A U.S. Soldier can use force up to and including deadly force to (circle all that apply):

- a. Stop a shoplifter.
- b. Protect himself or a member of his unit.
- c. Prevent someone from stealing a meal, ready-to-eat.
- d. Protect an Afghan policeman from an insurgent attack.
- e. Engage an Afghan man who is carrying a cell phone and observing his patrol.
- f. Protect mission-essential equipment (e.g., vehicles and weapons) from theft.

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- c. Maintain proportionality in your response.
- d. Protect civilians and International Security Assistance Force (ISAF) personnel.
- e. Move the target into the kill zone.

7. As part of the counterinsurgency strategy, ISAF vehicles operating on Afghan roads will ensure that they (circle all that apply):

- a. Keep a protective buffer of 50–100 meters from all civilian traffic.
- b. Drive in the middle of the road away from curbs.
- c. Obey traffic laws, signs, and speed limits.
- d. Allow civilian traffic to pass ISAF convoys.
- e. Allow civilian traffic to move between ISAF vehicles.

8. When a situation requires the use of force, I should use:

- a. Deadly force immediately.
- b. No force unless I have been fired upon.
- c. The minimum amount of force necessary.

9. List three nonlethal escalation of force measures.

Signs _____

Bull horn _____

Pen laser _____

10. Give an example of hostile intent.

Someone with a RPG maneuvering into position to fire on me _____

11. When was your last briefing or training on the rules of engagement (ROE)? _____

12. Do you have a ROE card with you right now? _____

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