



A rendering of the Office of the Director of National Intelligence in McLean, VA. (Source: ODNI)

Practice Notes

Thirteen Tools for Legal Professionals from Intelligence Community Directive 203

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[A]nalytic products shall be . . . [o]bjective . . . [i]ndependent of political consideration . . . [t]imely . . . [b]ased on all available sources of . . . information . . . and exhibit[] Analytic Tradecraft Standards.¹

Judge advocates (JAs) and paralegals must maintain a sharp set of analytical tools in their toolkit to be effective and relevant. Analytic rigor strengthens credibility by fostering trust with clients and colleagues through increased transparency and sound reasoning. But similar to muscles, if analytic skills are not practiced and exercised, they can atrophy over time. This article lists thirteen analytical tools relevant to the practice of military law derived from Intelligence Community Directive (ICD) 203, *Analytic Standards*.² While ICD 203 is not a direct analog for legal work, it lays out how

the intelligence community (IC) ensures “excellence, integrity and rigor in [its] analytic thinking,” because like the legal profession, the IC relies heavily on analytical skills.³ ICD 203 promulgates five “core principles of intelligence analysis,” the last of which is broken down into nine separate “Analytic Tradecraft Standards,” resulting in a total of thirteen separate guidelines “to be applied across the IC.”⁴ Reviewing these guidelines will help military law practitioners apply greater “analytic rigor”⁵ when providing legal advice on military justice, national security law, and all other practice areas.

1. Objective

ICD 203 requires intelligence analysts to “consider alternative perspectives and contrary information” to challenge “existing analytic positions or judgments.”¹⁶ Like analysts, legal advisors must be willing to reconsider “previous judgments when new developments indicate a modification is necessary.”¹⁷ For instance, when a Trial Defense Service (TDS) attorney submits matters in rebuttal to a Soldier’s pending chapter packet highlighting relevant matters in defense and mitigation, analytically rigorous legal advisors must not ignore such perspective. Objectivity requires the legal advisor to advise decision authorities without concern that discussing alternative viewpoints or new developments would contradict or detract from current or previous legal advice. The directive emphasizes that objectively considering alternative viewpoints strengthens the quality and effectiveness of analysis, thus leading to better-informed decisions.

2. Independent of political consideration

“Analytic assessments must not be distorted by, nor shaped for, advocacy of a particular audience, agenda, or policy viewpoint.”¹⁸ While Army Regulation (AR) 27-26 acknowledges an attorney’s advice to a client may be influenced by “political factors that may be relevant to the client’s situation,”¹⁹ legal advice should not be shaped by an attorney’s own *personal* agenda or policy viewpoints.²⁰ Everyone has personal political beliefs, as we can and should,²¹ but such beliefs should remain separate from the workplace. Likewise, legal advice should not be influenced by an attorney’s perceptions of their client or commanders’ political views or by assumptions about what the person they are advising may prefer to hear.²²

3. Timely

Intelligence analysis “must be disseminated in time for it to be actionable by customers.”²³ To a (perhaps) lesser but still important extent, legal advisors must also “provide useful analysis at the right time.”²⁴ Timeliness means processing legal actions quickly—slow justice is no justice—and being prepared to advise on various scenarios before they occur. Soldiers of all branches regularly conduct battle drills, table-top

exercises, rehearsal of concept drills, and other preparatory mechanisms to ensure they stand ready to react to contact. Legal advisors should consider incorporating similar drills/exercises to ensure readiness to advise on topics throughout all practice areas.

4. Based on all available sources of intelligence information

In the IC, “[a]nalysis should be informed by all relevant information available.”²⁵ This is because excluding key context like counterpoints, extenuating factors, or information gaps can lead to faulty conclusions. Trusted legal advisors, like intelligence analysts, should avoid shaping a brief to fit a predetermined narrative. Rather, JAs should “identify and address” the nuances of a situation to ensure a well-rounded, complete factual picture is provided to relevant authorities.²⁶ That said, most decision authorities do not need to know every granular detail of a case. Information should only be included in a brief if it is relevant, necessary, and does not risk confusing the issues or wasting time.²⁷

5, 6, 7. Properly describes the quality and credibility of underlying sources, data, and methodologies; expresses and explains uncertainties associated with major analytic judgments; and distinguishes between underlying intelligence information and assumptions and judgments

ICD 203 requires that intelligence analysts ask many detailed questions when evaluating information. While JAs and paralegals are well equipped to assist decision authorities in evaluating the credibility of information based on their training and experience, thinking like an intelligence analyst can help add significant depth to a legal professional’s understanding of a case.

Is this information from a first-hand source? Does the witness have motives or bias? Is the information corroborated or contradicted by other evidence? Is this known to be true, or is it inferred to be true? Answering these and similar questions can enable authorities to make fully informed decisions, whether conducting an Article 15 hearing or ordering a strike on the enemy. Interestingly, the standards of proof applied by intelligence analysts differ from those

well-known to JAs and paralegals. Legal professionals are familiar with “probable cause,” “preponderance of the evidence,” and “beyond a reasonable doubt,” while ICD 203 calls for intelligence analysts to assess their level of certainty among seven categories ranging from “remote” to “nearly certain.”²⁸ Nevertheless, an intelligence analyst and JA may assess the credibility of a hearsay statement or a witness’ motive to fabricate through a similar analysis.

8. Incorporates analysis of alternatives

The IC is directed to conduct “systematic evaluation of differing hypotheses . . . to mitigate surprise and risk.”²⁹ Like intelligence professionals, JAs help clients mitigate surprise and risk by acknowledging potential weaknesses in facts, law, or conclusions. Making promises or guarantees is seldom effective in the intelligence or legal communities. For instance, when JAs assess cases from both the prosecution *and* defense perspectives, discussions with decision authorities naturally flow to potential costs, benefits, and risks associated with each available course of action (COA). In turn, decision authorities will better understand the potential “surprise and risk” associated with their chosen COA.³⁰

9. Demonstrates customer relevance and addresses implications

“Analytic products should provide information and insight on issues relevant to . . . customers.”³¹ Likewise, JAs must be prepared to render advice in terms that align with the client’s priorities and concerns. Accordingly, a JA will often tie legal advice back to the Army’s mission. The purposes of military law differ from those of civilian practice, as military law seeks to achieve justice while “promot[ing] efficiency and effectiveness in the military establishment.”³² Accordingly, military legal advice must often cover both relevant legal standards and the implications thereof for the military mission.³³

10. Uses clear and logical argumentation

“Analytic products should present a clear main analytic message up front.”³⁴ Whether advising a commander or client or arguing a case before a panel or military judge, the crux

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of the JA's message should always be clear. A bottom line up front (BLUF) is helpful in almost all contexts. Moreover, "[l]anguage and syntax should convey meaning unambiguously."²⁵ JAs must ensure terms of art are used sparingly and the message is sent using plain language.

11. Explains change to or consistency of analytic judgement

ICD 203 emphasizes the importance of analytical consistency across specific topics, while also explaining any deviations.²⁶ As in the intelligence world, no two legal fact patterns are ever identical. Legal advisors should pay close attention to nuanced differences in cases, while bearing overall consistency in mind. For the military justice practitioner, this may entail advising commanders against "crushing" one Soldier for failing to report to a formation while simply counseling another for the same infraction. Likewise, a JA advising in a strike cell should strive to ensure their target engagement authority's strike analysis maintains logical consistency, in addition to consistency with the laws of armed conflict, rules of engagement, and other applicable authorities.

12. Makes accurate judgments and assessments

"[A]nalytic products should [be accurate but] . . . not avoid difficult judgments in order to minimize the risk of being wrong."²⁷ Military legal advisors rarely have extra time to conduct law-school-level research on an issue, build full concurrence up and down their technical chain, and give decision-makers a "100 percent right, zero risk" answer. Nevertheless, the directive's logic suggests JAs should provide evaluative judgments and assessments when beneficial and "useful to customers," after completion of a thorough and appropriately timed analytic process that ensures a sufficient level of confidence in the analysis.²⁸

13. Incorporates effective visual information where appropriate

"Analytic products should incorporate visual information to clarify an analytic message."²⁹ Research has shown that visual aids can assist lawyers, like intelligence professionals, in "simplifying complex information, enhancing comprehension, and increasing persuasiveness."³⁰ Therefore, JAs across all practice areas should consider incorporating visual aids when needed to supplement legal advice or advocacy.

Analytic rigor may come naturally to many attorneys and paralegal teammates. That said, ICD 203 provides a great refresher course to ensure a JA's legal advice is objective, independent of political consideration, timely, based on all available sources of information, and meets other analytic standards. ICD 203's guidance can sharpen the analytical tools needed for JAs to succeed as critical thinkers, advisors, and advocates. **TAL**

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Notes

1. OFF. OF DIR. OF NAT'L INTEL., INTEL. COMM. DIR. 203, ANALYTIC STANDARDS para. 6 (2 Jan. 2015) (C1, 12 June 2023) [ICD 203].
2. *Id.*
3. *Id.* para. B(1).
4. *Id.* para. D(1).
5. *Id.* para. D(4) (stating that ICD 203 promotes a "common ethic for achieving analytic rigor and excellence, and for personal integrity in analytic practice").
6. *Id.* para. D(6)(a).
7. *Id.*
8. *Id.* para. D(6)(b).
9. U.S. DEP'T OF ARMY, REGUL. 27-26, RULES OF PROFESSIONAL CONDUCT FOR LAWYERS r. 2.1 (26 Mar. 2025) [hereinafter AR 27-26].
10. *Id.* r. 5.4, cmt. (3) ("Thus, when a judge advocate or civilian Army lawyer is assigned to represent an

individual client, neither the lawyer's personal interests, the interests of other clients, nor the interests of third persons should affect loyalty to the individual client.").

11. U.S. DEP'T OF DEF., DIR. 1344.10, POLITICAL ACTIVITIES BY MEMBERS OF THE ARMED FORCES para. 4 (19 Feb. 2008). Paragraph 4 encourages Soldiers to "carry out the obligations of citizenship." *Id.* In doing so, Soldiers may "[r]egister, vote, and express a personal opinion on political candidates and issues" in their personal capacity. *Id.* para. 4.1.1.

12. AR 27-26, *supra* note 9, r. 2.1, cmt. (1) ("A client is entitled to straightforward advice expressing the lawyer's honest assessment. Legal advice often involves unpleasant facts and alternatives that a client may be disinclined to confront. In presenting advice, a lawyer endeavors to sustain the client's morale and may put advice in as acceptable a form as honesty permits. However, a lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.").

13. ICD 203, *supra* note 1, para. D(6)(c).

14. *Id.* para. D(6)(c).

15. *Id.* para. D(6)(d).

16. *Id.* para. D(6)(d).

17. Applying the logic from Military Rule of Evidence 403, which allows for relevant evidence to be excluded from a court-martial if its probative value is outweighed by the risk that it will confuse the issues or waste time. MANUAL FOR COURTS-MARTIAL, UNITED STATES, M.R.E. 403 (2024) [hereinafter MCM].

18. ICD 203, *supra* note 1, para D(6)(e)(2)(a).

19. *Id.* para D(6)(e)(4).

20. See U.S. DEP'T OF ARMY, FIELD MANUAL 3-84, LEGAL SUPPORT TO OPERATIONS para. 2-15 (1 Sep. 2023) [hereinafter FM 3-84] ("JAG Corps personnel help assess risk and provide legal options to protect the mission and the force.").

21. ICD 203, *supra* note 1, para. D(6)(e)(5).

22. MCM, *supra* note 17, pmb1., para. 3.

23. See, e.g., FM 3-84, *supra* note 20, para. 3-47 ("It is important that JAG Corps leaders view legal support through the lens of warfighting functions and not just legal functions. Understanding how the legal functions and tasks relate to the dynamic of combat power allows the JAG Corps personnel to . . . seamlessly integrate legal support with warfighting functions.").

24. ICD 203, *supra* note 1, para. D(6)(e)(6).

25. *Id.*

26. *Id.* para. D(6)(e)(7).

27. *Id.* para. D(6)(e)(8).

28. *Id.* The key word is "sufficient." Former Deputy Judge Advocate General, Major General Thomas Ayres used to say that "crap at the speed of light is still crap." Major General (Retired) William B. Dyer III with Brigadier General Michael J. Deegan, *What Army Commanders Need from Their Legal Advisors*, ARMY LAW., no. 1, 2025, at 10, 11.

29. ICD 203, *supra* note 1, para. D(6)(e)(9).

30. Kato Nabirye, *The Use of Visual Aids in Legal Presentations*, 4 RSCH. INVENTION J. OF CURRENT RSCH. HUMAN. & SOC. SCIS. 49 (2025).



AROUND THE CORPS

SGM David C. Lyons, then-command paralegal NCO, 82nd Airborne Division, participates in the Law Day jump at Fort Bragg, NC. (Photo courtesy of LTC Brian D. Lohnes)

