

Fort Leavenworth Ethics Symposium

Ethical and Legal Issues in Contemporary Conflict

Symposium Proceedings

Frontier Conference Center
Fort Leavenworth, Kansas
November 16-18, 2009

Edited by
Mark H. Wiggins and Ted Ihrke



Co-sponsored by the
U.S. Army Command and General Staff College
and the
Command and General Staff College Foundation, Inc.



CGSC Foundation Press

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The Fort Leavenworth Ethics Symposium 2009 was co-sponsored by the U.S. Army Command and General Staff College and the CGSC Foundation, Inc.

Command and General Staff College Department of Command and Leadership

Dr. Ted Thomas, Department Director, Mr. Ted Ihrke and Dr. Scott Borderud, from the CGSC Department of Command and Leadership (DCL) were instrumental in planning, organizing and executing this symposium. As the CGSC staff lead, DCL was responsible for coordinating college support, the symposium agenda, identification of attendees and intellectual contributions from across the military services and academia. The DCL ensured engagement and support from the College's leadership, as well as led coordination for elective credit for CGSC student attendees. Their efforts were indispensable and made this symposium a great success.

Command and General Staff College Foundation, Inc.

Bob Ulin, Foundation CEO, was the lead for sponsor identification and coordination and symposium organization and structure. Under Bob's leadership the foundation provided funding and support for symposium execution and follow-up, to include prize awards for CGSC students and faculty whose papers placed first, second or third in the competition portion of the "call for papers."

Mark H. Wiggins, Foundation Director of Communications was responsible for creation and maintenance of the symposium website; and designing and producing all the printed products for the symposium, such as the symposium agenda booklet, signage, press kits and follow-up documents (proceedings). He was also responsible for conducting media relations in coordination with CGSC Public Affairs.

Ann Soby, Foundation Business Manager, was responsible for symposium site logistics and coordination as well as handling civilian attendee protocol and other general support. Her organizational skills were key in keeping this event on track.

Command and General Staff College—General Support

Rita Durocher, Visitor Coordination Officer, was the primary representative on the CGSC staff who coordinated and mobilized other staff elements within the college for required support at the Lewis and Clark Center and the Frontier Conference Center.

Lt. Col. Stacy Bathridge, Public Affairs and Strategic Communications developed the media engagement plan with local and national media representatives and helped arrange for their attendance. Lt Col Bathrick also worked with selected students to produce articles for publication in various media outlets.

Ms. Roberta Lee, Director Visual Information Team, Multi-Media Visual Information Service Center (MVISC). --Ms. Lee and her staff provided audio visual, computer support, and recording support at the Frontier Conference Center.

Sponsors and Partners

CGSC and the CGSC Foundation thanks Flint Hills Resources for their extraordinary support of the Fort Leavenworth Ethics Symposium. We would also like to thank the law firm of Spencer, Fane, Britt and Browne LLP for their support. In addition, this symposium was greatly enhanced by the support, cooperation and participation of the Army's Center for the Professional Military Ethic, led by Col. Sean Hannah.

Foreword

The U.S. Army Command and General Staff College and the Command and General Staff College Foundation are pleased to present you with the “proceedings” from the 2009 Fort Leavenworth Ethics Symposium. Our goal in this first of a series of symposia was to initiate a dialogue as an integral part of professional military education on contemporary ethical and legal issues faced by military leaders. This symposium provided us with an intellectual forum for this dialogue. Ultimately, our aim is to contribute to achieving the Chief of Staff’s vision of an Army that lives the Army Values and embodies the Professional Military Ethic required to meet the moral and ethical challenges faced in an era of persistent conflict.

Two years ago, the Army Center of Excellence for the Professional Military Ethic was formed at the U.S. Military Academy. Our efforts here at Fort Leavenworth are intended to build on that foundation, providing our mid-career officers a means to engage in and assist in developing the Army’s articulation of the guiding principles for ethics and law in the profession of arms. Many have written and spoken about the need for ethics education and training in our military. Many of us have witnessed first-hand the need, in both home station and deployed environments, and just as importantly, in our personal and professional lives. We can no longer presume that ethical leaders emerge from a system of informal ethical training nor can we presume that our chaplain corps has sole dominion over ethics issues. As leaders we must all take up this education and training and strive together to develop “what right looks like” and how to best mold our force in a way that moral and ethical behaviors are inherent in all Soldiers.

In that effort, we assembled some great guest speakers and presenters to generate the necessary dialogue on this complex subject and came together at the Frontier Conference Center on Fort Leavenworth in November 2009. We launched a first-class web site to facilitate discussion amongst the attendees beyond the confines of the symposium agenda. This symposium “proceedings” will help keep the ideas and information we generated fresh in your minds. As you continue on your professional path, we ask that you remain engaged—engaged in the dialogue on the website and in your daily professional development beyond this symposium. Building an Army that lives our Values and embodies the Professional Military Ethic is not accomplished by one meeting. Being the “strength of the nation” requires a strength of moral, ethical and legal behavior that is uncompromising.

Brig. Gen. Edward C. Cardon
Acting Commandant
U.S. Army Command and General Staff College

Col. Robert Ulin, U.S. Army, Ret.
Chief Executive Officer
CGSC Foundation, Inc.

Symposium Participants

Maj. Gen. (Ret.) Raymond Barrett, Jr.
Maj. Rose Bennett
Dr. Scott R. Borderud
Maj. Jeffrey S. Butler
Lt. Col. Eric Carpenter
Brig. Gen. (Ret.) Stan Cherrie
Dr. Martin L. Cook
Maj. Keven P. Coyle
Maj. Larry Dabeck
Maj. Viktor Dobric
Lt. Col. Joe Doty
Ms. Rita Durocher
Col. Todd Ebel
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Maj. Thomas P.F. Moran
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Lt. Col. (Ret.) Mark H. Wiggins
Maj. Kenneth Willeford
Lt. Col. (Ret.) John Williamson
Mr. Gene Wilson
Dr. Thomas Wright

Symposium Agenda

Monday, Nov. 16

All Day

Travel

1800-2000

Lewis and Clark Center Atrium

- Registration and Reception
- Brig. Gen. Ed Cardon, CGSC Acting Commandant, remarks and introduction of Lt. Gen. (Ret.) John Miller, Vice President for Corporate Affairs, CGSC Foundation, Inc.

Tuesday, Nov. 17

0730

Registration (Frontier Conference Center (FCC) Mezzanine)

Breakfast and Registration

0830

Welcome (FCC Main Ballroom)

Brig. Gen. Cardon opening remarks

0840

Tactical-Level Guest Speaker

- Remarks by Dr. Ted Thomas, Director, Dept. of Command and Leadership, and introduction of guest speaker
- Guest Speaker, Lt. Col. Joe McLamb, Advanced Operational Art Studies Fellow, School of Advanced Military Studies

0945

Break

1000

Tactical Presentations

- Lt. Cmdr. Thomas Leak– *A Tactical View of Self-Defense During Operation Redwing*
- Maj. Walt Sowden and Lt. Col. Joe Doty– *Competency vs. Character*
- Maj. Shing-Tai Leung– *The Ethics of Disobedience*

1045

Tactical-Level Discussion Panel and Q&A

1215

Lunch with Operational-Level Guest Speaker (FCC Solarium)

- Lunch served
- Remarks by Col. Sean Hannah, Director, Army Center of Excellence for the Professional Military Ethic, and introduction of guest speaker
- Operational-Level Guest Speaker, Col. (Ret.) Stuart Herrington, Counter-Intelligence Officer, Interrogator and Author

1330

Operational-Level Presentations

- Maj. Douglas Pryer– *The Consequences of Ethical and Unethical Leadership*
- Lt. Col. Celestino Perez– *Human Dignity and the Soldier in FM 3-24*
- Cmdr. Joseph McInerney– *The Moral Implications of For-Profit Security Organizations*

1415

Afternoon Break

Introduction

Lt. Gen. (Ret.) John E. Miller
Vice President, Corporate Affairs
Command and General Staff College Foundation, Inc.

Ethics and Legal Issues in Contemporary Conflict
Nov. 16, 2009
Remarks (As prepared)

On behalf of the CGSC Foundation, let me welcome you and thank you for attending this most important symposium. Before we go any further, I would like to recognize some of the Foundations Senior Leadership with us this evening: Mr. Hyrum Smith, President, LTG(R) Robert Arter, Foundation Chairman and Civilian Aide to The Secretary of the Army for Eastern Kansas and COL(R) Bob Ulin, Foundation CEO. I would like to particularly thank the CGSC Faculty and Staff and the Foundation Staff for your many hours of labor in getting this event organized. I would like to thank each of you who have submitted papers for the symposium and a special thank you to those who judged those papers: LTC (R) Bob Myers, CEO of Casey's General Stores, COL (R) William Eckhart, Professor of Law at UMKC, COL David Gray: Director of the Simon Center for Military Ethics at USMA, and Dr. Chris Paparone: CGSC Faculty Member at the Command and General Staff College's Ft. Lee campus. We give a very special note of thanks to Flint Hill Industries, our primary corporate financial sponsor, and also to the Spencer Fane Law Firm for their important financial contribution. Their collective generosity is enabling us to host this conference and, very importantly, to publish electronically and in hard copy the papers and proceedings of this symposium. Please join me in a round of applause to express our appreciation for all who have enabled and encouraged us to be here.

It is with the greatest possible pleasure and with the deepest gratitude that I make the following announcement: H. Ross Perot has chosen to fully endow a permanent Visiting Professor of Ethics and Law Chair for CGSC. His endowment of \$2.5M for this purpose will allow selection of a distinguished visiting professor who will contribute to a sustained approach for weaving into the ILE process appropriate course material and research opportunities for our Officer Students and for the larger community of interest. We are profoundly grateful to Mr. Perot for his tremendous generosity.

The intent of this symposium is to initiate and foster the continuation of a dialogue about how leaders in our Armed Forces come to understand and apply ethical principles and the law in the execution of our responsibilities to our Nation and the oaths of office we each have taken: "To support and defend the Constitution of the United States against all enemies, foreign and domestic, and to obey the lawful orders of the President of the United States and the Officers appointed over me". I commend to your reading the recently completed monograph by Don Snider, et al, titled, "The Army's Professional Military Ethic in an Era of Persistent Conflict". Let me quote a section of this monograph to you for it lays out what I think is the very essence of the need for this kind of symposium, sustained research and sustained education on Ethics and the Law in Conflict:

"The purpose of the Army's Ethic is stated clearly in Field Manual (FM) 1, The Army. It is "to maintain [the Army's] effectiveness." The implication is as clear as it is true—without such an ethic, the Army cannot be effective at what it does. As is well-documented in the literature of professions, their ethics provide the primary means of social direction and control over their members as they perform their expert duties, often under chaotic conditions. For the Army

profession, its evolving expert knowledge in the moral-ethical domain is what enables the profession to develop individual professionals—Soldiers and their leaders—to fight battles and campaigns “effectively and rightly,” as expected by the client the profession serves. Without such good, right, and just application of its expertise, the Army will lose its lifeblood—the trust of the American people.

But how do the leaders within the Army profession think about their Ethic? With what language, models, and pedagogy is it discussed and taught in Army schoolhouses and units? And how is the ethic understood to relate to Army culture, both to the culture’s functional and dysfunctional aspects? When professionals dissect their ethic, for example, are they analyzing the ethic of the profession or that of the individual professional; is the ethic they are discussing defined in legal or moral terms, etc.? Lastly, how, and how well, do the individual professionals within the Army—officers, noncommissioned officers, and civilians alike—internalize the Ethic in their daily lives such that the Army’s leadership is seen consistently on duty and off duty, 24 hours a day, to ‘walk the talk?’ ”

Format: We will examine practical examples of ethical and legal issues in three different contexts:

- Tactical, Operational and Strategic
- The Tactical discussion of our symposium will be lead off by LTC Joe McLamb, who has served multiple tours in combat at the company and battalion levels. He is currently an Advanced Operational Arts Studies Fellow in the Command and General Staff College’s School for Advanced Military Studies or SAMS. Following his presentation we will have 3 short presentations on tactical topics the authors of professional papers submitted in response to our call for papers for this symposium. The names of the authors and the titles of their papers are in your agendas. Following their presentations we will have a panel discussion and Q&A period with all the presenters for this section of our program. This is the general format we will follow for the remainder of the symposium.
- The Operational discussion will begin during our lunch period with a presentation by COL (R) Stu Herrington, a renowned Counter Intelligence Officer, Interrogator and Author. COL Herrington will be introduced by COL (Dr.) Sean Hannah, the Director of the US Army’s Center of Excellence for Professional Military Ethics. Following COL Herrington’s presentation we will again have three short presentations of submitted papers on Operational level topics followed by a panel and Q&A.
- At dinner this evening we will hear a Keynote address by Mr. Hyrum Smith, President of the CGSC Foundation who will give us a corporate perspective on ethics.
- On Wednesday morning we shift to the Strategic issues focus with GEN (R) Jack Keane as our lead off speaker. Again, he will be followed by the presentation by the authors of 3 invited papers, again followed by a panel discussion and Q&A.
- I will formally close the Symposium after this panel discussion. We will then offer a lunch buffet and departures on your own.

Well that is the obligatory outline of the program but now I would like to take a few moments to talk some substance with you from my perspective of having been a Citizen of the United States since birth and a member of the Profession of Arms since 1963.

GEN Dick Cavasos was fond of saying as he coached young leaders on the way up when he was asked, “How do you define winning?” He would say, “Winning is when you gain moral

ascendancy over your opponent!” ...his answer was not about body count or total destruction of the opponents nation or army, but about standing on the moral high ground...about the force of will and the force of the American character dominating the will of our adversaries.

We, as citizens of the United States of America, see ourselves as members of a Nation of Character. We stand for individual freedom and dignity, for the personal and collective rights of communities of people, citizens... not just for our citizens, but as a God given right to all who are governed, to all mankind. We are a Nation of Laws and we insist that we conduct ourselves, personally and collectively, according to these laws. We expect our Institutions, both public and private, to be ethical and to adhere to the law in all aspects of doing business. That is we expect our institutions to maintain the moral authority to govern and act through their proper, ethical and legal conduct. We expect ourselves and our fellow citizens to be law abiding people of character, conducting ourselves in ethical and legal ways. When we see individuals and institutions who fail to do this, we are upset. Our trust is violated and we seek to admonish, punish and repair. So we are a Nation of Character with Institutions of Character governed and held accountable by Citizens of Character.

Bringing this logic to bear on our Profession of Arms, leads me to an important question, “How do we develop and sustain leaders of character to lead the important institutions of our Armed Forces?” Is there anything we can, should, are doing systematically in our Army’s Leader Development programs that impart what, how and why we exhibit ethical behavior routinely, as a manifestation of our professional and personal character? We talk about Army values and imparting those values to our soldiers but is that enough? Again I quote for the monograph already referenced:

“We present what we believe to be the most significant ethical challenge facing the Army profession—the moral development of Army leaders, moving them from “values to virtues” so that they, as Army professionals, can consistently achieve the high quality of moral character necessary to apply effectively and in a trustworthy manner their renowned military-technical competencies.” (Page 4-5, Monograph on PME)

We are a very special professional community, military leaders, with tremendous responsibility to our Nation and to those fellow citizens who have volunteered for service and in doing so have taken an oath to follow our leadership. How is it that we form ourselves as a community of professionals dedicated to the Nation, dedicated to our soldiers and committed to achieving the mission ethically and legally? Ours is truly a calling, a vocation, not unlike other vocations requiring tremendous dedication and selfless service to others. In many of these other communities, you hear discussion about forming an appropriate conscience, both individually and collectively. We hear about leadership principles and strive to understand their application in the daily circumstances of the profession. But there are some missing pieces in our professional development dialogue. What is the relationship between Leadership Principles, Army Values and the application of ethics and correct moral judgments in the most trying issues leaders in conflict face? You do not hear about forming a conscience, about internalizing and living virtues that give the community its real identity. These practiced virtues are the living manifestation of our ethical principles which must be an integral part of our lives and guide us when we face the “ethical and legal issues” that invariably emerge. They emerge most dramatically in times of conflict, on battlefields, where immediate life and death decisions are made at the lowest levels. They also exist at the time we are developing policy and procedures. Ethical decision making is about far more than choosing between right and wrong. Those choices are usually pretty clear and are more about breaking a law or a regulation. They result in either law abiding or criminal conduct being adjudged. Our tough ethical challenges

come in the form of having two or three choices, each with bad consequences, requiring us to judge. I am reminded of SEAL Markus Luttrell, as he discussed an ethical and moral dilemma in his book, "Lone Survivor."

Luttrell and his teammates had to decide whether or not to kill a goat herder and his son or to spare them at great risk to their own security and their mission. There is no good outcome but they had to decide. They collectively decided to spare the goat herder and his son because that is what American's do. But then they were all killed except Luttrell, they failed at completing their mission and they put more of their teammates at risk trying to find and rescue them. The practical choice over the moral choice or the moral choice over the practical choice? Is it really that simple?

What about GEN (R) Keane in his decision to "end run" the chain of command (Army and JCS) to influence the President in support of the Surge in Iraq? Break "the rules" to save the Nation's ability to win in Iraq? Is it really that simple?

What are the virtues that we must possess and live in our daily professional and personal lives that will enable us to deal ethically and legally with these dilemmas when we must? What can and should we do as a professional community to "form our conscience"? How do we develop leaders accordingly, especially in a modern, pluralistic society which greatly emphasizes material gain, safety and comfort as our life's goals?

This symposium is about beginning that dialogue in our professional community. We will look at real life examples and the experiences of leaders making real decisions. Through our discourse over the next three days, from the publication of the papers presented and our proceedings and from what each of you take with you when you leave this gathering, we will begin this important professional dialogue.

As GEN H. Norman Schwarzkopf said: **"Leadership is a potent combination of strategy and character. If you must be without one, be without the strategy."**

So, again, welcome and thank you for giving of your time, talent and energy to this symposium.

Opening Remarks

Brig. Gen. Edward C. Cardon
Acting Commandant
U.S. Army Command and General Staff College

Transcript

Good morning everyone and welcome once again here to Fort Leavenworth. My aide was telling me on the way over here that *60 Minutes* last night said that this is going to be one of the coldest winters in Kansas, with 24 to 36 inches of snow. I see that we've started off here well.

I once again want to thank the Foundation for the symposium opening reception last night and for helping us with this very, very timely conference, but more importantly, the topic that we're talking about. And I've struggled a little bit about what to say this morning. I told you all last night at the reception the question that the concerned parent had, but as I look and think back over the last couple of years in the multiple tours that I've had, there are a number of ethical dilemmas that have faced leaders every day. One of those ethical dilemmas we discovered in an anonymous survey of our soldiers.—By the way, I like anonymous surveys because I think a lot of soldiers really tell you what they think.—That survey generated results that were so concerning to the Army that we repeated training for all of our soldiers in 2005 on ethics and values.

The reason I bring this up is sometimes we take it for granted that we understand our soldiers and that we will always do the right thing. I think that's a faulty premise. And when I think about what Colonel Sean Hannah (from the Army Center for the Professional Military Ethic) and I were talking about yesterday – the definition of the professional military ethic— and combine that with General Miller's absolutely outstanding remarks last night, I'm not sure that we've really defined this very well. And more importantly, how do we really go about it. And so forums like this are critical to advancing this effort.

We do know that if we fail in this area, not only do we break trust with the American people, our primary customer, but also the repercussions around the world in times where we've seen where we've broken our own values, cause severe damage to our institution. Thousands of good acts can be wiped out by one in a flash. And so today, with the Tactical and Operational ethical issues and tomorrow with the Strategic level issues, I think we have a great program set up here and I think it's really timely.

In preparation for this symposium I reviewed FM 6-22 (Army Leadership). I like this manual. It's the most downloaded Army manual ever with over three million downloads. People are actually trying to print and sell it...and it's selling. You can find it on Amazon. As I picked it up I said to myself, "Well, let me see what we have for ethics in here." – I discovered that ethics is covered on two pages. And I thought, "hmm, maybe next time we write this, the work that we're all doing in this symposium will help us better articulate what we want done in this manual." I'm not saying the ethics information in the current field manual for leadership is bad. What I am saying is that it is a foundation upon which we can build and that building starts here with each and every one of you.

So thanks for your attention. Thanks for your attentiveness. I look forward to hearing the out brief, and more importantly, building on what comes out of this conference. Shame on us if we have a conference that we don't have anything to show for it after it's over. But I am very, very encouraged already by the papers that have been submitted. As we move forward I think we'll be better informed because of this effort.

Part 1: Ethical Issues at the Tactical Level of War

Tactical Presentation

Lt. Col. Joe McLamb
Advanced Operational Arts Fellow

Transcript

Let's start with a piece of history. In the spring of 1942, the United States Army was undergoing a huge expansion and the way we did this is we took a handful of regular Army cadre, NCOs and officers and we pooled them with a huge group of brand new draftees. We put them in a little training camp somewhere and we said, "Turn these guys into companies and then turn them into battalions and turn them into divisions and then go to Europe with these folks. And there was a 1st Sergeant by the name of Brown who, by an administrative glitch – and I know those of you in the Army don't really believe there's ever an administrative glitch – but there was in this particular case and he ended up as the only NCO in this company for a period of about six days. And so for six days, he was the only member of the company who was not a brand new draftee at this little training camp. And so he did what all good 1st Sergeants do. He instilled a sense of fear and respect in his young draftees and he ran that company with an iron fist.

And on about the third day, he got a message that said, "The CG has heard what you're doing down there, 1st Sergeant Brown, and he would like to come down and talk to you about leadership because you're doing such a great job leading this company all by yourself until we can get some more NCOs and some officers down there for you. And so 1st Sergeant Brown looked at the note and it said the CG would be there about 1300, so he walked out to the company formation and he picked the best of these young privates, these young recruits, draftees that he had, the one that he trusted the most, and he took him over to the corner and he stood him there and he said, "Hey look, sometime in the next 20 minutes, a green sedan is going to come down this road. It will have a red flag on the front. There will be two white stars. Inside that car will be the General. When the General stops, you're going to open the back door, you're going to confirm that it's the CG, the Commanding General, and then you're going to bring him directly to me. You're not going to talk to him, you're not going to carry him to the left nor to the right. You're going to do exactly what I tell you to do. Do you understand me?" "Yes, 1st Sergeant, I understand." "Son, believe me, you do not want to screw this up." "Yes, 1st Sergeant." So he leaves the young man there. And a few minutes go by; the kid stands there in the position of attention, and sure enough, here comes a green sedan down the street and lo and behold it has a red flag on the front with two white stars. The car pulls up and stops. The young private remembering his instructions, opens the back door and looks in and sees a man there in his khakis with the two gold stars, two silver stars rather. And he says, "Excuse me, but are you the General?" And the General says, "Well, yes, as a matter of fact, I am. Can I help you?" He said, "No, I don't know what you did, but you better get your ass in the 1st Sergeant's office right now." (Laughter)

My dad is a retired Command Sergeant Major and that's his favorite story in the entire United States Army. He always, I always ask him, "Is that story true?" And he says, "Well, I don't know, but it should be. It should be true." And as we're starting to talk about ethics today, it probably is a good story to think about because if we believe that we can build an ethical army without the noncommissioned officer corps, then we are really missing the boat. It's the NCOs that are the Army to the privates and the young sergeants in your formation, which does not alleviate us of our responsibility and I'm going to talk about that this morning. But I do think that it's worthwhile to remember that it's the NCOs that really bear the burden of maintaining an ethical formation.

Well, let me start by saying that I'm extremely honored to be invited here today, especially

once I saw who the other folks were. I was like, wow, apparently I got slipped in somehow. I'm definitely outclassed by the other folks who are involved in this event over the next few days. And probably if you read my biography – I doubt anybody did – but if you did, you probably found yourself asking the question, “Well, why in the world did we invite this guy to come and talk?” I don't know the answer to that question. What I will tell you is that I'm definitely not a theorist when it comes to ethics. And as some of my instructors here from when I came through CGSC and SAMS will be glad to attest, I'm definitely not an academic either. I'm a practitioner of ethics at the tactical level and I had a unique experience and I think maybe that gave me a little bit of insight into this process.

My unique experience was that I was in the same brigade of the 101st Airborne Division for almost six years. I always say six years, but it was a couple of months short of that. And during that time, I participated in OIF 1 as a Battalion S3 and then OIF 0507 as a Brigade S3 and then OIF 79 as the Battalion Commander of the battalion that I had been a field grade in earlier. And so I got to watch a formation with different leaders and very different environments, sort of the whole evolution of the war in Iraq. I got to watch from, you know, ‘there is no insurgency’ to, ‘oh wow, there really is an insurgency, maybe we need to adjust to that,’ all the way to when I got off the airplane from my last trip and someone said, “How's the war going?” And I said, “We're winning. We're winning big in Iraq.” And it's kind of interesting to me that there are people that don't know that. There's definitely a difference in what's going on in Iraq than there was a few years ago.

And I need to do a little bit of truth in advertising up front so that everybody kind of understands where I'm coming from. One of the truths that I believe with all my whole, all my heart is that we are all the products of our own traumatic experiences. And I've had some traumatic experiences in the last six years – 69 Americans, 68 men and one woman, have died following orders that I issued. And although intellectually I understand and believe wholeheartedly that leaders can't prevent casualties – I mean, you can reduce casualties, but you can't drive it to zero, and it's not always even any error on the part of the leader that leads to casualties, it sure doesn't feel that way when you're involved in it. And once you've bagged up a soldier whose wife you know, whose children you've held, that changes you for life. And I can't pretend that that's not true. That's luggage that I'll carry for the rest of my life. Those traumatic experiences influenced in a large measure what I'm about to tell you.

And the other thing that I would tell you in terms of truth in advertising is that I'm not any model of ethical decision making. I won't, because I don't want to bore you, but I could go down a whole list of things that I have done wrong as a field grade officer and as a Battalion Commander that I wish that I had understood coming out of here in 2003 what I understand now about what it takes to maintain an ethical environment in combat. It is not an easy task and I left here thinking that it was, as General Cardon said, it was a foregone conclusion that any organization that I was with in the United States Army would be an ethical organization. And you find out, I found out anyway that's not always the case.

So today, I'd like to talk to you about three things and I think I've got like an hour to do this. And I actually wrote a speech and practiced it with my wife and at the end she said, “You know, maybe you oughtn't to read that. Maybe you ought to just talk to these folks.” So that is what I'm going to do.

I'm going to talk to you about three things. The first thing is about what is the environment of ethical decision making at the tactical environment, or at the tactical level? Because it's not, you know, a rosy, everything's wonderful, everything's great environment. It's a tough environment and I'd like to talk to you about that for just a few minutes. And then unfortunately, in the organizations that I've been in, we have had breakdowns in the ethical decision making of our leaders and of our subordinates. Units that I've been involved, that were my units, that I considered to be part of who

I am, have committed things that could only be described as atrocities. And I'd like to talk to you about some warning signs. As I was getting ready to go into Battalion Command, I sat down and said, "Okay, what am I looking for? How will I know that I've got a problem before it's too late to do anything about it?" And I'm going to talk to you about what I consider to be the warning signs of a breakdown in ethical decision making. And the last thing I'm going to talk about is what can you do, what can we as individual leaders do and what can the institution do to prepare our leaders, both NCOs and officers, for the demands of ethical decision making in a combat environment?

So let me start by talking about the environment at the tactical level. And a little bit of caveat here. I told you I've got six years experience, three of them in combat, all of that in a very narrow band of combat called counterinsurgency in an Arab country. That's a specific type of combat. There are many others. I don't know that what I'm about to say applies outside those boundaries. I suspect that it does, and there are other gentlemen here at the table that could probably confirm or deny that. But I'm not going to try to tell you that I understand everything there is to know about tactical combat. I'm pretty confident that I know what I'm doing in a counterinsurgency in an Arab nation. Put me in someplace else, I'm going to have to learn like anybody else.

But what I learned in three years in Iraq is that the environment of counterinsurgency at least, the natural real environment, is one of anger and frustration. Now when I say that, everybody always looks at me like, oh. Well, I'll just put it to you. How many of you guys have been over in the middle east and fought in either Afghanistan or Iraq? Okay, quite a few of you. Were you angry and frustrated? Okay. That's been my experience and my experience has been that people stay angry and frustrated in counterinsurgency regardless of whether they have good leaders or poor leaders, regardless of whether the war is going well or it's going poorly, regardless of whether the weather is hot and nasty or mild and wonderful. It appears to be, to me anyway, in any case, a natural consequence of counterinsurgency. And I think I can even maybe shed some light on why that is. It's because of the demands that we place on our leaders in counterinsurgency. It brings out the anger and frustration in all of us.

And I'll lay out a few of those. When I came through SAMS, we had to read a book by a guy named Naveh. It's called *In Pursuit of Military Excellence*. And he had an interesting idea in there. It was the idea of cognitive tension, which is a fancy word for "brain hurt." And essentially what it boils down to is he said it hurts your brain when you have a political objective and you've got to use military means to achieve that political objective. There's a natural tension there between what it is you're trying to do and the tool that it is that you have to do it. And Naveh's a great guy, but when he wrote that book, he was talking about four and five star generals in World War II, people that had these political objectives that they had to turn into a tactical task for their organizations. And he said those guys have cognitive tension. And so you need to have this big staff built around them so that they can work their way through all that.

But today in counterinsurgency in Iraq and Afghanistan, today, as we stand here, I promise you there are Staff Sergeant McLamb somewhere in those countries and he's got cognitive tension because he's got a political task and he's trying to figure out how to do it with the military means. When you talk to a squad leader and you ask him, "What's on your mind?" He says, "I'm trying to figure out how to get the bread industry rolling again here in my little sector of this." You go, "Wow, this guy's got some issues. I mean, he's got big problems and he's got this military instrument with which to deal with it." That causes some anger and frustration. I mean, it's just natural, because you feel like you're trying to solve a problem that's way bigger than the tools that you have to play with.

And then you find out, as many of you have found out, that your ability to control things in counterinsurgency is much less than perhaps advertised when you read the books when you go over there. Now, you have the ability to influence a great number of things, but your ability to actually

control it, much less. How many of you have ever worked with the Iraqi army or Afghan army? Okay. How many of you have ever controlled any of those guys? Nope? Okay. Well, me either, and I had – I mean, I picked up Arabic, the whole nine yards, so that I could work with my – you know, Ramadan Kareem and all that stuff – to help work with my Iraqi counterparts. And guess what? It turned out that I can't really control them. And then I found out that there are even things in my area of operation that not only do I not control, I don't even know about them, and yet they are very important of what's going on in my AO. Do you think that brings out anger and frustration in leaders? My experience is that it does. And then you have this laundry list. We have a little process in the Army for those of you that don't know. Once a day, we crank out a list of things that need to be done and we pass it out. Everybody gets their piece of it. It's called the daily FRAGO. And the thing about these daily FRAGOs I've noticed is that there's always a new one. Everyday there's another one and they just keep coming. Anybody had that experience?

And one of the things I used to tell my Sergeant Major before we went over there is, "Hey, the main thing in combat is to keep the main thing the main thing. Don't get wound down by all these other things that are going on." But guess what? It turns out that all those other things are important too. You do have to keep the main thing the main thing, but the main thing can't become the only thing. So you have a guy who's got this cognitive tension of political versus tactical thinking. He's got a bunch of things that are beyond his control. He's got a laundry list of things that have to get done and it's really difficult to know which one of them is the most important. Then there's a requirement that he use precision in everything that he does, and maybe this is the hardest thing for folks that haven't participated in counterinsurgency to understand. In high intensity conflict, the cornerstone, the foundation of your tactical thinking is mass. We're going to mass the effects of what we're doing. In counterinsurgency, the cornerstone is precision. We're not going to do anything accidentally. Everything is going to be done on purpose. That's why area fire weapons you see become less and less useful when you transition to a counterinsurgency. That's hard on a young company commander. Now imagine a young company commander who's had some casualties; he's not really sure what's going on in his area of operations, and he has this pressure, both from internally and externally from his subordinates. We need to do something. We need to do something to stop these casualties. And yet he knows that he's got to be precise in his response; that a unthought-out response can actually cause more problems than it solves. That's a lot of stress to be putting on a 26 year old young captain, much less his 22 year old squad leader who's trying to do the same thing.

And then there's one last thing that I think causes this to be an environment of anger and frustration, and this is maybe the hardest thing of all. And this is actually discussed in the Counterinsurgency Manual. There's an Appendix in the Counterinsurgency Manual that talks about the "moral domain of combat." And my company commanders and platoon sergeants and platoon leaders, we all read that and we found about six months into the course, into our rotation, we had to pull all of our leaders together and go, "Hey, remember what we read here. Remember what we all agreed to back at Fort Campbell. Let's don't lose the bubble." Because what it says in FM 3-24, not in these exact words, but it's the basic idea, is that what you're really doing in counterinsurgency is you're taking risk to the local national population and you're transferring it to you. And see, that's the exact opposite of what we try to do in high intensity conflict. We try to take risk to ourselves and transfer it to the enemy. Does that make sense? But in counterinsurgency, you're trying to do something much different. And if you look yourself in the mirror as a young leader and say, "Yes, I accept that I'm going to put my soldiers, the guys that I know, whose families I know, I'm going to put them at risk rather than allow the local/national population to be at risk," that's hard. But that's what's required if you want to win in counterinsurgency. That puts a tremendous amount of stress on our leaders at every echelon – squad leader all the way up through division commander. They

understand what they're doing and it puts a lot of moral stress on them.

And so it's not a big surprise, I don't think, that when you go into theater, you're likely to find a bunch of guys who are kind of angry all the time. Right? You guys been over there before? In fact, I will tell you that in three years that I was over there, I don't think I ever met anybody that wasn't kind of upset most the time. And I actually told one of my company commanders, "If you find yourself not angry and frustrated during counterinsurgency, it means you're not doing it right or you don't understand what you're doing."

But there is some good news in all of that, and I don't want to come across as being negative, because the truth of it is that despite the environment that I just discussed, despite the environment and everybody kind of being a little bit angry all the time and frustrated all the time, the truth of it is that the vast majority of leaders and soldiers do what's right the vast majority of time. I mean, it's almost miraculous when you look at how long we've had our army in theater and the relatively low number of breakdowns of discipline and good order that we've had in our organization. If you were to take our timeline and put it against our experiences in Vietnam, you'd find a much different story. So there's a lot of good news about what our army is doing.

What three years in combat has taught me is that combat's a tough business, but it's also taught me that we're a tough army. We should be proud of what our young leaders are doing out there. And many of you sitting in this room were company commanders out there and you're about to go back out as field grade officers. And the only advice I'd give you as field grade officers is understand that no help is coming. From now on, you are the guy that everybody is going to be turning to going, "We solve this problem." So you're the guy that's going to be doing that. But overall, it's amazing how well we've done, but not always. Not, unfortunately, not always. We have had these breakdowns in ethical decision making and we've had breakdowns in good order and discipline and it's cost us. It's cost us to the point where sometimes I wonder, I look in the mirror and go, "You know, we just did all this good stuff for a year in Iraq." But if I weigh all the positive that we did against just this one negative event, does it really balance out? Or did we, did my unit, did I, with the best of intentions and doing the best that I could, did I cause more harm than I did good? That's a hard, hard conversation to have with yourself.

And so as I was getting ready to go into Battalion Command, I said, "What are the things that, what are the warning signs that say we've got a problem here that we need to take care of, we need to look at now rather than later?" And I think there's three of them that are of interest to me anyway.

The first one is what I would call a pervasive sense of fatalism. And this is – there's always a little bit of this in every organization. I'm an infantryman. And in infantry organizations, gallows humor is always present. I mean, there's always, you know, somebody's always making funny about something bad happening. I remember when I was an OC down at GRTC, was standing next to the Ops Sergeant Major and we were watching, it was a night jump, and we were watching, we had already landed and we were watching the rest of the guys come down. And we saw this guy come down and his right leg was up in his riser, so he was like inverted and he's coming down and we're watching it and, you know, just thinking, wow, this is going to be bad. And the guy lands and he digs a big furrow, you know. And the Sergeant Major is standing there and he says, "That's going to leave a mark." And you go, "Uh, I'm not sure that's funny, Sergeant Major." So we ran over and helped the guy up. But in combat organizations, there's always somebody that's trying to be a little bit funny about what's going on. That's not what I'm talking about. Fatalism is when people start to believe that there is no hope. And I've seen this played out in two ways. The first one is mission fatalism. The idea that we're never going to accomplish the mission that we have over here, and so therefore it follows that the most important thing that we can do is bring everybody home alive. And it's amazing to me the number of non-commissioned officers and junior officers that I've had this conversation with who say, "Yes, sir, that is the most important

thing, that we bring everybody home alive.” And I go, “That is logically not possible.” If it were in fact the case that the most important thing is that we bring everybody home alive, we could do this at Fort Campbell a lot more efficiently. We’re not over here to keep everybody alive, although we certainly want to do that. We’re over here to accomplish the mission. And when people start saying the mission can’t be accomplished and the most important thing that we can do is protect our own soldiers, then you have a series of really, really bad possibilities. And I hate to say this, but the best case scenario, the very best case scenario that you can hope for once you adopt that attitude, is that your unit will come to some sort of accommodation with the enemy. You know, you don’t bother us and we don’t bother you. I would love to tell you that that never happens in the United States Army but I’ve personally observed it. Units had come to an accommodation with the enemy. And when a new unit comes in and says, “Hey, those deals are done,” you’re going to see a huge spike in enemy activity and friendly casualties. So, but all you’re really doing is kicking the can down the road for the next unit. Accomplishing the mission is what the United States Army is all about. We want to protect our soldiers to the very utmost of our ability, but not to the point that we can’t accomplish the mission that we’ve been assigned.

I said that’s the best case scenario, but there’s a worst case. The worst case scenario is that your soldiers start to see the population as the enemy and that’s not a far jump. If you believe that you can’t accomplish the mission, then you understand where does your risk come from? It comes from the population because you have to go out to protect the population and that puts you at risk. Now, I’m not suggesting that anybody in this room has ever followed that logic, but I’ve talked to a number of people who have followed that logic and said it’s the people that are the enemy. They’re the ones who are causing the problem. If it weren’t for them, my soldiers wouldn’t be getting killed. So then you have a really bad situation, probably the worst situation, because the very thing that you’re there to do you’ve now turned on its head. And once you make those kind of decisions, you can see people making horrendous, horrendous ethical decisions.

That’s mission fatalism. There’s another type of fatalism and this one actually bothers me more because it’s more prevalent. And I’ve actually heard leaders lay this out and say this is a good thing. I was listening to National Public Radio – no offense, I really was – the other day and I heard this major who hopefully is not in the room, heard this major on National Public Radio say, “The only way to survive here in Iraq is to accept the fact that you’re already a dead man. And that’s what I tell my soldiers. If you just accept the fact that you’re already a dead man and everything is going to be okay.” That’s a – and I’m speaking plainly here – that’s a criminal thing for a leader to say. I mean, it’s absolutely – like, I can’t ... it’s hard for me to imagine a leader saying anything worse than that. A leader’s job is to keep hope alive within the organization and that’s essentially killing the hope that those soldiers have. And once a soldier believes that he’s as good as dead, what incentive is there for sound ethical decision making? In fact, what is there any ... what does anything matter once you accept that you’re already a dead man? This is a horrible, horrible way to go. And yet, you take a United States Army unit, and I’ll, from my personal experience, my brigade, when I was the Brigade S3 and my Brigade Commander is actually here, so he’s offended that I called it my brigade, but I think of it that way. I spent six years with those rascals and they’re like family to me. My Brigade – we lost 17 guys in the first 13 days. We lost the first four, two hours and eight minutes after we accepted responsibility for the area of operation. That has a shock effect on an organization. And if you’re not careful, people start concluding – you know, if you do the math, if you go, well, man, we’ve lost 17 in the first 13 days, let’s multiply that across the year that we’re going to be here, how many of us are going to be dead? And it didn’t last that way, but on the 13th day, it sure felt like that. Everybody understand what I’m saying? It’s easy to begin to believe, “Man, I’m going to get killed over here.” But the reality of it is, if you look at it statistically, you know, your odds of coming back from Iraq or Afghanistan are actually really,

really, really high. Much better than if you were sent to the Central Highlands in, say, 1968. And we have, you have to maintain that perspective for your soldiers. It's hard to do when you're taking friendly casualties.

So the first thing, as I've already mentioned, is this idea of pervasive sense of fatalism and when you see that as a commander or you see that as a field grade officer, and it's really the majors that I'm – the reason that I wanted to come talk today, no offense to anybody else in the room, was an opportunity to talk to majors because seven years ago I sat in the exact same seat that you're in getting ready to go out and be a field grade officer. And when you see this sense of fatalism in your organization, you have to take immediate action to correct it. You can't let it go. When a company commander says something like, "Well, you know, we're going to just keep taking casualties, sir," you've got to talk to them then. I'm not saying correct them. You have to talk to them. You have to mentor them. You have to sit down with them and let them vent on you a little bit about what the stresses that they're under. They are angry and frustrated. Don't take offense to that. Everybody is angry and frustrated when they're conducting counterinsurgency.

The second thing that I would tell you is a problem is a sense of isolation that starts to morph into a loss of trust with the higher headquarters. Now, I've got to say something up front because everybody in the room that is wearing an Army uniform has at some point in their life said, you know, "Those bastards at [squad, platoon, company, battalion, brigade, division, echelons above division, whoever it was]." And that's a natural part of human psychology. We all think that the guy above us really doesn't get it and frankly we're usually right. There is a lot of that in the Army and that's not really what I'm talking about here because that kind of stuff kind of comes and goes. That doesn't really go after our fundamental trust in our higher headquarters. We may think that the higher headquarters doesn't understand a specific problem that we've got or they're not giving us the resources that we need for this specific issue, but overall we believe that we can trust our higher headquarters to respond rationally to what happens the battlefield. And what happens on the battlefield is there are accidents and there are mistakes. Those happen normally on the battlefield. But when an organization starts to think my higher headquarters can't be trusted with that information, something bad has happened down here in my area and my higher headquarters cannot be trusted with that information. It's better for everybody for us just to hold on to this ourselves.

When you see any indicator of that, you've got a major, major problem in the organization. And unfortunately, I've lived in organizations where we did see some of that. And I would contrast that with I've seen some leaders at great risk to themselves immediately bring their higher headquarters into events that were very ugly and say, "Hey, boss, this happened. I need you to know about it early." And my experience has been that that's a much healthier response for the organization than the first one that I talked about. When leaders believe that their higher headquarters can't be trusted – you know, 'I understand what's going on in my area of operations. Those clowns up there don't really understand. They don't understand the pressures I'm under. They don't understand the problems that I've got down here and they don't care about me.' When that attitude starts to build, then you see leaders justifying in their own mind how, 'Well, I'm just not going to obey the order I've got here.' And it always starts off, at least in my experience, with some, you know, sort of charismatic leader – his S3 comes in and goes – and this, I was actually the guy, so, not my Brigade Commander who's here, but another guy; I was the guy – comes in and says, "Hey, the Brigade said you got to do this." And a charismatic leader says, "I'm not going to do that." Wrong, wrong answer. I mean, it's easy to say that in peace time. You say that in combat and you've just set a tone that will reverberate back to your own detriment. Because "I'm not going to do that" isn't an option for a lawful order when you receive it. You might not like it, but it's not an option.

And so once a leader starts to think that, 'Well, you know, I'm just not going to do that. The

boss says everybody has to wear ballistic eye protection. I'm not going to do that. The boss says everybody has to wear the new enhanced SAFI plate. They're heavier. I don't want to do that. So I'm not going to do that.' Not, 'I'm going to go talk to my boss about it.' See, that's a different animal. That's a good animal. That's what you want is company commanders and battalion commanders that come back and go, "Hey, Sir, I think this is BS. I want to do it this other way and here's my reasons why." And then if he gets told, "Too bad, do it the other way," he's going to go, "Okay, well, I had my shot. Had a chance to talk to the boss and he didn't agree with me." But what happens when you lose this fundamental trust is that conversation never happens. The leader simply says, "I'm not going to abide by that. My unit's not going to do that. We understand the real deal. Those guys up at Battalion or Brigade or Division or Corps or whoever, they don't really understand what's going on down here."

The problem becomes that that disobedience results in consequences. And so then the leader finds that he has to take action with his reporting system to make sure that the consequences of those decisions don't become apparent to his higher headquarters. And the next thing you know you're engaged in a full scale mis-, I'm trying to think of the high speed academic word, but I'm a product of the Alabama educational system. So allow me to say that you're lying to your higher headquarters. I've seen this become almost an art form in some organizations in what I refer to as "effects based reporting." In other words, you decide you want to have what effect you want to have on your higher headquarters and you report in order to have that rather than simply telling your higher headquarters what the truth is. And my experience has been that almost always when people develop this attitude that the higher headquarters doesn't understand me and they don't care, it turns out not to be true. It turns out to be that those guys are just as concerned about you as they are about their own selves, that they're doing everything they can to take care of you. But they've got their own set of problems and this is – when I told the majors earlier that no help is coming, that's what I mean by that. This is the greatest lesson I learned as a field grade officer is when you graduate from here, you might have the illusion that guys at Brigade are trying to solve your battalion's problems. Not true. Or guys at Division are trying to solve your brigade's problems. Not true. Or that guys at Corps are trying to solve your division problems. Not true. You have your own set of problems to solve and no help is coming. Everybody expects you to manage those problems yourself.

The problem with this idea, you see this guy with effects based reporting, he starts off being disobedient and then he has to be a little bit dishonest in order to cover that up and the next thing you know it becomes a self fulfilling prophecy because, see, now his higher headquarters doesn't understand what's going on down there. Why not? Because he's misleading them. And it becomes worse and worse as time goes by because the subordinate leader finds it necessary to do more and more lying in order to cover up what's going on and his higher headquarters, their perception of reality gets farther and farther and farther from what's really going on which just reinforces the young leader in his belief that, 'Well, they don't understand what's going on.' Well, yeah, they don't understand what's going on, Hoss, because you're not telling them.

But then I've also discovered another aspect to that and that is that leader that's lying to his higher headquarters, who thinks, 'My higher headquarters doesn't understand it,' almost always he doesn't understand what's going on either because his subordinates are following his example. And just as they have seen him not report to his higher headquarters the things that he thinks his higher headquarters will not enjoy, they have also been very careful not to report to him things that he will find unacceptable. And so this idea of "who really understands what's going on" becomes more and more and more bifurcated as time goes by because each echelon has a false read coming up from beneath it.

Military organizations, I believe, are like the stock market in that the stock market is in the end

based upon mutual trust. And that's what it really all boils down to is that we collectively believe that we can trust one another. When we lose that confidence in the stock market, the bubble bursts and we crash and we have some of the problems that we've recently seen. That's what happens in an organization when the sense of isolation becomes so profound that leaders believe they can't be honest with their higher headquarters. And that's a problem at both the junior leader headquarters. What can you do to fix that? And then what can you do at the higher headquarters to prevent that from happening, so that sense of isolation doesn't develop into that? Because isolation is a, it's a fact in counterinsurgency. To be effective, you disperse your guys out across the countryside and that means captains are operating on these little compounds and he's lord of all he surveys, which also means he's responsible for all that he surveys, everything. There's no place for him to go where he's not in charge and he's responsible. So the sense of isolation is huge. We've got to figure out a way to overcome that. I'm going to talk in a minute about how I think you can do that.

The last problem indicator that I've seen that you've got problems with ethical decision making is what I call dysfunctional cohesion. And I don't want you to misunderstand me. I'm a huge, huge proponent of cohesion. I mean, frankly, I'm a product of the 101st Airborne Division in breed program. I commanded a company in the 101st. I was a field grade officer in the 101st. I was a battalion commander in the 101st. If God could give me my wish, I would command a brigade in the 101st. If I could be Eagle 6, I'd sign up today. I'm a huge believer in cohesion. And cohesion comes from people working together over time. I'm absolutely convinced that it is probably the key indicator of whether or not a unit's going to be effective in combat. But you can have dysfunctional cohesion. This is when a unit starts to turn in on itself and it sees its purpose for existing being the propagation of itself rather than the achievement of higher headquarters or bigger objectives or goals. I remember having a conversation with one of my majors and it's not an exaggeration to say that I was traumatized by my experiences and the two majors that worked for me when I was Battalion Commander would be glad to give you plenty of evidence that I was in fact traumatized and that I tried to pass that trauma on to them over the time that I was Battalion Commander. And I had a conversation with one of my S3's one day and he was having some friction with the Brigade S3 and I said, "Hey, Matt, why do battalions exist?" And he said, "Oh well, sir, I don't know. We're an infantry battalion, so I guess we exist to close with the enemy by means of fire maneuver in order to destroy or capture them, or repel assaults by fire, close combat or counterattack." I said, "That's a pretty good answer, but it's wrong. Why do battalions exist?" "Sir, I don't know." I said, "Battalions exist to accomplish the mission of the brigade. Why do brigades exist? Follow that up." If you follow that all the way up you eventually say, "Why do we have a Department of Defense?" Well, it's to accomplish the objectives of the United States of America. Everybody can understand that. And if you believe that the DoD exists to accomplish the objectives of the United States, then it follows logically that the reasons squads exist is to accomplish the mission of platoons, and the reason platoons exist is to accomplish the mission of companies. So forth and so on. But sometimes companies and squads and platoons and even battalions lose sight of that. They lose sight of the fact that the reason they exist is to accomplish the objectives of the higher headquarters. And typically when this happens – not always, but typically – it's not the appointed leaders who lead this organization down that path. It's the de facto leaders. It's the people that have influence within the organization even if they don't have the rank that normally would be associated with that.

I would give you two examples of that – one that I've read about and one that I've personally experienced. There was a paper that came out in the *Military Review* several years ago which I made all the company commanders, platoon leaders and platoon sergeants read before we went to Iraq the last time, was called "The Dark Side of the Force: Cohesion at the Melai Massacre." And it was a discussion of the organization, the company, from the Americal Division that was involved

in the Melai atrocity and it was written by an academic. And his argument was, which I thought he laid out very well, was that most army guys would assume that that was a very uncohesive unit that had broken apart down to a bunch of individuals out doing their own thing. But in fact, the facts of the case don't show that at all. The facts of the case show that it was an extremely coherent unit, that they operated as an organization throughout the entire process of the Melai incident and that then they collectively covered up what they had done for a period of time until eventually it came out from external sources. That's a very cohesive organization, but it's dysfunctional cohesion. It's an organization that has gathered itself around some idea other than the ideals and values of the higher headquarters and even of the Army itself.

I told you that I was in the 2nd Brigade of the 101st. If you were to go to Google and Google us, you would probably see the word "Yusufiyah" would come up on there. We had a horrible event at Yusufiyah when I was the Brigade S3. And essentially what happened was we had a fire team in which there was a de facto leader, not the fire team leader, but a de facto leader with some pretty significant mental issues of his own. We had a fire team that began to accept this sort of collective fatalism that said, you know – remember I told you we had lost 17 soldiers in our first 13 days – they began to say, "We're not going to make it. It's just a matter of time until we get killed out here." And they had adopted this mantra – when I became the Battalion Commander of this battalion in the next rotation, I described to the Sergeant Major, I said, the heart of our problem is if you go around and you talk to squad leaders in our battalion, what they'll tell you is that they're the best squad of the worst platoon of the worst company of the worst battalion. This idea that 'I've got it figured out, but everybody above me is a bunch of morons' was pervasive in the organization. And so you had this fire team that believes that it's got the answers and nobody else does. It's being led by a de facto leader that's got significant mental issues of his own. And everybody in the fire team to a greater or lesser extent believes that, 'Hey, this is it. I'm going to die over here in Iraq.' Where does that lead to?

Well, this de facto leader is able to convince his fire team to abandon their post one night and go into the home of an Iraqi family where they rape a 14 year old Iraqi girl and then subsequently kill every member of the family. I mean, it's just flat out cold-blooded murder. Could that have been prevented? I don't know. There was a study done, somebody mentioned it in one of the papers that we're going to talk about today that said only a remarkable leader could have prevented that from happening. And maybe that's true. And I'm really not interested looking back and saying, "Could we have done something different in that one, in that particular case?" But what I was hugely interested in was, how do we prevent this from happening again? How do we see this coming? And so one of the things that we looked for in our battalion and the Sergeant Major played a huge role in this, was any organization that started to turn in on itself. And good cohesion, you've got to have that. But when you start to see the cohesion come away from the larger organization, when people stop thinking of themselves as soldiers and instead think of themselves as, 'I'm a member of this whatever little organization they've formed within the unit,' that's a problem. And my personal experience from working in the 1st of the 502nd is that only immediate and sometimes drastic action will save a unit once it's started down that road. In many cases, the de facto leaders are going to have to be moved, units might have to be scrambled. I mean, you might have to make major adjustments. And that's why I think it's so important that we're attentive to this early on, that we prevent this from going down the road where it requires this major recourse in order to fix it.

So I've told you about three things. You know, this pervasive sense of fatalism, a loss of trust in the higher headquarters and then this dysfunctional cohesion. What can you do to fix it? What can we do to fix it? I don't know that what I'm about to tell is right. I'm just telling you what my experiences were. And I don't know where it fits into the larger body of knowledge of ethics in the military. But I'm going to share with you what I've learned.

The first thing I think you have to do is you have to have realistic training and education for your leaders and this has to go much lower down than the company commander level. Way down to the squad leader level, even team leader level. And that means you kind of have to discard – a warning sign to me is any time that you have a program called “Ethics Training,” that’s probably bad. That should probably make you a little bit nervous because that makes people think that ethics is something different than tactics or it’s something different than operations or it’s something different than decision-making. Ethics is all those things and if you separate it out, you’re probably heading down the wrong path to begin with.

But even if you do try to integrate ethical training into everything else you’re doing, you’ve got to be careful because you can make it so simple that it’s not really any training at all. And this is what I typically see. And the gentleman last night that started at the reception, he said exactly what was already on my little note card, which is, you don’t build ethical training programs where there’s one solution in which you’re clearly going straight to hell and there’s one solution in which everything is wonderful and there’s no more problems because those aren’t ethical dilemmas at all. And in fact, they’re completely unrealistic. Those things don’t happen in combat. In combat, you have six or seven options and they’re all bad. Now figure it out company commander, now figure it out squad leader, now figure it out platoon leader. And you have to build that into your training scenarios back at home station.

I’m going to digress here for just a minute and tell you about one of our scenarios that we ran that the platoon leaders after a year in Iraq, actually 15 months in Iraq, when we came back I had a big After Action Review with the platoon leaders and I asked them, “What was the most difficult thing about this rotation?” And the answer was, “Sir, the platoon training lanes that we went through before we went to Iraq, they were the most difficult thing that we went through.” And I said to the Sergeant Major, “Then we got it about right.” If they think that was the worst, then that’s about right.

Here’s one of the scenarios that we ran platoon leaders through. It was a 72 hour exercise.-They call them Eagle Flight 2’s in the 101st Airborne Division, Platoon Exeval’s they might be called in other divisions. Anyway, for 72 hours, you get the battalion commander and the sergeant major’s undivided attention for your 72 hours that your platoon’s in the hopper. And about 24 hours into this scenario, we created a scenario where the platoon didn’t know that we had done this to them, but the reality of it was it was all a foregone conclusion that this was going to happen, is that in a firefight, in a legitimate firefight, they were going to kill a civilian, a child. And it was going to be an accident, not intentional, no one did this on purpose, it was an accident. And that really does happen in combat. But we set the scenario up so that the First Sergeant who was in on the scenario would be on the patrol with them and he would pull a platoon leader over and he would say, “Hey, sir, here’s the deal. We’ve been out here for eight hours. You’ve got four hours until your next mission and it’s an important one.” One of the missions was a company mission where you brought more than one platoon together and that’s what this next one was going to be. The First Sergeant would continue: “You’ve got four hours to plan, prepare and rest before your next mission. Jonesy here just killed this young Iraqi child, but it was a mistake, it was an accident. Everyone can see that it was an accident. There’s no doubt that there was no harm done. But here’s what’s going to happen, sir. If you report that we killed this child, the Brigade is going to send down a major, a 15-6 investigating officer, and you’re going to spend the four hours between now and your next mission with each member of your platoon being questioned like they were a criminal. We’re going to be read our rights. We’re going to be asked to make sworn statements. It’s going to be horrible. And then we’re going to roll right out of that into our next mission. And you know what’s going to happen, sir? What’s going to happen is after that major looks at all those things and makes all those decisions, you know what he’s going to tell the Army? He’s going to say it was an accident.

It wasn't on purpose. Jonesy didn't do anything wrong. And then the Brigade's going to send somebody down here with \$300 and they're going to pay that family because we killed somebody by accident. But you know what, sir? We can bypass all of that. Check it out. Me, you and your platoon sergeant, we can all chip in the money. We got \$300 right here. We can pay the family right now. So instead of waiting two months to get paid, they can get paid right now. And then there's just no reason to report this. Everybody wins. Your platoon gets the rest that it needs and gets to go on to the next patrol. Jonesy gets cleared of any wrongdoing because no one's going to have to do an investigation. The family gets paid immediately. There's no negative to you not reporting this. Let's just set this aside and move on."

And this is what's important. Whatever decision the platoon leader made, we rolled right through the exercise as though that really were the decision that he made. So he didn't get a "Get out of jail free" if he said, "Well, I'm not going to report it," and he was able to roll on and go on and do things. If he said, "No, I'm going to report it," then we really did bring a guy down and he really did take sworn statements and it really did waste a bunch of that unit's time. That's the level that I think you have to get to. You have to get to where the guy really does have to work through that.

But what I would tell you is, we had armed those platoon leaders in advance for that with an education and this is where I think we're really kind of missing the boat frequently. We came to the conclusion, I came to the conclusion, after OIF 1 that American soldiers will always do the right thing and that's because I saw some American soldiers do some really great things in OIF 1. My first day in Iraq, I joined my unit in Mosul, Iraq and we got into a big firefight down by city hall and I watched an American soldier jump over a wall, run out into the street – I mean, RPGs and hand grenades and people shooting all over the place – this young 18 year old kid jumps over a wall where he was protected, out into the middle of the street, runs across the street, grabs up this little four year old Iraqi girl who had just wandered into the firefight. He can't use his weapon because he uses both of his arms to put around this little girl and then uses his body and his body armor to shield her and then, you know, in typical American manner, rather than bringing her back to the wall where he had come from, he ran, you know, perpendicular to the firefight until he found the girl's mother down at the end of the street, hands her over, then runs back again perpendicular to the firefight and jumps back over the wall and lands on his feet. I looked down, and I was a young major. That was my first day in combat. I was scared to death. I looked down, sweat's running off this guy's forehead and of course he does what every American does after that. He reaches into his pocket and pulls out a cigarette, takes a deep drag. And I've told people in churches about that story and I always tell them, I say, "You know, we all have this example of what Christlike behavior is. I'm not sure that I've ever seen a more Christlike behavior than that young 18 year old guy who probably was not a model of what many churchgoers would say is Christlike behavior, but that day he put his life at risk to save someone who was helpless, that couldn't protect themselves. And that was fantastic. And I came away from OIF 1 believing that my soldiers, the Screaming Eagles, the Stryker Brigade soldiers could do no wrong. But it's not true. They can do wrong. They can go down the wrong path. And you've got to educate them so they understand how not to do that.

One of the things that we did in our battalion that I highly recommend and I've tried to work with some of the CGSC guys here as well, is there's a – we made everybody in the battalion, all the platoon sergeants and above, we read a book called *Achilles in Vietnam: Combat Trauma and the Undoing of Character*. It was written by a guy named Jonathan Shay who won the MacArthur Genius Grant for his work with Vietnam veterans in the Veterans Administration in Boston, Massachusetts. He's run their PTSD program now for I think about 27 years. And I've actually conversed with him by e-mail because his book helped my battalion so much that when we got home, I sent him an e-mail and said, "Hey, I just want to tell you thanks for taking the time to write this book." In this book, he introduces the idea that what causes long term PTSD is not the trauma

of combat, it's the trauma of doing wrong combined with the trauma of combat, that if you keep a soldier's sense of doing what's right intact, they will recover from the trauma of combat. If you violate that sense of what's right, then they may have lifelong issues coming to grips with what happened. And he introduced this idea that at first I thought, well nobody's going to dig this, but it's the idea of "Themis" which is a Greek word. You've seen it, in the Greek mythology, it was a Titan. Before the gods, there were the Titans and Themis is the Titan of Divine Justice, of what is right, what's so right that even the gods are required to abide by these rules of right and wrong. And she was characterized by the Greeks as a very tall woman who wore the Greek outfit, toga, and in her left hand she carried scales and in her right hand she carried a sword. We still see her outside some of our courthouses even today. We call her "Justice." But that's Themis is who that really is. And when we read this book, this idea of Themis, of doing what's right, of just fundamentally being right, doing what is good, that resonated with the officers and NCOs of the battalion in a way that I never would have predicted.

You know, I come from a very religious background and I'm very comfortable with religious symbology. Many of the soldiers in my battalion did not and they were not, and yet this idea of Themis, they latched on to that. They understood it, that there are things in life that are right and good and there are things in life that are bad and evil and that a good life is one that's lived by these things that are right and good. And so imagine nine months we've been in theater and I'm talking to a squad leader, an E6, you know, high school graduate. Been in the Army for four or five years. And he's explaining to me why he didn't shoot into this crowd. He was receiving fire and he didn't shoot back and I said, "Well, why didn't you shoot back?" And he said, "Well, sir, it was ineffective fire. They weren't really hitting any of our guys and for me to shoot into that crowd, sir, that would have been a violation of Themis." And you're talking about having an out of body experience. Holy cow. I said, "Really?" He says, "Yes, sir. That's a great," he said, "my squad understands that." He said, "That's better than ROE, that's better than what the legal requirements are." He said, "It's great." You just say, "Well, what's the right thing to do here?" I should have mentioned this before. One of the problems that we have with some of our trainings, when we do ROE training, we only answer the question, "What can we do?" Which is, the lawyers purview. Lawyers tell us what we can do. But what we really need to get to is, "What should we do?" And that's a leader's purview. It's to train people not to simply ask the question, what can we do? But what should we do? Because my experience has been that the ROE almost always enables me to do more than is actually what I should do. The ROE is pretty generous in my experience. But this idea of Themis was huge in the battalion. I couldn't believe it. Today, I still get e-mails from guys who are in the battalion, I've been Battalion Commander almost eight months, I still get e-mails from my guys and always, "Sir, I'm having everybody in my squad or my platoon or my company – and now I've got some field grades – we're all reading *Achilles in Vietnam* because this is a powerful idea." It is a powerful idea. And I'm not saying you have to use the book *Achilles in Vietnam*. But what I am saying is you have to educate your leaders so they don't see the world from a lawyer's perspective. No offense to the lawyers in the room. Law answers the question of what can and can't we do? That's not good enough if you're going to fight a counterinsurgency. You've got to move past that to the question of, what should we do?

Okay. So educate and train your leaders. And then you've got to fight this sense of isolation. And what does that mean? Well, that means we've got to get rid of some terminology that's in our Army right now I think. And there's a horrible term, it probably meant well when it started but it's turned into a nightmare. Battlefield circulation. Now, that needs to leave our vernacular. Leaders don't circulate around the battlefield. They conduct reconnaissance and they conduct reconnaissance sometimes to answer friendly force information requirements. One of my FFIR as a Battalion Commander is how are my company commanders doing? How are they doing? And

I'm not going to get the answer to that question if I say, "Hey, Alpha Company Commander, I'm going to be down on your FOB tomorrow or your COB tomorrow and I want you to give me a briefing on what's going on." The way I answer that question is I go find that company commander out on of the battlefield doing his job and I come along beside him and I walk with him and I talk with him and I say, "What's going on, what's happening in your area, where am I not giving you the guidance that you need, where do you need help, what's going well? What's going well in your AO that you would like to share with the company commanders on your left and right?" In other words, and this is an oversimplification, but that whole idea of mentorship that we were pretty big on before the war started, I'm going to tell you that it's many, many, many times more important in combat than it is in peace time. Leaders have got to believe that the guy above them is part of their team, that he is watching over them, that he is protecting them, that he is aware of what's going on. And to the best of my ability to determine, that is true at every echelon and every age within the United States Army. I'm completely convinced that two star division commanders need to believe that their corps commander is interested in them, is taking care of them, is watching over them and understands the problems that they have. And the only way to do that in my experience is through personal interaction. And that means some battalion commanders are going to get killed because battalion commanders are going to be farther out on the battlefield. Okay. They'll send you another one, that's what I told my 1st Sergeant. When my 1st Sergeant said, "Sir, what's going to happen if you get killed out here?" I said, "They'll send you another colonel. They got plenty." Right? They're training a bunch of them right now. All you majors here are getting ready to be colonels. "They'll send you another one." Leaders have got to be out front on the battlefield interacting with their soldiers in the environment in which those guys have to interact. And battalion commanders, I believe, they should be focused on company commanders and to a lesser extent platoon leaders. Company commanders got to be focused on platoon leaders and to a lesser extent, squad leaders. It's got to work all the way down. It can't be one guy with two stars running around the battlefield helping everybody get motivated. Everybody has to be a part of the solution.

And the last thing I would tell you is you have to guard your subordinates. And there's three things that I think are important in this area. The first one is you have to enforce adequate rest. And we're getting better at this as an Army frankly because we're just tired. And so we're starting to figure this out. But when I was a captain and even when I was a major, I went down to JRTC, I slept about two or three hours a night and I worked myself into a grave, but I was able to do it because it was only 11 days long or 14 days long or 15 days long. And you know what? I'm going to – some of you guys may disagree with me – but I'm going to tell you that people say you can't do that for a year? Yeah, you can. You can go over to Iraq and you can do that for a year. You can force yourself to do that for a year. Now, your effectiveness is going to drop off unbelievably and you're going to come home with some serious mental and emotional issues that your wife or husband is not going to be digging, but you can do that. You can force yourself for a year to live like an animal. How about for a second year? How about for a third? That's the reality that our young leaders face today, but they come in with the best of intentions. "Sir," company commanders tell me, "Sir, I'm afraid if I'm sleeping, something bad is going to happen." Well, something bad is going to happen whether you're awake or asleep. But when something bad does happen, what I really want you to be is well rested and ready to respond to it because bad things are going to happen. And you sometimes have to be Draconian in this. And the worst, the absolute worst guys in the world about this ... (recording ended)

(Recording continued) ... 17 saws and the brigade commander doesn't have a clue who it was. He only knows that 1st Battalion 502nd destroyed 17 saws. So you got to take the hit for your subordinates sometimes. That doesn't mean cover up what happened. You've got to be honest, you've got to say, "This is what happened." But you've got to take responsibility for it yourself.

That's a, it used to be, a pretty simple idea – they used to teach that all the way back when I was second Lieutenant. But I've noticed sometimes in combat people get that mixed up a little bit.

And the last thing, and maybe this is the hardest, is when a leader starts to show emotional and psychological effects of what's going on in combat, and some of them will, you've got to pull them out. And that doesn't mean that you fire them or you write them a bad OER or that you send them home in shame. It means you pull them out so that they can get back to being effective leaders. This is a hard lesson for me personally. I had a company commander who I thought a lot of, a tremendous company commander, hard, motivated, very talented young man. But he took some casualties in his company and he started showing the strain of that and it played out in him beginning to see the Iraqi population as his enemy. And so we tried several different interventions to prevent his continued problems, but it didn't work. And so I made the long trip up to Brigade headquarters to talk to my Brigade Commander and say, "This guy's got to come out because he's going to hurt himself and he's going to hurt his company." And he said, "Well, do you think he can be saved?" "Absolutely, he can be saved." So he came out of command, we wrote him an OER that was a pretty decent OER--not the best, but he wasn't the best. But it was a good OER. And he went up to Brigade and served about nine months on the Brigade staff and guess what? Then he rotated back down and took command of another company. It's possible for leaders who have experienced the stress of combat to start to show strain. You got to pull them out. That doesn't mean that they're done. It just means you've got to rebuoy them and then put them back in.

Okay, I said up front it was a great honor to speak to you today. And I'm going to close by telling you why and why it's important to me that I get a chance to talk and, as I said up front, it's mostly to majors. In 2003, I was a young Battalion S3 in Mosul, Iraq. And the Sergeant Major, the Brigade Sergeant Major pulled into our talk area to talk with our Battalion Sergeant Major. And I walked past his vehicle that was sitting there in the parking lot and I saw a specialist named "Ray Revago" (sp) who was part of our B Company. And he was driving for the Sergeant Major temporarily because the Sergeant Major's driver had gone home on R&R, which was a thing that was just starting in those days. And I said, "Hey, Revago, what the hell are you doing out here?" And he said, "Oh, sir, I'm driving the Sergeant Major. It's awesome." I said, "Well, where's the rest of your patrol," because it was just one vehicle. It was a white SUV. He said, "Sir, that's not how we do it. The Sergeant Major just rolls around with just me and him." I said, "Just the two of you?" He said, "Yes, sir." Now, you got to understand that the insurgency was just starting up then, but the rules were you had to travel in two vehicle patrols and you had to have a certain number of automatic weapons and all those other things. And I knew what the rules were. I knew what the rules were and I understood why the rules were in existence and I very foolishly concluded that a young major couldn't correct a command sergeant major. And so I said, "Well, you need to be safe there, Revago." And he said, "Oh, sir, I will be." And an hour and 45 minutes later, he was dead and so was Command Sergeant Major Jerry Lee Wilson who was in the vehicle with him. And in my wallet right now is the Airborne tab off of Command Sergeant Major Wilson's 101st Airborne patch that he was wearing on the day that he was killed and it was given to me by my Battalion Commander at the time as a reminder. He carried it when he was the Battalion Commander and he passed it on to me as a reminder that failing to act on what you know is right, even when it's uncomfortable, even when people may go, "Who are you to do what's right? Who are you to tell me?" Failure to act on what you know is morally right is a matter of life and death. And so my hope in agreeing to come and speak with you today, and again I'm mostly talking to the majors, is that I would like that when you complete your time as a major and as a lieutenant colonel and you're getting to retire or whatever it is you're going to do after your lieutenant colonel time, in your wallet there won't be a nasty reminder of your own failure as an ethical leader, but instead will be the memories of the lives that you've saved and the missions that you accomplish and the

things that you did right for the United States of America and your soldiers. So thank you for this opportunity to talk with you today and I think we're going to take a 15-minute break right now. Is that right? (Applause)

Biography

Lt. Col. Joseph McLamb

Lt. Col. Joseph McLamb, a native of Hartselle, Alabama, and the son of a career non-commissioned officer in the U.S. Army, has served more than twenty years on active duty, to include three tours in Iraq.

McLamb was commissioned from the United States Military Academy in 1989, graduating with a degree in International Relations. He is a graduate of the Command and General Staff College and the School of Advanced Military Studies (SAMS), holding a Masters Degrees in Military Art and Science from each institution.

As a field grade officer, McLamb has served as an infantry battalion S3 in Mosul (OPERATION IRAQI FREEDOM I); a brigade combat team operations officer in southwest Baghdad (OPERATION IRAQI FREEDOM 05-07); and an infantry battalion commander in northwest Baghdad (OPERATION IRAQI FREEDOM 07-09); all within the 2nd Brigade Combat Team of the 101st Airborne Division (Air Assault).

Previous assignments include infantry rifle and anti-tank platoon leader in Korea, air assault company commander in the 101st Airborne Division (Air Assault), observer/controller at the Joint Readiness Training Center, and small group instructor at the Armor Captains Career Course.

McLamb is currently on a two-year assignment at the School of Advanced Military Studies as an Advanced Operational Art Studies Fellow.

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Competency vs. Character? – It must be both!!

*by Lt. Col. Joe Doty, PhD & Maj. Walt Sowden
United States Military Academy*

Competence without character is perversion and our greatest threat¹

Dr. James Toner

Envision an Army where Soldiers never sit in a theater through classes and stacks of power-point slides on ethics and leadership. Imagine an Army without classes focused solely on the seven Army Values. Picture an Army in which character development is intentionally embedded and integrated into literally everything we do. Does it sound far-fetched or unreasonable? It shouldn't.

As our Army looks to the future, we need to take a critical look at how we educate and develop Soldiers and leaders to have the character and competence that make up the non-negotiable contract between our Nation and its military professionals. Our proposal is to get rid of almost all stand-alone ethical or character development training and education across the Army. No more sexual harassment classes. No more law of land warfare classes. No more legal briefs on conflict of interest and taking bribes. Instead, our proposal is to embed ethical and character education into *everything we do*, all training venues, all educational experiences, everything. This significant cultural change will not only be more productive and efficient; it will ultimately be more effective, more pedagogically sound, and more resource respecting.

By calling for this now, we understand that we are asking for an enormous and revolutionary change. Our Army's leaders will have to fundamentally change their mindset and approach to training, education, and development as they apply to character development in our Soldiers. Such complete culture change in how the Army trains, educates, and develops Soldiers, is not fun; nor is it easy. This type of change will have to come from both ends of the institutional hierarchy. It is no easy task to change an organization's culture from the top-down and the bottom-up – especially when it exists in an organization as large, diverse, and effective as the United States Army.

WHERE ARE WE NOW?

Why this proposal and why now? Our Army has been and will continue to operate in some of the most morally ambiguous and complex environments in history – with no end in sight. Our Chief of Staff, General George Casey, appropriately calls this an era of persistent conflict. General Casey and other senior leaders recognize that this era will (simply with a basic understanding of human development) have an effect on the moral and ethical development and climate of our Army.

The obvious question at this point is “what is wrong with our current model of growing and developing the character of our Soldiers and leaders?” We will explain. Our Army is without question the most competent and experienced, best trained and equipped Army in the world. Our training models, systems, and centers (NTC, JRTC, JMTC, BCTP, etc) are easily the best, most advanced, and most effective in the world; and our technological superiority is equally impressive. Our Army is an Army where (rightly so) “training is king.” This is all true. But as we look to the future and take a critical look at ourselves (as professionals must do), we find a competence – character mismatch that needs to be addressed.

Interestingly, this *exact* same topic was addressed 10 years ago by now retired COL Darryl Goldman in a *Military Review* (“The Wrong Road to Character Development”, Jan-Feb 1998) article. In that article, COL Goldman also focused on the need for a cultural change due to the

compartmentalized nature of our “character” training. He correctly notes that in the Army we “fail to provide young adults with the training and education required for appropriate cognitive development and change”² – which means the current methods are not achieving the results we want.

EVIDENCE OF THE PROBLEM

A recent review of the Army’s Reserve Officer Training Corps (ROTC) curriculum revealed that more than 90% of the espoused curriculum focuses on developing competency while less than 10% is explicitly dedicated to character education. Additionally, only about 5% of the espoused TRADOC instruction in both the Officer and Non-Commissioned Officer Education System (O/NCOES) focuses on ethics and leadership. Is this 5% character to 95% competence curriculum ratio what the Army wants to espouse when discussing its character education system for our Soldiers and leaders? These data points in our education system are only part of the picture.

What about character-focused training and education in our units? No doubt this competency vs. character mismatch exists in our units (simply in terms of time dedicated to each construct) and is compounded by the quality of the experiences. For example, look at any unit’s training schedule and compare the time spent on competency with the time spent on character. How often has a squad had to “re-cock” or “re-do” a STX lane because it didn’t go as planned? Contrast that thought with how often an instructor had to “re-do” a class on the Army Values. Clearly we have a mismatch. Finally, our Army has recently started eliminating Chaplain slots from school houses with a plan to shift these ethics classes to distance learning. For many years these classes were the responsibility of the Chaplains. These are all examples of a systemic failure to understand and implement a holistic ethical leadership education and development strategy for our Army.

The Army has unwittingly adopted an ineffective corporate model for character *training* (more on this later). However, it has been proven that people learn best from experience. Training to teach a skill is conducted by attempting to cram a large amount of experience into a short time frame. This is usually in the form of a lecture or class. This is effective only if the intent is to arm the learner with a skill. This is a great method if the outcome is to teach a Soldier how to load and clear a weapon or change the tire on a truck. However, this is not the way to develop someone, especially in the moral or ethical arena. You can’t teach someone in a class, via a power-point deck, how to recognize a moral dilemma, how then to weigh the potential effects of the decision, and finally to fortify them with the confidence to behave in the morally correct way. The only way you can do this is by developing, or changing them.³

Additionally, like most topics we teach in the Army, we currently teach ethics and values in a compartmentalized manner. This is evident as you examine our unit training schedules. Classes that are usually taught under the umbrella of moral and ethical education (respect, ethics in warfare, sexual harassment, violence at home and in the work place, etc) are commonly referred to as “mandatory training” or “chain teaching.” To execute this training, commanders or instructors are typically issued “canned” power-point slide decks and ordered to ensure all members of their unit are trained on that particular topic, by a given date. These classes are then scheduled for an hour long session on the unit training schedule. During that hour, the commander, or another leader/trainer in the unit, delivers the training. Once the training is complete, the “block is checked”, and the unit moves on to the next task.

This method is not an effective way for development to take place in an individual or for a value to become imprinted into the culture of an organization.⁴ *Actually, it can have the opposite effect.* This method of transferring knowledge on these important subjects is not unique to company sized units - it is how moral and ethical related training is conducted throughout the Army at all levels.

Sadly, it does not work and may even be counter-productive.

“This propensity to create new, isolated initiatives to address varied human relations misconduct has been the fundamental failure in the way the U.S. military has addressed character development since the Eisenhower administration. We continually assume that secluded enterprises addressing ethics, morals, or values are consequential just because they give the impression that ‘we are doing something’. In fact, this fallacious faith in new, detached projects is evidence that they do more harm than good by diverting the attention of those in leadership who have the authority to cause real change.”⁵

In October 2008, the Army held a Sexual Assault Prevention and Risk Reduction Training Summit. At the summit (whose guest speakers included the Secretary of the Army and the Army Chief of Staff) the Army announced its new “I AM STRONG” campaign to help stop and/or prevent sexual assaults in our Army (many of which are Soldier on Soldier). *Why would the Army need to address issues of respect for our own service members in 2008?* One of our seven Army Values is “respect”?! We are confident that most people in the Army have the seven Army Values memorized. *But memorizing them is not enough.* For the Army Values to be meaningful, they must be internalized, embodied, and lived. We can and should be better than this.

A powerful example of the “bumper sticker” mentality of our Army Values occurred in 2005 during the court martial of a Soldier charged with forcing an Iraqi off a bridge over the Tigris River. LTC(R) Nate Sassaman, the Soldier’s battalion commander, while testifying during the sentencing phase at the court martial stated that every member in his battalion carries a card “based on Army Values....we knew Army Values – inside and out – and in fact, strictly followed them”.⁶ How many Soldiers incarcerated at the disciplinary barracks at Ft Leavenworth can recite the seven Army Values?! Wearing or carrying the Army Values, or simply being able to recite them is a far cry from understanding what the words mean, believing in the values, internalizing them, and ultimately embodying the values into one’s thoughts, feelings, beliefs, and behaviors.

Recently, during interviews conducted with twelve former brigade commanders (a small convenience sample), who had commanded troops in Iraq or Afghanistan, we found there was frustration and discontent with how the Army currently conducts training and education in the area of moral and ethical development. Once studied, the following themes emerged from those interviews:

- The Army does not do a good job of developing Soldiers morally/ethically.
- Character develop is as important as competency for the future of our Army.
- If I had to do it all again, I would spend more time developing my Soldiers’ character.
- Classroom training in ethics is not effective.
- Five of the brigade commanders had to reprove and/or reprimand a platoon leader or platoon sergeant for violating ROE and/or EOF rules or detainee abuse.

A current battalion commander in Iraq who was involved in the 15-6 investigation on the circumstances leading up to and resulting in the kidnapping and gruesome deaths in 2nd Bde 101st Division (near Mahmudiya, Latifiya, and Yusufiya) in 2004, stated it would take a “special commander” to have prevented this unfortunate incident (because of the unique context and climate that existed in the unit and followed the highly publicized rape and murder of a young Iraqi girl).

When asked if the Army has “special commanders” like he was referring to he responded, “yes, but only very few.”⁷ So how do we grow and develop these special Soldiers and leaders to operate in the complex and morally ambiguous environment that we are currently in, and that will most likely continue for several years to come?

TRAINING – EDUCATION – DEVELOPMENT

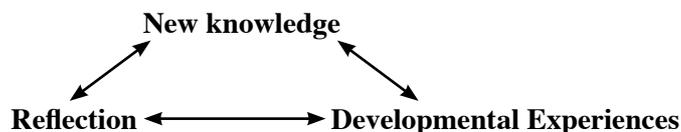
The primary problem is that the Army *does not have* a model for character and leader development. We have a piece meal, catch-as-catch-can training check list that attempts to *teach* Soldiers character and ethics topics. We expect leaders to do “on-the-job-training” of character for their subordinates without an explicit model or strategy and without equipping these leaders with the knowledge and tools to accomplish this vital task. Our Army can be and should be better than this.

Character must be developed, not taught. Training results in a skill, education results in more or new knowledge, and development results in a person being changed. Therefore our Army needs to *develop character*, and to undergo development, one must undergo a transformation that fundamentally alters how they think, feel, and behave. In short, there must be permanent change. For example, we can *train (transferring skills and abilities)* a leader on mentoring techniques. We can *educate (transferring knowledge)* a leader on the human development process behind those same mentoring techniques. And finally, we can also *develop (lasting changes in one’s identity, perspectives, and meaning-making system)* a leader by creating an identity in the leader to see themselves as a mentor and leader developer.⁸

Soldiers’ character is revealed through their behavior – in the context of their daily lives and while displaying their competency. A good test Soldiers’ character is how they behave when something has gone *wrong*. Character is not revealed in a vacuum. The construct of “character” is reflected in and is part of what we do all the time (although we often don’t think in these terms). As such, our Army needs to morally *develop* ethical leaders for complex contingencies.

How do people develop character? The research in this area is a mixed bag. A powerful pedagogical method, espoused by Dr Lee Knefelkamp from Columbia University, is to get people out of their comfort zone – make them feel uncomfortable by facilitating discussions on subjects they *don’t want to talk about*. This process causes cognitive dissonance in individuals’ minds which challenges their beliefs and leads to change.

The Army needs to take a holistic view of character development. A common model used for development is:



Our goal needs to be to intentionally create opportunities and set the conditions for Soldiers to understand and internalize James Rest’s four stages of moral development.⁹

moral recognition → moral judgment → moral intention → moral action

We need to develop Soldiers who are more intellectually and morally complex and have the moral courage to act on their beliefs and values. This is much easier said than done. Successful programs “begin with a model that includes cognitive, affective, and behavioral dimension...and a program as diverse as values clarification, moral dilemma discussion, role-playing, and conflict

resolution” Additionally, there is evidence “that moral development can continue into adulthood, and that particularly dramatic changes can occur in young adulthood in the context of professional school education.... moral and ethical development occurs in a variety of settings, both formal and informal.”¹⁰

Our Army needs to create these formal and informal settings and practice (role play, rehearse) moral intention and moral action. *The biggest gap in Rest's model that our Army must confront is the step between moral intentions and moral actions.* Often our Soldiers know the right thing to do, but lack the moral courage (often due to misplaced loyalty) to actually do it. There are many examples from our current conflicts (Bagram airbase beatings, Abu Gharib, Operation Iron Triangle) where Soldiers knew the right thing to do (which include reporting the transgression), but failed to do it. Toner notes that this is a fundamental problem that has a solution. “A major problem with ethics education is that it cannot be crammed into neat compartments and nice-sounding, desired learning outcomes...there is no ‘magic bullet’ – no always-certain ethical compass. We must teach moral reasoning, not just ‘core values’ or ‘ethical checklists.’”¹¹

Dr Albert Bandura has described the rationalization to do nothing (or look the other way) “as moral disengagement...simply stated, moral disengagement is what happens to human beings when they’re stretched beyond their emotional and psychological capacity. Their bodies, psyches, minds, and souls disengage from events around them and they become detached, in an almost dissociative state. Unchecked, a person will ‘reconstrue,’ or use strained logic to justify their amoral behaviors.”¹² This era of persistent conflict has and will continue to stretch Soldiers beyond their emotional and psychological capacity.

“To develop good character, students need many and varied opportunities to apply values such as responsibility and fairness in everyday interactions and discussion...through repeated moral experiences students ...develop and practice the moral skills and behavioral habits that make up the action side of character...in a learning and moral community in which all share responsibility for character education and attempt to adhere to the same core values.”¹³

As depicted in the model, how do we create the developmental experiences and introduce new knowledge to develop Soldiers morally/ethically? It is not that hard but does take time, thought, and mentorship. A start is to provide Soldiers real world simulated experiences, similar to a STX lane, and add a realistic context and situations to confront. Develop real-world problems they must tackle and struggle with. Create opportunities for Soldiers and leaders to practice ethical decision-making process and analyzing vignettes from a variety of ethical lenses (outcome focused, rules/process focused, values focused). While they are being exposed to complex, multi-task, tactical operations, embed morally intense variables into the equation. Attempt to get the Soldiers out of their comfort zone, create anxiety, and require them to make difficult decisions that don’t necessarily have a right or wrong answer, but rather decisions that have consequences.

Along with realistic, morally challenging experiences, the other key ingredient to development is ensuring there is quality coaching and mentorship (guided reflection) ongoing throughout the process. At the beginning, throughout, and at the end of the realistic situation there needs to be a leader, coach, or mentor there to assist the student in making meaning of their experiences. This allows them to examine their perceptions and decisions, by having the leader or coach, pass along their experience without passing judgment. We intentionally choose the word coach, not teacher, or counselor, but coach. It’s important how the message or learning is delivered. In order for someone to change, they must be developed and this takes realism, experience, and repetition. The bottom line is that training is ineffective when trying to develop people. “It isn’t until the ‘leader-in-training’ is required to live through a problem and has to figure it out first hand that it soaks in.”¹⁴

This idea isn't new. This concept of integrating training, education, and development in one holistic model of *competence* development is beginning to infiltrate into the Army Culture. Our Army is slowly moving towards an adaptive leader training and development model. With the ever increasing complexity of the modern battlefield, Soldiers and leaders are going to be required to make split-second, hyper-important decisions that have magnificent second and third order, sometime strategic effects. To negotiate this complex battlefield Soldiers and leaders will have to have the strength of character and competence, among other traits and characteristics, such as the ability to think critically, possess the intuition to act resolutely, and be nimble- physically, mentally, socially, and emotionally. Not trained in particular skills, but *developed* with certain characteristics and traits – both in character and competency. To do this requires realistic, multi-variable, situations and simulations, repetition, and coaching.

As mentioned above, an important aspect of the developmental model is reflection. Reflection is a concept that many people in the Army either don't like or don't know – but is vital to character development. Reflection involves a person (or group) thinking about, writing about, and/or discussing in detail an experience, idea, value, or new knowledge. And for reflection to really be developmental, it needs to be guided by someone (a squad leader, a platoon sergeant/leader, coach, etc) who can push the envelope and facilitate a reflective experience that takes the individual out of their comfort zone.

WHAT IT LOOKS LIKE IN ACTION

Let's look at two key components of character – respect and integrity. Topics such as respect and integrity should not be compartmentalized in Soldiers' and leaders' brains. Respect and integrity are not vague, theoretical terms that we should think about and talk about occasionally. They must be who we are. Soldiers cannot understand and display respect and integrity in terms of being “on duty” or “off duty.” The recent sex scandal involving drill sergeants and recruits is an example of this “on duty” vs “off duty” mentality.

For example, a platoon leader can discuss the importance of accurate property accountability and readiness reporting while he/she is conducting a motor pool inspection. A battalion commander can initiate a ten-minute discussion on a respect topic at the end of a training meeting. A company commander can initiate a discussion on conflicting loyalties with fellow commanders or Soldiers while eating in the dining facility. A platoon sergeant going through a mission rehearsal exercise at JRTC can insert (a selected “down” time) a five minute discussion with their platoon on the importance of accuracy in reporting. Opportunities such as these are as numerous as our imagination will allow and do not take much time. Importantly; however, from a *developmental perspective*, “omission of discourse is not value-neutral education. There is no such thing. Omission is a powerful, even if unintended, signal that these issues are unimportant.”¹⁵ Consequently, when our Army, in any venue, fails to address the moral/ethical implications (or lack thereof) – a clear message has been sent to the audience – “THIS IS NOT IMPORTANT.”

A start in implementing this change can occur in our school houses with instructors simply asking themselves “what are some of the ethical challenges that can and do occur in the context of my subject (maintenance management, tactics, first aid, communications, intelligence, firing safety, supply management, convoy operations, etc)?” The instructor can then infuse these topics into the curriculum or through pedagogical techniques. For example, a class on how to conduct a PMCS on a vehicle can include a discussion on the importance of accurate material readiness reporting – “your fellow Soldiers may be put at risk if you report a vehicle as being fully mission capable, when it really isn't.” The long-term solution will have experts in the field of character development assisting TRADOC and our school houses with this intentional integration

of character and competency both in curriculum and through instructor training and education.

Besides changes our school houses, the individuals who can best change this culture in our Army are those leaders selected to lead our Army's great Soldiers – commanders and command sergeants majors - primarily at the company, battalion, and brigade level. These key leaders have the greatest and most direct influence on Soldiers and subordinate leaders and should lead the way in changing culture (and climate) in our Army. Also, these leaders set the culture and climate in their units that Soldiers are a part of and *feel*. Without question, key leaders in an organization will have the most significant success in changing the culture in any organization.¹⁶

So commanders and command sergeants major *at all levels* should challenge each other and challenge their Soldiers to help change our culture. This is not resource intensive. We can and should make topics such as loyalty and integrity common lingo in motor pools, FOBs, training areas, orderly rooms, and athletic fields. We should openly and comfortably talk about what these words mean. We should openly and honestly have dialogues on topics of respect (*What does it look like? What does it not look like?*). These discussions do not have to be formal classes on a training schedule. Developing (not training or even educating) people to be more morally and intellectually complex requires taking them out of their comfort zone and *talking with them, not to them*.

Commanders and other leaders should have young Soldiers lead discussions in these areas. A platoon leader can ask a Specialist to give an example of a conflict between loyalty and integrity. Two platoon sergeants can discuss what respect does NOT look like in front of their platoons. A group of Soldiers can role-play examples of honesty. Peer interaction on these difficult and uncomfortable topics is one of these most effective developmental techniques. Again, we are only limited in this area by our imaginations and we don't need a one-hour block of instruction to do it.

Additionally, in terms of developing character, the issue of ensuring that Soldiers in a unit genuinely have character (and are competent) is leadership and command responsibility at its most basic level. Like most "issues" in the Army, *this is simply a leadership issue*. And historically, "commanders are responsible for everything a unit does and/or fails to do." A simple, yet powerful concept. Interestingly, in terms of accepting responsibility for the "character" climate and behavior in a unit, we could learn something from our Naval comrades in arms. If our Army had a culture similar to the Navy's concept that "if the ship runs aground, it is the Captain's responsibility" - it would create a different paradigm in the minds' of our commanders which would manifest itself in how units address the character vs competency argument. Commanders who fail to properly and fully develop character in their Soldiers and their units are setting the conditions for failure.

CHANGING A CULTURE

The shift we are advocating would be a revolutionary change in the Army's culture and could not be incremental or methodical. It would have to be dictated by the highest levels of leadership in the organization to be effective. The leaders in the organization need to create, drive, and propel this change to ensure it affects every facet of the Army's leader development and education systems.¹⁷ *The current status quo separates competency and character based training, education, and development*. The new paradigm develops competence and character simultaneously – and thusly increases the "amount" (simply in terms of more time spent) of character development.

After the cultural shift, competence and character will be intertwined into everything we do. As a guide to propel this change, we propose to use John Kotter's 8-steps to changing an organization's culture to help us move this huge, bureaucratic beast. Our interpretation of the 8 steps are:

1. Establish a sense of urgency (this must top down and bottom up).

2. Create a guiding coalition (who is going to take the ball and run with it?)
3. Develop a vision and strategy (integration of character and competence).
4. Communicate the change vision (must come from senior leaders).
5. Empower broad-based action (remove barriers to change).
6. Generate short term wins (integrate character education into our curriculums).
7. Consolidate gains and produce more change (integrate into our training venues).
8. Anchor new approaches in the culture (challenge each other to talk about the change).¹⁸

There will be a steep learning curve to educate instructors and leaders on how to create and facilitate these uncomfortable conversations spaces. However, part of the strategy to implement this change is to “JUST DO IT.” We need to set the conditions and create opportunities for Soldiers to think about the way they think about difficult issues – killing, murder, torture, rape, detainees, foreigners, etc. Soldiers need to test and challenge their thoughts, beliefs, and values on these tough issues. And these are just a few of the topics. If we take the simple first step, it will be a huge step in addressing the cultural change we are proposing.

Finally, if the Army decides to make this cultural change it will actually save time and money. The net saving occurs because Soldiers will no longer be required to sit in classrooms and theaters for ethics related training. Our Army will have transformed to a profession where character and competence training, education, and development occur simultaneously – with the outcome being Soldiers who have a better understanding and have internalized what it means to truly act like and be an American Soldier. Ultimately, our Army and our Nation will benefit from such a monumental change. It is the right thing to do and now is time to do it.

(The views expressed herein are those of the authors and do not purport to reflect the position of the U.S. Military Academy, the Department of the Army, or the Department of Defense.)

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Death On The Mountainside: An Examination Of The Use Of Self-Defense Against Unarmed Non-Combatants During Operation Redwing

by Lt. Cmdr. Thomas K. Leak, JAGC

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I. Introduction

On a barren mountainside in northwest Afghanistan, in June 2005, four U.S. Navy SEALs conducting reconnaissance of a local Taliban leader were discovered by three goatherds, including a young teenage boy who appeared to be about fourteen years old. Their position and mission now compromised, the SEALs detained the goatherds while they debated their options. If released, the goatherds could report their discovery to the local Taliban leaders resulting in dozens of Taliban fighters descending on the SEALs. The SEALs would probably be vastly outnumbered and their chances for survival slim. On the other hand, killing the goatherds would likely buy the SEALs enough time to withdraw to a location where they could be recovered and their lives spared. The SEALs worried killing the goatherds might violate the Law of Armed Conflict and rules of engagement in effect at the time, thereby running the risk of facing courts-martial.

In light of the possibility of a deadly firefight by determined and numerically superior Taliban forces, would the SEALs have been *legally* justified in using deadly force in self-defense against the goatherds?¹ Part I of this article reviews the legal standard for using force in self-defense, including a discussion on preemptive self-defense. Part II summarizes the relevant facts of Operation Redwing (the name of the SEALs' mission to capture or kill the Taliban leader). Part III applies the legal standard for the use of force to the facts of Operation Redwing to determine if the SEALs would have been legally justified in using force in self-defense against the goatherds.

Part I

Two corollary sets of rules govern the use of force in international armed conflict. The Law of Armed Conflict² is universal in its application and is derived from customary state practice and treaties, including the United Nations Charter.³ The Law of Armed Conflict identifies who can be lawfully targeted by categorizing personnel according to their "combatant" or "noncombatant status."⁴

Rules of engagement, in contrast, are nation-specific and describe in detail the circumstances under which force may be used and the limitations associated with the use of force.⁵ While the Law of Armed Conflict is a subset of international law and its violators may be tried by both international criminal tribunals and nation-state military and civilian criminal tribunals, the rules of engagement are codified in national law and its violators may be tried only by the nation-state having jurisdiction over the violator.⁶

To reduce the discussion to its simplest terms, the use of force by U.S. military forces engaged in international armed conflict is legally justified in only two circumstances. First, force may be used when enemy forces have been declared hostile by a designated authority.⁷ For example, the rules of engagement in effect in the Pacific Theater during World War II may have read, in part, words to this effect, "All Japanese Military Forces are declared hostile and may be engaged." Once enemy forces have been declared hostile, no provocation is necessary to engage them—enemy forces may be killed on sight, subject to other limitations imposed by the Law of Armed Conflict.⁸

Second, the use of force is justified in international armed conflict in self-defense. Self-defense at the strategic⁹ level is recognized by the international community under Article 51 of the UN

Charter as a nation-states' right to respond to an armed attack.¹⁰ Self-defense at the tactical¹¹ level is authorized by a specific nation-state's rules of engagement. The use of self-defense assumes an opposing force has not been declared hostile and, therefore, prior to engaging with force, the element of necessity must be present; that is, the opposing force must commit a hostile act or exhibit hostile intent.¹²

Hostile act is defined as an attack or other use of force such as the launching of a missile or the firing of a weapon.¹³ Examples of hostile acts include troops crossing the border of another country, an approaching aircraft launching a missile toward a strike group at sea, and, an insurgent setting off an improvised explosive device (IED).

Justification to respond in self-defense may also come from a demonstration of hostile intent. Hostile intent is the threat of the imminent use of force and includes the threat of force to preclude or impede the mission and/or duties of U.S. forces.¹⁴ Prior to engaging an aircraft approaching a ship at sea, and in the absence of a hostile act, watch standers must observe indicators of hostile intent, or in other words, conduct which would indicate the aircraft is an imminent threat to the ship such as its flight pattern, its weaponry, and its response to queries and warnings. A patrol unit observing an insurgent burying what appears to be an IED, could, given the appropriate set of circumstances, justifiably conclude they are witnessing a demonstration of hostile intent; in other words, conduct that presents a threat of an imminent use of force against the patrol unit.

What does or does not constitute hostile intent is heavily dependent on the facts of each circumstance in which such a determination must be made. It is therefore impossible to provide an exhaustive list of actions that constitute hostile intent. Accordingly, it is the determination of hostile intent that presents the greatest challenge for the operator on the ground or the watch stander on the bridge. Suppose a passenger jetliner not responding to queries and warnings is mistaken to be an enemy fighter approaching the strike group, or a farmer burying the day's garbage on the side of the road is mistaken to be an insurgent burying an IED. The unresponsive jetliner and the farmer are engaged in innocent acts but, given the right set of circumstances, could easily be mistaken to be imminent threats to the strike group or the patrol unit.

Former Chief of Naval Operations Admiral Frank Kelso maintained that the determination of hostile intent is the single most difficult decision that a commander has to make.¹⁵ The use of force in response to a demonstration of hostile intent hinges on the critical determination of whether the act being witnessed presents an imminent threat, and more often than not, that determination must be made without delay.

At the strategic level, it is widely accepted that the use of self-defense need not be held in abeyance until bombs fall or lead flies.¹⁶ Anticipatory self-defense is recognized by the international community as a legitimate use of force by nation-states in response to an armed attack, "even if that armed attack has not yet fully developed."¹⁷ Dinstein describes anticipatory self-defense, or interceptive self-defense, as force used "after the other side has committed itself to an armed attack in an ostensibly irrevocable way" even if the other side has not actually opened fire or crossed the border.¹⁸ Anticipatory self-defense, a concept usually reserved for strategic level discussions, is, in reality, self-defense in response to hostile intent; that is, a response to indicators of an imminent threat.¹⁹

Preemptive self-defense, as opposed to anticipatory self-defense, contemplates the use of force where no imminent threat is present. According to Reisman and Armstrong, "Preemptive self-defense differs from anticipatory self-defense in that the latter can point to a palpable and imminent threat."²⁰ Preemptive self-defense renders moot the requirement that an attack is imminent; rather, preemptive self-defense is triggered by a mere possibility or conjecture an attack may occur and is based on assumptions, expectations or fear of an attack.²¹ Reisman and Armstrong (2007) describe preemptive self-defense as

[A] claim to use unilaterally, and without prior international authorization, high levels of violence to arrest an incipient development that is not yet operational and is not yet directly threatening, but that, if permitted to mature, could then, in the view of the potential pre-emptor, be neutralized only at a higher and possibly unacceptable cost to the party contemplating the pre-emptive action.²²

Presumably, under the doctrine of preemptive self-defense, to use Dinstein's hypothetical use of self-defense prior to the Japanese attack on Pearl Harbor in December 1941, the United States could have used force to "destroy the Japanese fleet before it sailed—while it was still training for its mission, war gaming it or otherwise making advance preparations," even though the Japanese fleet presented no imminent threat to U.S. forces at the time.²³

The administration of President George W. Bush flirted with the idea of using preemptive self-defense as a justification for the use of force in its Global War on Terror, particularly during the lead up to the invasion of Iraq in 2003.²⁴ In several addresses delivered during 2002 and 2003, including his State of the Union address in January 2003 and the commencement address at the United States Military Academy in June 2002, President Bush argued for the need and for the validity of using preemptive self-defense in the Global War on Terror.²⁵ The Bush Administration formally promulgated their argument for preemptive self-defense in the National Security Strategy of the United States of September 6, 2002, with the declaration, "even if uncertainty remains as to the time and place of the enemy's attack...to forestall or prevent such hostile acts by our adversaries, the US, will, if necessary, act preemptively."²⁶

As evidence of the gradual acceptance of preemptive self-defense as a justification to use force, it is interesting to note the changed vernacular of the United States military since September 11, 2001. Gone are the days when Soldiers were expected to wait for lead to fly before responding in kind. "Stand your ground; don't fire unless fired upon, but if they mean to have a war, let it begin here,"²⁷ has been replaced by language seen on U.S. Navy recruiting posters, "Life, Liberty and the Pursuit of All Who Threaten it."²⁸

The continuum of the use of force in self-defense has a range of triggers. For example, at one end of the continuum, reactive self-defense is triggered by a hostile act. Somewhere in the middle of the continuum, anticipatory self-defense is triggered by a palpable and imminent threat. And, at the other end of the continuum, preemptive self-defense is triggered by the "conjectural and contingent threat of only the possibility of an attack at some point in the future."²⁹

If it is acceptable for state actors to engage in preemptive self-defense, then should it be acceptable for units and individual troops to use preemptive self-defense at the tactical level?³⁰ The experience of the Navy SEALs participating in Operation Redwing provides an excellent opportunity for a discussion of the application of self-defense in general and of the use of preemptive self-defense in particular at the tactical level.

Part II

Operation Redwing started out as a relatively simple, though risky, mission to identify, capture and, if necessary, eliminate a top Taliban leader operating out of a village in the northwest mountains of Afghanistan.³¹ On the evening of June 27, 2005, four U.S. Navy SEALs, Lieutenant Mike Murphy, Petty Officer Matthew Axelson, Petty Officer Danny Dietz and Petty Officer Marcus Luttrell, were assigned this mission.³² After insertion from a CH-47 helicopter and a four-mile hike, the SEALs established a position in a clump of trees overlooking the village where the Taliban leader was believed to be located.³³ Realizing their position did not provide for optimal reconnaissance of the village, the SEALs moved to a new position on a ridge with less cover

but a better view of the village. As the sun was approaching noon the day after the insertion and with the SEALs hunkered down among the rocks and the sparse foliage on the mountainside overlooking the village, three goatherds along with about a hundred goats unexpectedly came upon the SEALs.

Inadvertently discovered, their mission now compromised, the SEALs were faced with a grave dilemma. It was obvious to the SEALs the goatherds were not Taliban fighters—they were unarmed civilians, goatherds from the high country of northwest Afghanistan who were able to proclaim in broken English, “No Taliban, No Taliban.” One of the goatherds appeared to be a young teenage boy. The SEALs made attempts to befriend the goatherds by offering Powerbars, handshakes and smiles, but the goatherds refused the Powerbars and offered scowls in return. The goatherds were unable or unwilling to communicate with the SEALs and their general demeanor led the SEALs to believe the goatherds were unfriendly and not sympathetic to the SEALs’ plight. The SEALs predicament was compounded by their inability to contact their chain of command with their communications system.³⁴

Tying up the goatherds was not an option; the SEALs were traveling light and did not bring rope with them and had no other means of restraining the goatherds.³⁵ As a result, the SEALs concluded they were left with three options. One, quietly kill the goatherds by some means other than with a firearm and throw the bodies off the ridge. Because it would take time for the local villagers to realize the goatherds were missing and then find the bodies, this option would give the SEALs the best opportunity for a successful egress to a spot where the team could be recovered. Two, quietly kill the goatherds and cover the bodies as much as possible with dirt and brush. This option would give the SEALs less time to withdraw to safety as the local villagers would look for the goatherds where the herd of goats was located—and the goats weren’t moving without the goatherds. However, the SEALs believed this second option could still provide enough time for a successful recovery. Three, release the goatherds and hope they would not report their discovery to the local Taliban. The SEALs, in the meantime, could then withdraw to a more secure location as quickly as possible in the event the goatherds did report their discovery and Taliban fighters started searching for the SEALs.³⁶ This option was the most risky. If the goatherds reported the SEALs to the local Taliban, the SEALs could expect Taliban fighters to begin searching for the SEALs immediately and they would likely find them within a couple of hours. This would not give the SEALs time to find a location for extraction by helicopter. If discovered, the SEALs would have to fight and there was no way of knowing the number of fighters the Taliban would bring to bear for the battle against the SEALs.

One of the SEALs, Petty Officer Axelson, supported the idea of killing the goatherds by stating, “I think we should kill them, because we can’t let them go.” He continued, “We’re not murderers. No matter what we do. We’re on active duty behind enemy lines, sent here by our senior commanders. We have a right to do everything we can to save our own lives. The military decision is obvious. To turn them loose would be wrong.”³⁷ Petty Officer Axelson may well have been voicing what all four SEALs believed; that to release the goatherds would be a death sentence. As such, the right to use force in self-defense seemed obvious to Petty Officer Axelson—it was either kill or be killed.

Petty Officer Dietz was ambivalent and said he would go along with whatever the others decided. Lieutenant Murphy expressed anxiety about killing the goatherds. He seemed most concerned about the fallout of the images of three dead goatherds appearing on Al Jazeera television and the consequences the SEALs would face within the military justice system. Apparently, there was little doubt in the minds of these SEALs they would be charged with murder and would be court-martialed. Petty Officer Luttrell agreed with Lieutenant Murphy and so, after more discussion, the SEALs decided to release the goatherds.³⁸

Upon letting them go, Petty Officer Axelson again declared, “We’re not murderers. And we would not have been murderers, whatever we’d done.”³⁹ Almost immediately upon releasing the goatherds, the SEALs had a foreboding feeling they had made a serious mistake as they watched the goatherds break into a fast jog up the mountainside and away from the SEALs’ position.⁴⁰

The SEALs quickly relocated to the first position they had taken up earlier that day—the one location they could get to quickly that would provide some measure of cover. However, within two hours after releasing the goatherds, their worst fears came to pass. Between one hundred and one hundred and fifty Taliban fighters descended from the mountainside above them and onto the SEALs’ hiding places, whereupon a ferocious firefight ensued. Petty Officer Luttrell estimated the battle lasted approximately ninety minutes.⁴¹ Badly outnumbered, the SEALs came under heavy fire and despite several attempts to seek a better defensive position through a series of retreats and repositioning; the SEALs were ultimately unable to fight their way out. In a last desperate attempt to save his team, Lieutenant Murphy climbed onto a protruding rock, and while completely exposing himself to enemy fire, used a cell phone to call for help. His call was received at Bagram Air Base, but in the process, Lieutenant Murphy was mortally wounded.⁴² He would posthumously receive the Medal of Honor for his actions that day.⁴³

By the end of the battle, three members of the SEAL Team, Lieutenant Murphy, Petty Officer Axelson and Petty Officer Dietz, were killed. Petty Officer Luttrell, who, as a result of luck and reliance on survival skills was able to find a hiding spot and wait out the departure of the Taliban soldiers, ultimately survived the day. After several harrowing days eluding capture, Petty Officer Luttrell made his way to a local village and was eventually rescued by U.S. forces.

Lieutenant Murphy’s call for help was received and a quick reaction force (QRF) composed of Army and Navy Special Forces was dispatched to provide relief to the SEALs. Tragically, the rescue operation ended in disaster as the MH-47 helicopter ferrying the force took a direct hit on the fuel tanks from a rocket propelled grenade just as it was preparing to insert the QRF, causing the helicopter to explode in a ball of fire and killing everyone on board.⁴⁴

Part III

In order to comply with the Law of Armed Conflict and rules of engagement, were the SEALs required to release the unarmed goatherds? Or, did the SEALs have legal justification to use force against the goatherds?

Force would have been justified, even without provocation, if the SEALs had evidence the goatherds were members of an armed force previously declared hostile by higher authority in their chain of command. However, based upon their observations, the SEALs had no reason to believe the goatherds were Taliban fighters—they were unarmed, were wearing no articles of clothing distinguishing them as Taliban fighters, and were, by all indications, nothing more than harmless goatherds plying their trade in the desolate mountains of northwest Afghanistan. Thus, as unarmed non-combatants, neither the Law of Armed Conflict nor rules of engagement provided legal justification to the SEALs to use force against the goatherds, unless the use of force was in self-defense.⁴⁵

As described above, self-defense would have been justified in response to a hostile act; but, there is no evidence the goatherds, at any time, committed a hostile act. They were unarmed civilians herding goats that had committed no provocative acts and had no means of immediately contacting anyone about their discovery.

Next, we look for evidence of hostile intent to justify the use of self-defense. The SEALs would have been justified in using self-defense if the goatherds had exhibited some threat of an imminent use of force, or even if the threat of the imminent use force by the goatherds precluded

or impeded the SEALs' mission or duties.⁴⁶

The actions of the goatherds can be summarized briefly: they discovered the SEALs; one goatherd responded when confronted by the SEALs, "No Taliban, No Taliban;" they refused to accept food offered by the SEALs; they "appeared unfriendly" as they gave menacing looks to the SEALs; and, when released, began a fast jog in the direction from whence they came. These apparently innocent acts, taken alone or together, could not be construed as indicators the goatherds were an imminent threat to the SEALs.

If, as part of their job while were herding goats, the goatherds had been charged by the Taliban to be on the look out for U.S. military forces in the area and to report any sightings; and, if the SEALs were able to learn of that dual mission; then, one could argue the goatherds were an imminent threat to the SEALs as the goatherds' report to the Taliban leaders would have resulted in Taliban fighters searching for the SEALs. With that set of facts, force in self-defense could have been justified against the goatherds to stop the imminent threat. However, given what the SEALs knew at the time, they had indication the goatherds were an imminent threat. The possibility the goatherds might preclude or impede the SEALs' mission was not enough to justify self-defense; the act of impeding the mission must be accompanied by a threat of an imminent use of force.⁴⁷ Otherwise, force could be used against a non-combatant anytime he commits an act that impedes a military mission, even if the act was completely innocent and non-threatening.

Finally, if the goatherds were not an imminent threat to the SEALs, we must look to preemptive self-defense in search of legal justification to use force. Arguments of preemptive self-defense have been most commonly identified with state actors preemptively attacking another state to prevent an invasion or to justify an initial use of force.⁴⁸ But the use of preemptive self-defense is not commonly considered as an option in tactical warfare. Would the SEALs' use of preemptive self-defense have been legally justified?

Under the theory of preemption, the threat of the imminent use of force need not be present.⁴⁹ If the threat of an imminent use of force had been present in Operation Redwing the SEALs would have been justified in using anticipatory self-defense in response to hostile intent. However, as described above, the goatherds did not appear to present an imminent threat to the SEALs; thus, to save themselves from a possible attack at some time in the future, the SEALs would have had to act preemptively.

Applying and paraphrasing Reisman and Armstrong's definition of preemptive self-defense to the present case, did the SEALs have a claim to use force to arrest an incipient development that had not yet become operational and was not yet directly threatening, but that if permitted to mature could then be neutralized only at a higher and possibly unacceptable cost to the SEALs?⁵⁰ In other words, under the doctrine of preemption, the SEALs would have been justified in killing the goatherds in self-defense, even though they couldn't be certain the goatherds would report their discovery of the SEALs, because the cost of what might result if the goatherds did report finding the SEALs (the ensuing firefight with a force that vastly outnumbered the SEALs) was unacceptably high. Under the theory of preemption, the mere possibility or conjecture that the goatherds would, at some time in the indeterminate future, report their discovery to Taliban fighters was enough to justify the use of force against the goatherds.⁵¹

As illustrated in 1981 by the international community's condemnation of Israel's raid on the Osirak reactor, the international community and the United Nations in particular have been reluctant to accept preemptive self-defense as a legal justification for the use of force by state actors.⁵²

The sticking point with preemptive self-defense, as Gill explained, is that accepting the notion that force may be used in response to a possibility of a threat some time in the future increases the difficulty in placing limits on when preemption can be used.⁵³ It may be possible to

create some type of matrix listing indicators that would trigger preemptive self-defense, but those indicators would necessarily have to be based on assumptions that the use of force might be used in the future and would not be based on any indicators of an imminent threat.

The use of self-defense is easily justified in response to a hostile act or to an imminent threat; but without the presence of a hostile act or imminent threat, self-defense could be used arbitrarily and without limits and “at some completely indeterminate future moment.”⁵⁴ Just as the international community has been reluctant to embrace preemptive self-defense as a legal justification to use force; so too must it view with caution the use of preemptive self-defense at the tactical level.

Allowing unit operators and individual troops to engage preemptively broadens the scope of self-defense to the point that self-defense could be justified in virtually any combat situation. One of the foundational purposes of the rules of engagement is to allow political and military leaders to limit and control the conduct and scope of armed conflict. Giving license to units to act preemptively could negate that purpose and may trigger an undesired escalation of force with accompanying undesired political consequences.⁵⁵

Permitting tactical operators to use self-defense preemptively diminishes any hope of winning over the hearts and minds of the local population and would increase the level of suspicion of U.S. military forces. Imagine the level of hostility and animosity that would have been created among the local population if the SEALs had killed the goatherds.

In addition, it might prove increasingly difficult to hold true malefactors accountable for their actions during armed conflict. The defense for violations of the Law of Armed Conflict or the rules of engagement would always be, “I was acting preemptively because I thought the victim of my use of force was going to use force against me in the future—even though he was unarmed when I shot him.”

Conclusion

Preventing the tactical use of preemptive self-defense may seem unsatisfying for the fighter on the ground. As it turns out, Petty Officer Axelson correctly assessed the SEALs’ predicament as releasing the goatherds resulted in the death of three SEALs. And it is easy to understand Petty Officer Axelson’s frustration; they were sent on a mission by their Commanders, to a dangerous location behind enemy lines. In Petty Officer Axelson’s mind, the SEALs were as much victims of the circumstances as the goatherds and the SEALs had every right to defend themselves and preserve their lives.

Despite the frustration over the SEALs’ predicament and despite the desire to find some resolution that might have preserved the SEALs’ lives; as a matter of law the goatherds did nothing to trigger self-defense and to have killed them based on the information present and known to the SEALs at the time or to have killed them as a preemptive act would have been a violation of the Law of Armed Conflict and rules of engagement. Indeed, it would be difficult to legally justify the use of preemptive self-defense in any tactical situation.

In the end, the SEALs lost their lives complying with the Law of Armed Conflict and the rules of engagement and we should honor them for their sacrifice. A sense of discontent from those “at the tip of the spear” is understandable as the legal standard may appear to value the lives of the three goatherds more than the SEALs. But without evidence of hostile acts or hostile intent and without knowing the goatherds’ intent, the SEALs were obligated to release them. Having done so, the SEALs of Operation Redwing acted with honor and integrity and are deserving of our most profound respect.

Endnotes

- 1 This article does not address whether the SEALs would have been *morally* justified in killing the goatherds. But the role morality played in the SEALs decision making should not be discounted. The account of Operation Redwing by Marcus Luttrell makes clear the SEALs debate concerning the fate of the goatherds was influenced by both their legal and moral obligations. Luttrell, M. (2007). *Lone Survivor*. New York: Little, Brown and Company, p. 205.
- 2 Sometimes referred to as “Law of War”, “Law on the Battlefield”, or “Law of International Armed Conflict,” this article uses the term “Law of Armed Conflict” to describe that set of international rules and laws governed by treaty, custom, usage, convention and charter as applied to international armed conflict.
- 3 Rogers, A.P.V. (2004). *Law on the Battlefield*. Manchester, UK: Manchester University Press, pp. 1-3.
- 4 *Ibid.*, pp. 8-17.
- 5 Chairman of the Joint Chiefs of Staff. (2001, as Amended Through 17 March 2002). *Joint Publication 1-02, Department of Defense Dictionary of Military and Associated Terms*, p. 479.
- 6 The Judge Advocate General’s Legal Center & School, U.S. Army. (2006). *Operational Law Handbook*. Charlottesville, VA, pp. 34-36.
- 7 Chairman of the Joint Chiefs of Staff, 3121.01A. (2000). *Standing Rules of Engagement for US Forces*, p. A-5.
- 8 While the rules of engagement may permit the use of force against a soldier belonging to forces that have been declared hostile, the Law of Armed Conflict would prohibit the use of force against that soldier if he were wounded and unable to carry on the fight. *Geneva Convention, for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949, Art. 12*.
- 9 For the purposes of this article, “strategic” is defined as nation-state activities. CJCS, *Joint Publication 1-02*, p. 525.
- 10 Article 51 of the UN Charter provides:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.
- 11 For the purposes of this article, “tactical” is defined as unit or individual troop activities. CJCS, *Joint Publication 1-02*, p. 540.
- 12 CJCS, *SROE*, p. A-4.
- 13 *Ibid.*, p. A-5.
- 14 *Ibid.*
- 15 Hensler, Sean P., CDR, JAGC, USN (2006). *Self-defense in the Maritime Environment*

under the New Standing Rules of Engagement/Standing Rules for the Use of Force. *Naval Law Review* 53, p. 217.

16 Dinstein, Y. (2005). *War, Aggression and Self-Defence* (4th ed). New York: Cambridge University Press, p. 187.

17 Ibid., p. 192.

18 Ibid., p. 191.

19 Ibid., p. 182.

20 Reisman, W. M. & Armstrong, A. (2007). Claims to Pre-emptive Uses of Force: Some Trends and Projections and Their Implications for World Order. In M.N. Schmitt & J. Pejic (eds), *International Law and Armed Conflict: Exploring the Faultlines* (p. 80). The Netherlands: Koninklijke Brill BV.

21 Dinstein, p. 191.

22 Reisman and Armstrong, p. 80.

23 Dinstein, p. 191. To be clear, while he uses the Pearl Harbor hypothetical to describe preemptive, or preventive, self-defense, Dinstein, in his book, *War, Aggression and Self-Defence*, continues by stating such a preemptive use of force would be unlawful.

24 While the Bush Administration may have floated the idea of using preemptive self-defense as a basis for force, the invasion of Iraq was a response to Saddam Hussein's continued defiance of U.N. Security Council Resolutions dating back to the Gulf War of 1991, including his failure to comply with the cease fire from that conflict. For an excellent account of activities leading up to military action in Iraq and the legal justification to use force see, Wedgewood, R. (2007). The Military Action in Iraq and International Law. In M.N. Schmitt & J. Pejic (eds), *International Law and Armed Conflict: Exploring the Faultlines* (p. 229). The Netherlands: Koninklijke Brill BV.

25 See text of President Bush's January 28, 2003 State of the Union Address in *The Washington Post*. Retrieved from http://www.washingtonpost.com/wp-srv/onpolitics/transcripts/bushtext_012803.html; and the text of President Bush's June 1, 2002 Commencement Address at the United States Military Academy in *The New York Times*. Retrieved from <http://www.nytimes.com/2002/06/01/international/02PTEX-WEB.html?pagewanted=1>.

26 The White House. *National Security Strategy of the United States of America*. (September 2002), p. 15.

27 Coburn, F. (1922). *The Battle of April 19, 1775: In Lexington, Concord, Lincoln, Arlington, Cambridge, Somerville, and Charlestown, Massachusetts*. The Lexington Historical Society, p. 63.

28 For insight into the inception of the slogan, see, *Life, Liberty, and the Pursuit of All Who Threaten It, The Perfect Slogan for Today's Navy*, (August 2, 2004). Retrieved from http://www.military.com/NewContent/0,13190,080204_Navy,00.html?ESRC=navy.nl

29 Reisman and Armstrong, p. 80.

30 While anticipatory self-defense is widely recognized as a lawful use of force by the international community, preemptive self-defense has not achieved that stature. The reluctance of the international community to acknowledge the legitimacy of preemptive self-defense will be addressed in Part III of this article.

31 Luttrell, p. 179.

- 32 Ibid., p. 182.
- 33 Ibid., p. 197.
- 34 Ibid., p. 201.
- 35 Ibid., p. 206.
- 36 Ibid., pp. 204-205.
- 37 Ibid., p. 205.
- 38 Ibid., p. 203.
- 39 Ibid., p. 207.
- 40 Ibid., p. 208.
- 41 Ibid., p. 242.
- 42 Ibid., p. 237.
- 43 Fuentes, G. (2007, October 15). First Navy MoH since Vietnam to go to Seal. *Navy Times*. Retrieved from http://www.navytimes.com/news/2007/10/navy_seal_moh_071011w/.
- 44 Luttrell, pp. 248-250.
- 45 CJCS, SROE, p. A-6.
- 46 Ibid.
- 47 Would the outcome have been different if the goatherds had been armed but provided no indication they might use the weapon? An armed goatherd would be one indicator of hostile intent, but without some indication he was about to use the weapon, the SEALs would have lacked evidence of an imminent threat. Perhaps even more interesting is to consider the outcome if the goatherds were carrying cellular telephones and had the means to use them immediately. One could argue goatherds armed with cell phones are a more imminent threat than even the goatherd with an AK-47.
- 48 Reisman and Armstrong, pp. 79-81.
- 49 Ibid., p. 80.
- 50 Ibid.
- 51 Some have questioned why the SEALs didn't simply restrain the goatherds. As described above, the SEALs traveled light for Operation Redwing and did not bring equipment to use for restraining others. As a legal matter, even if the SEALs had brought the necessary gear to restrain the goatherds, they would have been prevented from doing so. If the goatherds had done nothing to trigger the use of force in self-defense, the SEALs would have been precluded from using restraints, just as they were precluded from killing the goatherds. The element of proportionality would not have come in to play because the use of force in self-defense, regardless of the level of response, was not justified.
- 52 Gill, T.D. (2007). The Temporal Dimension of Self-Defense. In M.N. Schmitt & J. Pejic (eds), *International Law and Armed Conflict: Exploring the Faultlines* (pp. 141-142). The Netherlands: Koninklijke Brill BV.
- 53 Ibid.
- 54 Ibid., pp. 142 & 149.
- 55 Operational Law Handbook, p. 90.

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The Ethics Of Disobedience

by Maj. Leung Shing Tai, Singapore Army

Disobedience is the antithesis of the military establishment, an extremely intolerable behaviour in an institution that stresses the values of loyalty, duty and discipline. Yet in today's operational environment such conduct is necessary in certain circumstances, must be tolerated and, sometimes, even forgiven on grounds of ethics and morality.

The Necessity for Obedience

Obedience is an important prerequisite for an effective military and the foundation on which its success is based upon. Commanders and soldiers in the lower rungs of the military hierarchy seldom understand the larger intent behind an operation. Although it is ideal for every commander and soldier to understand the policies and rationale behind an order given, the time taken to provide a detailed explanation would degrade the level of responsiveness in a combat environment and will probably lead to the subsequent failure of the entire operation. This reality, therefore, drives the need for obedience in the military, particularly during combat where a few seconds of inaction could significantly change the outcome of the battle. If soldiers do not obey the orders of their commanders, no army, no matter how powerful, can be made to move against the enemy. Without obedience, there can be no coordination between various combat elements to realize the advantages of superior maneuver and firepower. Disobedience, therefore, negates the might of any armed forces.

It is the constitutional duty of any military professional to obey orders from their superiors and ensure that the orders are executed to the best of their abilities. A U.S. Army Field Manual expresses the relationship between duty and obedience:

Duty is obedience and disciplined performance, despite difficulty or danger. It is doing what should be done when it should be done. Duty is a personal act of responsibility manifested by accomplishing all assigned tasks to the fullest of one's capability, meeting all commitments, and exploiting opportunities to improve oneself for the good of the group. Duty requires each of us to accept responsibility not only for our own actions, but also for the actions of those entrusted to our care.¹

This articulation equates obedience to the professional military duty of accomplishing all assignments as effectively as possible. Professional duty, however, is just one of the requirements for obedience.

The Effects of Ethics

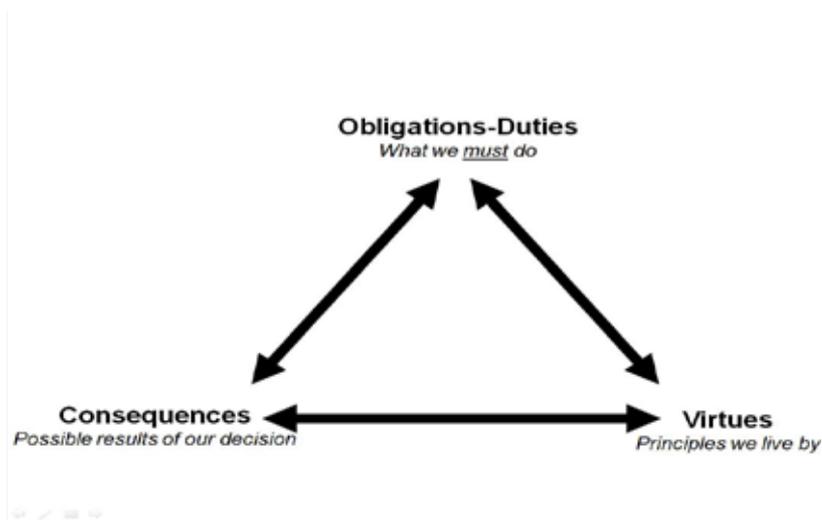
Another important requirement that must be taken into consideration is ethics. Military history is replete with examples of situations where the professional duty to obey orders comes into conflict with ethics during execution. Commanders and soldiers operating at the tactical level are often faced with moral dilemmas when executing their orders. Does a soldier obey the orders of his sergeant who has commanded him to fire into a civilian crowd shielding armed insurgents shooting at his unit? Does a company commander, ordered to lead his platoons in a frontal assault on an enemy position, carry out his orders knowing full well that the position cannot be penetrated and mass casualties are a certainty? When such orders are considered from the perspective of professional

duty, the decision is clear; execute the orders according to the instructions given. However, when ethics are taken into the account, the same orders become questionable and will inevitably cause commanders and soldiers to think twice about their subsequent actions and related consequences.

The role that ethics play in military decision-making and the execution of orders is more significant in today's operating environment than it has ever been before. The asymmetric and amorphous threats of insurgency and terrorism that military forces face necessitate them to take a different view of their role and purpose in relation to the threat. Military operations in the theatres of ungoverned territories are no longer focused on physically destroying the enemy but rather to win over the hearts and minds of the local populace so as to erode the enemy's base of support and their will to fight. As such, most operations now take place within population centers where military forces can more easily influence the local populace. The presence of civilians and the importance of their attitudes, opinions and participation in the conduct of operations complicate the operating environment and inevitably make ethics a critical consideration in military decision-making and the execution of orders.

The Ethical Triangle

When a military professional faces an order that creates a conflict between his professional duty and ethics, he must decide whether he should obey the order or disobey. The "Ethical Triangle" is proposed as a decision-making model to assist the military professional in overcoming this dilemma. The Ethical Triangle is "simply a device by which [military professionals] may analyze a decision which has ethical dimensions or implications."² The Ethical Triangle has three dimensions: (1) obligations-duties; (2) consequences; and (3) Virtues. A diagrammatic representation of the Ethical Triangle is shown below.



Obligations-Duties are rule-based considerations and are "things [military professionals] must do because of religious dictates, international law, federal law, lawful orders of superiors, mission, rules or regulations, and other sources of authority."³ Consequences are ends-based considerations and are "results [military professionals] wish to achieve (or avoid) based upon the course of action."⁴ Virtues are character-based and are "the character qualities or principles [military professionals] wish to demonstrate or exercise in [their] decision."⁵

Case Studies

Two case studies will be used to examine the utility of the Ethical Triangle. These case studies are taken directly from Anthony Hartle's work, *Moral Issues in Military Decision Making*, to illustrate the moral dilemmas that military commanders at the tactical level face when the conflict between professional duty and ethics forces them to choose between obeying orders and preserving the lives of innocent civilians and their soldiers.

The Operations Officer

Captain Green is an infantry battalion operations officer serving with American forces fighting in the Vietnam War. His battalion has been fighting intense but brief battles with enemy units on the northern edge of the Mekong Delta. The unit is protecting the capital city of Saigon by blocking routes to the city from the southwest and attacking enemy units in the area.

The southern part of the battalion's area of operations has been declared a "free fire zone" under the rules of engagement, which means that all persons considered friendly to the Vietnamese government have been evacuated. Any persons remaining in the zone are to be considered enemy and can be fired on if it has been established that no friendly military activity is under way in the zone.

The method of operation employed by Captain Green's battalion is that of occupying patrol bases of company and platoon size to block any movement toward Saigon. Frequently, the battalion consolidates and conducts heliborne operations against enemy concentrations. The battalion is about to conduct such an assault. The infantry units are in the air aboard helicopters, and Captain Green, along with the battalion commander and other staff officers, is in a command and control helicopter above the landing zone (LZ) the battalion will use. Helicopter assaults are seldom conducted outside the range of supporting artillery, but this attack is an exception. Since it is outside supporting artillery range, the LZ is being fired upon by armed helicopters before the landing in order to eliminate or suppress potential enemy resistance, though no enemy forces have been observed in the vicinity. Following his established pattern for such operations, the battalion commander gives his orders to Captain Green, who then uses the helicopter's communications system to coordinate execution.

The battalion commander has been intently observing a small village about 400 meters from the area in which the helicopters will land. He is uneasy about the risk involved should the Viet Cong (VC) offer significant resistance during the landing. The LZ and the village are just north of the free fire zone boundary, so the operation has been carefully coordinated with the Vietnamese district chief who controls this area. Any fires delivered in the district other than in situations requiring immediate return fire in self-defense must be approved by the district headquarters. The village causing the battalion commander concern has not been fired upon during the LZ preparation by the armed helicopters.

The battalion commander turns to Captain Green and asks if the village is outside the area cleared by the district headquarters for the LZ preparation. Captain Green replies that it seems to be right at the edge of the clear-to-fire area according to his map overlay. The battalion commander directs Captain Green to have the armed helicopters hit the village with rockets and machine gun fire as the landing begins. He suspects some automatic weapons may be emplaced in the village that could fire on the lift helicopters as they approach the LZ. Captain Green points out that they have seen women and children running to what appear to be earthen shelters in the village during the LZ preparation, but the battalion commander is firm: he wants the village taken under fire.

Captain Green is struck by indecision. He has no inclination to disobey his commander's order – quite the contrary. At the same time, he recognizes that firing on the village will almost certainly cause injuries among what appear to be non-combatants. Further, the rules of engagement in this area preclude firing into built-up areas without coordination and prior approval unless such action is immediately necessary in self-defense.

Captain Green tells the battalion commander that they should seek approval from the district headquarters since no enemy elements are actually known to be there. The battalion commander decides to refrain for the time being. Moments later, however, one of the armed helicopter pilots reports that he has received automatic weapons fire from the village and requests permission to initiate suppressive fires. The battalion commander tells Captain Green to "take care of it."

Source: Anthony E. Hartle, "Moral Issues in Military Decision Making" (Kansas: University Press of Kansas, 2004), 196-198.

In this situation, Captain Green is faced with a conflict between his professional duty to carry out the orders of his battalion commander, and his ethics to avoid creating unnecessary casualties among the village population. Should he obey and execute his orders or disobey them based on humane and ethical grounds?

According to the Ethical Triangle, Captain Green must consider the three dimensions of obligations-duties, consequences and virtues before making his decision.

The obligation-duty dimension covers his professional obligation. Captain Green as a military professional must obey the orders of his superior officer. However, it is also Captain Green's professional duty to ensure that the orders given are within the legal boundaries of the law of war. If the fire by the enemy is life-threatening to soldiers in the battalion, then firing back on the armed combatants in the village will be legal under the law of war. Although these is a potential of sustaining civilian casualties in the crossfire, injuries and the loss of life is one of the tragedies in war that has to be regrettably accepted. However, if the situation is not life threatening, then the order to fire into the village becomes illegal and unethical. In such a case, Captain Green has every right to disobey his battalion commander.

For the purposes of examining the problem further, the situation is assumed to be life-threatening and suppressive fire is therefore necessary to suppress the armed combatants and mitigate the threat to Captain Green's battalion. Knowing that innocent civilians will inevitably be harmed, should Captain Green still fire into the village?

Captain Green should now look into the consequences of his subsequent actions. Firing into the village will cause extensive civilian casualties but will serve to preserve the lives of his troops. The opposite consequence is true if he does not fire. At this point, Captain Green must consider which action will result in the greater good. Since the survival of his troops will mean more manpower contributing to the overall objective of conflict- resolution in Vietnam, it can be argued that protecting the lives of his troops will be for the greater good.

Finally, before making a decision, Captain Green must consider the virtues of his actions. Is firing into the village an action that is consistent with his personal ethics and values? Is he able to live with himself, knowing full well that his decision has caused the deaths of innocent men, women and children? Dr James Toner, a professor of international relations and military ethics at Air War College, suggests that military professionals should never compromise their personal integrity and moral code.⁶ He argues that loyalty is a virtue that is contextual and conditional. Although loyalty is the default position expected of military professionals, circumstances may arise which restrict its practice. "[Service personnel] must remember that ... if and when the values of the country clash with what a [military professional] determines is an eternal value, the ... first loyalty must be to 'soul,' as he chooses to define it."⁷

From the perspectives of obligations-duties and consequences, the Ethical Triangle points out that firing into the village is the correct thing to do; whereas from the virtues standpoint, the decision is left up to Captain Green's personal conviction and his ability to live with his actions thereafter. In such situations, the decision is not about right or wrong, but rather about two rights with different consequences.

(continued)

The Company Commander

Captain White commands an infantry company participating in an antiguerrilla campaign in a small Central American nation. American forces have been committed to combat to help maintain a tottering democratic government that is opposed by well-organized revolutionary forces supported by various states, primarily Cuba. The American forces provide security for sensitive areas in the country, thereby freeing the beleaguered government forces for offensive operations. Captain White's company patrols a sector through which small guerrilla raiding forces have moved for some time. The company is part of a network of units securing a large port and logistical center on the coast.

Each day, twenty-one company-sized units providing security receive a requirement to send out a certain number of patrols and ambushes into designated areas within their sectors of responsibility. In response to these orders, each company submits a plan showing patrol routes and ambush locations to their various battalion headquarters. These are in turn forwarded to the Logistic Support Center Command (LSCC).

The daily routine has gone on for nearly six weeks. Casualties in Captain White's company have been rather high, and most of them have occurred in Area B-7, a reference to a particular portion of the company's sector. The B-7 subsector is an elliptical area with the long axis running north and south, framed by two rivers created when a larger tributary splits into two channels at the north end. The two channels rejoin at the southern point, creating an island three-fourths of a mile wide and two miles long. In the center of the area is a village of perhaps one hundred people who work small plots of land in the vicinity. Each day Captain White receives a requirement to conduct one moving patrol and one ambush patrol within B-7. Time and again, as his units move into the area, they are themselves ambushed or encounter mines and bobby traps. The men in Captain White's company have nicknamed Area B-7 "the Cemetery."

The area in which the company operates is a patchwork of dense jungle and open areas resulting from past efforts at cultivation. Within B-7, the ground is mostly level and open, but along the river banks, the growth is impenetrable. There are only two foot routes into B-7: small footbridges on the east and west sides. The approaches to the footbridges are continually bobby trapped, and it is almost impossible to move into the Cemetery undiscovered.

Captain White's security responsibilities are such that he cannot leave a force in B-7 permanently. He is dubious about leaving them there in an isolated position anyway. Helicopter support is infrequent, making reinforcement by air unreliable. All airmobile assets other than medical evacuation are devoted to offensive operations. Captain White has told his commander of his difficulties and requested that the B-7 patrol requirements be dropped. He has used boats on the river in an attempt to find other entrances to B-7 but to no avail. He has talked to the headman in the B-7 village, but the villagers are struggling to remain neutral and want to avoid retribution by either side in the conflict, though they always manage to avoid bobby trap locations. Captain White suspects that there are guerrillas among the villagers, but he knows that the command policy concerning civilians is extremely strict. The American command is determined to avoid the abuses that occurred on occasion in Vietnam.

Each day the patrols go into B-7, and almost each day one or more men are lost. The non-commissioned officers in the company have worked an informal policy in which each man, after making four patrols into B-7, is assigned to other missions until all men in the unit have made four trips to the Cemetery. The turnover rate has been such that few men have had to make more than the four patrols.

On the previous day Captain White accompanied one of the patrols in the Cemetery. A bobby trap consisting of small mortar shell surrounded by crockery killed two men and wounded a third. The device was located about fifty yards from the bridge across the river. Though the patrol's approach had been extremely cautious, with a search for bobby traps and mines, the command-detonated shell was not discovered before it exploded.

Captain White is respected by his men, as are his officers and sergeants. They know that Captain White has gone into B-7 many times. Morale is extremely low, however, and the pressure of the daily patrols against an enemy seldom seen but constantly threatening is taking a severe psychological toll. Captain White recognizes that unless the pattern changes, his men may one day refuse to go into the Cemetery.

The requirement is one imposed by a distant headquarters that displays no sensitivity to "minor patrolling losses." Captain White's commander is an experienced career soldier whose primary concern is efficiency and mission accomplishment. He appears unwilling to make an issue of B-7 with higher headquarters. In Captain White's assessment, the B-7 requirement most probably

(continued)

stems from a staff officer's aversion to asymmetry in the dots on the map reviewed daily at LSCC headquarters. He has come to the conclusion that his men are casualties of bureaucracy and inertia more than enemy action. The previous day's losses have crystallized his growing misgivings. He feels that further casualties in an apparently senseless mission are intolerable.

A night of intense introspection has revealed several possible actions. The most radical of these is to refuse to send his men into the Cemetery again on routine patrols. Captain White recognizes that such a protest would result in his rapid replacement by another company commander who would, initially at least, continue the B-7 missions. He could report patrols but simply not send his men out. That possibility, however, is one that Captain White simply cannot accept. It conflicts with his fundamental view of himself as a professional officer with the standards of performance that he applies to his conduct. In addition, for technical reasons – including regular infrared and “people sniffer” missions by intelligence elements – such an evasion would soon be detected.

Various alternative techniques of meeting the patrol requirements, such as infiltration and stay-behind patrols, have been tried and failed to solve the difficulty. Restrictions on the use of supporting fires make “firepower solutions” unacceptable. If required to go into B-7, Captain White would prefer to go in behind a wall of artillery fire, but that is not possible in this situation.

After Captain White examines all the potential solutions that he has identified, he believes that he faces a fundamental choice: either (1) refuse to obey orders, or (2) continue sending men to death and injury for no defensible reason.

Source: Anthony E. Hartle, “Moral Issues in Military Decision Making” (Kansas: University Press of Kansas, 2004), 199-202.

Like Captain Green in the previous case study, Captain White is conflicted between his professional duty of obeying orders from his superior headquarters and his ethical obligation of preserving the lives of his soldiers by not sending them on a futile mission that creates unnecessary casualties.

The Ethical Triangle can be applied in this scenario to determine the appropriate actions Captain White should take. From the obligations-duties standpoint, Captain White is required to obey the orders of his battalion commander, and unlike the previous case study, there is no question about the legality of the order. Captain White is also right to rule out the option to falsely report his patrolling activities as that will go against professional military values.

Captain White is certain of the consequences to his company and soldiers if he continues to send his soldiers into B-7. Being a Company Commander, however, Captain White will have no knowledge of the consequences if he fails to perform his mission as he might not understand the higher intent of the campaign and the impact of his mission to the overall operation.

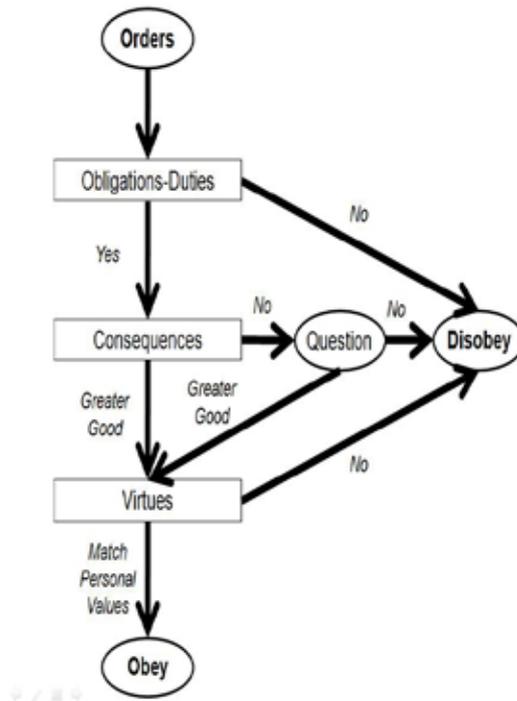
From the virtues perspective, Captain White recognizes that it is his moral obligation as a commander to protect his soldiers. It clearly appears senseless to him to send his men into B-7 for no apparent reason other than to follow orders from his HQ. He finds the attrition of his company to be intolerable and it is not ethically acceptable to him for his company to continue patrolling B-7.

The application of the Ethical Triangle reveals that obligations-duties is in conflict with consequences and virtues. The virtue argument, however, is strong in this case. Captain White's soldiers have surrendered their rights to the self-determination of their own lives in order to achieve objectives justified by the greater good of conflict resolution as a desired consequence. However, since Captain White believes that the mission no longer contributes to the end state, and is instead destroying his company, it will not be wrong for him to refuse to carry out the mission. Ethics, in such situations, outweighs the professional duty to obey orders. Such a move, however, may result in negative ramifications for Captain White's career, but it may very well be an action that he has to take so as not to compromise his personal moral code and integrity.

The Criteria for Disobedience

As illustrated by the case studies above, the Ethical Triangle provides military professionals with a useful mental model when confronted with orders that create conflicts between professional duty and ethics. By examining the relationship between the dimensions of obligations-duties, consequences and virtues, military professionals will be able to make better ethical decisions.

So when is it acceptable for a military professional to disobey controversial orders? The Ethical Triangle offers a solution to this problem with the use of its three dimensions as a set of screening criteria. One, if the orders are against one's obligations-duties they should be discarded as it is professionally wrong to carry out orders that are against existing laws, codes and conventions. Two, if the orders results in consequences that do not serve the common good they should be questioned. The orders should be clarified with higher headquarters to ensure that its background context and intent are properly understood before determining if they are worth executing. Three, if the orders go against personal moral code, values, and integrity they should be disobeyed. Ethically controversial orders that go against one's conscience and "gut" feeling will often turn out wrong. This screening process is as depicted in the diagram below.



Conclusion

The process of making ethical decisions to execute orders is particularly important in today's operating environment as heavy-handed military actions are counterproductive to building popular support in winning the Long War. In a high tempo setting where orders, based on incomplete information, are being churned out to meet constantly changing operational demands, it is vital for the ethics and moral judgement of military professionals to act as a check on the military system to ensure the orders given are consistent with the situation on the ground and contribute to the desired end state.

Disobedience to orders may be necessary at times to make the right decisions, but making such decisions based on ethical conclusions can be extremely difficult and will require a great deal of mettle and moral courage. Nevertheless, military professionalism requires that the ethics involved in professional decisions be fully considered so that an ethical choice to disobey orders will be the professionally correct one as well.

Endnotes

- 1 Department of the Army, *FM 100-1, The Army* (Washington, DC: Government Printing Office, August 1986)
- 2 U.S. Army Command and General Staff College, *L100 Book of Readings* (Fort Leavenworth, KS: USACGSC, August 2008), 143-144.
- 3 Ibid.
- 4 Ibid.
- 5 Ibid.
- 6 James H. Toner, "True Faith and Allegiance: The Burden of Military Ethics" (Kentucky: University Press of Kentucky, 1995), 117-118.
- 7 James H. Toner, "Loyalty" (unpublished article, not dated), 53.

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Tactical-Level Q&A

Transcript

Q: (Dr. Ted Thomas) I'm going to open the floor now to questions and if you have a question, please move to one of the mics. I'm going to ask a lead-in question to the panel. And one last thing before we begin, all the papers that were discussed today are available on the web site and you can download from there and read them at your leisure.

I'm going to start with the first question and it's simply this. If you had an opportunity to provide advice to the Command and General Staff College, what one thing would you tell them is most important about preparing our future leaders, our future senior leaders for the ethical issues they're likely to face? And I'm going to start with Commander Leak please.

A: (Lt. Cmdr. Thomas Leak) Well, I think sir, I think you hit on, in your comments, and in fact, I wrote it down. I think I got the quote fairly correct. That, "We must be guided not by what is legal, but by what is ethical or moral." And I think that's correct. I guess if there's one piece of advice that I could provide, and it's what I hear, and if you read – and I'm not here to promote the book – but if you read Latrell's story in *Lone Survivor*, he continually gripes about the ROE, that the ROE didn't allow them to do their job effectively, that they were constrained by the limits of ROE. And I think ROE should be nothing more than a reflection of our values and our morals in battle, I think. I think that's a correct statement. And so I think if we can instill that idea to our troops that, in fact, the ROE is not something that they need to fight against, but it's something that helps them in the battle and, in fact, in the long term. It helps by winning the hearts and the minds of the population. If we can somehow train and instill that idea that ROE is our friend and just because some of them are written by lawyers doesn't make them necessarily bad per se. So I guess if there's anything I can provide in advice, it would be that. To magnify or help amplify the importance of ROE and the fact that they are just merely a reflection of our values. And when we write ROE, that's what they should be. They should be a reflection of what we want the military, or the political objectives in the battlefield.

A: (Captain Walter Sowden) Well, first of all, I feel uncomfortable as a captain giving advice to a room full of majors and colonels, but I'll give it my best shot. Having been a TAC at the United States Military Academy, I give cadets advice and I feel that, you know, what's good for the cadets and soldiers out there is probably good for our field grade officers. The first thing I'd say is be involved in both sides of the mentorship formula. You know, be a mentor and be mentored. I think that goes a long way to seeing multiple sides of issues and topics and dilemmas. Second thing is obvious in our profession, is be principled. You know, have values that are in alignment with the organizational values and the core values of our country and live those values. You know, the next thing I'd probably give advice is keep your antenna up. Be aware. Look for the moral or ethical flavor, for lack of a better term, in any situation that you are involved in because it's out there, and part of the problem with acting in accordance with our values is sometimes we turn those antennae off or put our blinders up and get myopic. So be aware. To steal a little bit of this gentleman's thunder, apply the lenses or apply those angles of the ethical triangle in those situations. I

don't say be comfortable with risk. Make the right decision even though it might not be what's beneficial to your own career or your own subordinate unit like the colonel was saying. Be brave when it comes to acting because a lot of times, I think Schwartzkopf, General Schwartzkopf said it, that knowing what's right is the easy part. Doing what's right is the hard part. So be brave, you know, act. And then the last thing is expect the blacks one. I mean, expect the unexpected in this operating environment. If you kind of go in with that attitude and live in accordance with your values, then you can't go wrong.

A: (Major Shing-Tai Leung) I think two things we must do. The first, I think it's important to spend time reflecting on our values, our moral codes and our beliefs. I just took a [inaudible] two months ago and I was thankful to have some time towards the end of my CGSC term to think about these things. I think it's important for these values and codes to be internalized because often in command, an incidents just happen, and when things happen, you more often than not have to make a quick decision on the spot. And the quality of this decision really depends on the kind of values and beliefs you espouse. So therefore, I think taking time to think on, think and reflect on this is important.

The second is I think it's important to learn from each other's experiences. We can only do one job at one place at any point of time. And our experiences are limited. But if we are able to harness the experience of the students, of all the students, learn about what they did in different situations and reflect whether their actions were appropriate, then I think we can emerge from CGSC a better officer.

Q: My name is Mike Haith, and I'm with a small company called Whitney, Bradley and Brown. I've got to be very, very careful. A former boss of mine is here, General Miller. I don't want to confirm his notion of my incompetence with my question, so I have to be kind of careful. Joe, this is for you. You may have – I doubt you have come across my name, but you may have come across my son. He was in your brigade in Iraq. He was a company commander in the 175 RSTA.

A: (Colonel Joe McLamb) The Widow Makers, yes, sir.

Q: Yeah. He's still there, he's still there as a company commander and I'm very proud of him.

A: And you should be, sir.

Q: But I notice an inconsistency in your remarks and I know if I gave you a chance to address it, you would. I wrote down a couple of notes. And three things that you said. The first one was "no help is coming." I know why you say that to try and make sure that they're self reliant. But the next one is this isolation due to a loss of trust in higher headquarters, higher superiors. And finally at the end, you conclude with saying, "I have to believe that my superiors had my self interest and the interest of my soldiers in the unit in mind." That was the inconsistency. "No help was coming," but "I have to trust that my higher headquarters cares about me." And then a sense of isolation. So that's one of my concerns. The last one is, what do you think, from your experience, are the reasons why small units no longer trust and can get that sense of isolation, that they are not being taken care of? Because it just doesn't well up out of nowhere. Something comes across to them that says, "I can't trust them anymore." So a lot to say, I hope you can ...

A: (Colonel Joe McLamb) I'm not even sure I can remember the question, much less give you an adequate answer. But I'll start with what you address as an inconsistency. When I say, "No help is coming," that's probably more pessimistic than it needs to be. But it's intentionally pessimistic, and I say that mostly to young majors getting ready to go out to the Army. I joined my unit as an individual replacement as a field grade officer, and graduating from CGSC, you sort of had this, you know, you have this – often, you have a seminar leader who plays your higher headquarters when you're going through there, and the only thing he has to do during the day is pay attention to you and help you with, you know, so you go, "We need another tank battalion." He goes, "Oh, okay. You can have another tank battalion." Because he's not really taking that tank battalion from anybody. Nobody else is paying the price. You know, one of the hard things to understand, I think, as a field grade officer is every time you ask for resources, it's just another way of asking some other unit to accept risk. That's all you're doing. You're asking your higher headquarters to take risk from some other unit, from you, and apply it to some other unit. That's what moving resources is all about. And it was a little bit of a shock to me as a field grade officer to discover that my Brigade Commander and his staff had brigade problems that they had to deal with and really couldn't spend all day listening to me whine and trying to figure out what was going on. And the closest metaphor I have for my experience as a young major, and I don't watch very much television, but I guess one of the more popular television shows for several years was called *ER*, *Emergency Room*, or something like that, and I saw a commercial for it one time where they wheeled this person into the emergency room and this young guy is giving orders and he's telling people to move and do this and do that, and then he turns to the head nurse and says, "We need to get a doctor in here." I guess he had been an intern. And she says, "You are the doctor." And he's got this kind of shocked look on his face, and that was my experience as a field grade officer. About four months into my experience as a field grade officer, I was like, "We need to get somebody in here that knows what they're doing," and my battalion commander turned and said, "Yeah, it's you, so shut up and get moving." And that's really what I mean when I say, "No help is coming." Not that no one cares about you or that anyone's out to get you, but that the Army only functions – my Battalion Commander when I was a Company Commander, was a guy named Dave Rodriguez who's done okay for himself since then, and a great, great man in addition to being a great officer. And he told me one time, "This only works if we're all firing on eight cylinders. That's the only way this works is if we're all firing on eight cylinders." And you come out of, at least I did, out of CGSC not realizing that everyone expects me to hit the ground with all eight cylinders firing. And that's really what I was trying to communicate with the idea that "no help was coming." That doesn't mean that no one cares about you, or that no one is pulling for you. It just means that they've got their own set of problems to deal with and they expect you to pull your weight. And that's a little hard for me to make the transition from captain, where I really felt like I had a safety net all the time. You know, if I screw this up really bad, some major or some captain is going to come and protect me from the consequences, and more importantly, they're going to protect my soldiers from the consequences of my mistakes. And when you pin on that gold oak leaf and show up there in a battalion and you're one of a total of three field grade officers, plus two sergeant majors, there is no net. The mistakes that you make, your soldiers do in fact feel the consequences for that, and the things that you do right, your soldiers feel the consequences for that as well. And that was a huge transition for me personally. It may not be that big of a transition for those of you that grew up as company commanders in combat. But my experience was that being a field grade officer is a quantum

difference from being a company grade officer. The expectations of the organization are much higher.

Having said that, I do believe that many – the overwhelming majority of leaders in the Army are truly concerned about their subordinates. They're concerned about their emotional, mental and moral welfare. Not all of them know how to communicate that concern well. And going back to the question that I ask everybody else, if you could, if the Command and General Staff College could graduate majors who understand how to do that, who would grow up to be the battalion commanders and brigade commanders and division commanders of the future, that might be a great way to inoculate us against some of the effects that I talked about.

The second part of your question was about isolation and what causes isolation and I'm going to start by falling back to my initial position, which is that isolation is a natural consequence of counterinsurgency. The way you do counterinsurgency is decentralized operations. But are there things that you can ... and I talked about some things that I think you can do to limit the effects of that isolation of being forward on the battlefield, spending time with your leaders. When I was a battalion commander, you know, I got all the majors and company commanders coming and telling me, "You know, sir, things are slow in counterinsurgency. You don't need to have a daily update with the company commanders on the radio. Just once a week is good enough." And I said, "No, we're going to do this everyday." And my logic behind that was not that I needed to be caught up on the battlefield everyday, but that us talking to each other everyday and each company commander hearing the other company commander saying, "Hey, this is what's really, you know," I'm trying not to use infantry language here, "This is really causing me problems in my AO." When they can hear another company commander saying that, that helps them realize that, "I'm not the only guy in the world facing these problems," and that's a big help.

But really the question I think that you're trying to get me to answer is, are there things that you can do to make that sense of isolation worse? And there absolutely are. There's a great piece of our doctrine that I think we tend to discard too frequently which says that we use the control measure that is the least restrictive control measure possible. In other words, you only apply the level of control over the next lower headquarters that's absolutely necessary. And I think sometimes we violate that. Sometimes we default to the most restrictive control measure, and then require the subordinate headquarters to justify a breakaway from whatever that standard that we set is. And then the guy is morally bound then to follow that guidance. The example that I used when I was a Brigade S3 is, you know, you've got a squad leader out on a patrol and some other portion of his platoon is in contact and he's got to cross a canal in order to get into a better position to place the effects of his weapon on the enemy. And canals in the area that we were in were six to eight feet deep, they were about ten feet wide, they were – for those of you that grew up in the Cold War, you would look at them and go, "Oh, that's a trench with water in it," And that's exactly what they were. And we had to actually reintroduce people to this is how you deal with trenches sometimes in order to deal with these canals. But a squad leader then has got to make a decision. Does he cross that creek, does he cross that – creek – I'm from Alabama. Does he cross that canal with all of his body armor, his helmet, and all the equipment that he's required by regulation, by the orders that we've issued him for his soldiers to wear all the time and run the risk of people drowning under the weight of their

own gear? Or does he take off some of that equipment in violation of the order that we've given him, cross the canal and then put it back on. And the answer to that question is it really doesn't, the important part of that question is not, what's the right way to do that? The question is who has the authority to make that decision? And if it's that squad leader, if we say, "Hey, it's on you buddy. You make the best choice that you can and we're going to back you up on it here," then that really fights that sense of isolation. If you tell him, "Only three star generals are competent to decide whether or not you should cross that stream with your body armor or not," I think that increases his sense that I can't really be honest with my higher headquarters because they've already made up their mind that there's one solution to every problem and even though I might be facing a different problem than they anticipated, they still expect me to use their solution. Is that an adequate answer? I was going to keep talking until you said uncle.

Q: Gentlemen, my name is Major Jason Holder. My question is for you, sir, Colonel McLamb. You mentioned in your presentation the importance, how it's important, the goal and the idea of bringing everyone home alive and nobody gets hurt, but it's logically not – really, logically, it can't be the number one priority because you could do it better at Fort Campbell or wherever. My question is how did you, or how do you recommend you articulate that to team leaders, squad leader, young lieutenant who, although they might have deployment two or three under their belt, this is probably going to be the deployment, their first deployment in this new position. The guy has some fear of uncertainty, fear – you know, they're dealing with a new ROE, they're dealing with a lot of different things that they didn't have last time. So how do you put that into practice? How do you recommend future S3's and XO's articulate that down to the tactical leaders?

A: (Colonel Joe McLamb) Well, my answer may sound like I'm trying to waffle, but I'm not. The, what I found to be the least effective way to do that is to put everybody in a big room like this and sit behind a podium and talk about ethics, which is no offense to anybody in the room. I think the answer to that in training is the same as the answer is in theater. Which is, you've got to be in contact with those leaders a lot. And I'm going to – you know, we have a thing in our doctrine called "Commander's Intent" and if you read our doctrine, you kind of get the impression that "Commander's Intent" is a written product that the Commander crafts, everybody else reads, and then enlightenment comes and they go do things. And that is what our doctrine says. But the longer that I've been in the Army, the more I've become convinced that the only really effective "Commander's Intent" is when people know the boss well enough that they really kind of know what's in his heart and what's in his mind. And that's why I say cohesion is so important to me. When – I think what frequently happens – maybe not frequently, but sometimes happens, is the Commander thinks in his mind very clearly. He understands what it is that he wants to happen on the battlefield, but it may be that other people in the organization don't understand that because they don't understand the Commander. And so, I mean, I'm trying to figure out how to say this the right way. We deployed in October of '07 – that summer was our intensive training cycle and it was essentially from Memorial Day in the spring until Labor Day in the summer. And in that time period, we only had the entire battalion out in the field, really just while we were down at JRTC. So three weeks. But in that 100 days, 90 to 100 days, I was at home at night 11 nights that entire period. The rest of that time, I was out with company commanders. If there was one company in the field, then I was with that company. If I was with – you know, if there were two companies, then I rotated around. The Sergeant Major

was the same and always one of the majors as well. Now, we had to leave one major back at home because all kinds of crazy stuff can go on while the battalion commander is out in the field. But I really think that that may end up being the most effective way – I’m not sure that you can teach ethics. You can only demonstrate ethics, and maybe the best way to do that is to be in front of the troops as absolutely as much as you can. And you don’t show up saying, “Today, I’m going to talk about ethics.” You show up to talk about training and in that training discussion, there should be the ethical dimension. Is that an adequate answer or do you feel like I sidestepped that. Okay. Thanks.

Q: Good morning. I’m Aaron from Israel. And first, I want to say that I very liked your call here and I think it was very great from the perspective of battalion commander as well. And I dealt and I deployed for 20 years around the Arabic environment. So we have some common things to speak about. Anyway, my question is more about, you spoke about that in full spectrum operation or attack, you put the enemy in a situation of dangers and your soldier less. In the other environment, let’s say in Iraq right now, your soldier is in the middle of the danger, so you put them in the danger for the people in front of you. And first, I want to know if I understood you well and then my question is you don’t think that we are there? I mean, the Army, during Iraq to protect our values. I mean, you put your soldier for [inaudible] and in this case it’s for their safety and not for the other. You put them in danger for themselves and not for the population over there.

A: (Colonel Joe McLamb) I’m assuming that question is for me since I was the one who said that. Is that ...? Okay, sir. First of all, yes, you understood what I said correctly and that was not an understanding that I came to quickly. It took me some time to come to grips with the fact that what I was doing was taking risk to the local national population and transferring it to myself and my soldiers. And it was a little bit of a dark night of the soul as I tried to come to grips with that. Having said that, to try to answer the second part of your question, when I took command of the battalion. You know, you typically do a big battalion run and you pull everybody around and say, “Hey, look, I’m the new Battalion Commander and this is what is important to me, and blah, blah, blah.” And no one’s really listening, which is okay. And in the end, I ended with, “Hey, everybody here knows we’re going back to Iraq. Right? Everybody knows that.” And everybody was, we were getting ready for our third tour, and everybody said, “Well, yeah.” And I said, “Why are we going back to Iraq?” Now remember, the battalion that I was command and had just had this really horrific experience the last time, and somebody said, one of the NCOs said – and this was 850 people all crowded around me – so one of them said, “Well, we’re going back to redeem ourselves.” I said, “No, we’re not going back to redeem ourselves. That’s not why we’re going back. Now, we’d like to do that, but that’s not what we’re going back for. Why are we going back?” And someone said, “We’re going to make our AO better.” I said, “Nope. We’re not going back to make our AO better.” And finally ... recording 2A abruptly ended).

(Begin recording 2B) ... And my conclusion was that we were not winning in Iraq in ’06, that we were very much in danger of losing the war, of failing to accomplish the objectives that the American people had set for us. And at the time, that wasn’t a very, to say that was not – you know, I would have got the beat down by any number of people if I had said that. But I think there were a lot of folks in the Army at the major and lieutenant colonel and captain level who were all starting to go, “Hey, this isn’t going the way we want it to.” And so I asked this of the battalion. I said, “Well, we’re not winning.” I said, “Okay, so we’re

going to have to do something different. We're going to have to do what it takes to win. How committed are you to winning in Iraq?" And if it was against a conventional enemy, you know, force on force, everybody would go, "You know, sir, it's okay if some of us killed. We're going to win this thing." Well, in Iraq, you're not going to win that way. You're going to win by transferring the loyalty of the population to the legitimate government of Iraq. That's what counterinsurgency is in a nutshell, is moving the loyalty of the population back to the population, or back to the legitimate government. And I said, "If I told you that we were going to have to kill a butt load of people in order to do that, what would you say?" And this is an infantry battalion, so they all went, "Ohhh, that would be great, sir." I said, "Okay, that's great. I'm glad that you're committing to doing that if that's what it takes. But what if we have to man kiss our way to victory?" And they did exactly what you did. They all kind of laughed. And I said, "Well, you need to understand the Commander's Intent. The Commander's Intent is that if we have to man kiss our way to victory, pass the lip balm brother, because you are going to man kiss your victory because we are going to win and we're going to win, we're going to accomplish the objectives of the United States."

In order to accomplish the objectives of the United States – and I'm finally getting to the answer of your question – in order to accomplish those objectives, I saw and still see no way of doing that without taking the risk of the local population and placing it on my own soldiers and myself. I mean, I'm not trying to hide from the risk associated with that. Both the physical risk and the moral risk. And then you do everything in your power to limit that risk to your own soldiers. It's not a one step process, it's two. But certainly, I think you have to accept that if your goal is to change the allegiance of the local population, you're going to have to accept the risk that currently resides on top of them. Did that answer your question or is that an adequate answer? (inaudible answer) That means no, okay. Sir.

Q: Everybody, I'm Colonel Todd Ebel and just for a point of clarification, I was Joe's Brigade Commander during his second tour in Iraq, during the 2005-2006 era. I share that as a matter of context, not to draw questions related, but it would give an opportunity if the opportunity presented itself to provide a different perspective or context that reinforces many of the views that Joe has shared. In fact, we talked deliberately about this topic on many occasions. And I want to applaud you for the candor as well as the accuracy of your concerns as you express with this important group. Mine is more of a reflection that I'd ask that the group weigh with regards to the developmental paths or the training education opportunities as described the Major. And I apologize, I didn't recall your name with the paper, I think, *Competency versus Character*.

A: Captain Sowden, sir.

Q: Okay. What I'd ask you to do is consider that in any environment that we train, that we look at the opportunities to how do we set the tone. Much of the examples we reflected upon and Joe, in your own case when you talked about your mentorship role when you built in the [inaudible] or the Eagle Flight 2's, the scenario, you sort of left us hanging. And I share that not as a matter of a disparaging remark, but you never did tell us what was the right answer for that lieutenant. And what I share with you as a matter of that context, that openness has to be reinforced. You may have felt that it was important to report it, but you never let us know exactly in a situation as easy in some case as reporting or not reporting, the answer may seem obvious to the group

and so you default to that. The question that the officer from Singapore addresses is probably more problematic. What if you have really two wrong and two right answers?

[Recording suddenly became very low volume and difficult to hear.]

And your values are manifesting your developmental or your ethical [inaudible]. Your values aren't necessarily the values of your [inaudible] although you try to impart that on them. And you're making the assumption that we come in as a cohort and everybody has the same ethics. [Inaudible] formation is a microcosm of society. We have UCMJ because bad things happen in organizations. It's a tool that allows us to influence the organization and ensure an ethical, moral climate is established so that the discipline is not fractured, in fact, allows you to move forward in a very [inaudible] fashion and accomplish your mission.

My comment is for the senior leaders, those that are...

[inaudible- recording completely cut out for several seconds]

[Recording volume became normal] ... all the leaders on simple effects that create the dilemma for the subordinates. An example that can be attribution is, what if your commander always says protect the force, protect the force, protect the force? And this is the subliminal message that's reinforced much like a bottom line. How does that translate to the officer trying to implement tactical tasks in order to transfer the risk from the local populace to his formation? What's the message? Where's his dilemma.

[Recording again cut out in volume] In order to transfer risk, he's going to bite the bullet and accept that some of my men may in fact...[inaudible].

[No volume in recording at all for several minutes] ... applaud the efforts of the group in your discussion. But for the captain, I'd ask you, in the scenarios that you describe for training, how do you discuss the context and how do you weigh or underwrite the decisions of those of which you want to impart? And the mentorship is, I guess, I'd ask you to answer that. How do you know that they're accepting what you say, and two, how do you know that what you say is the right answer with response to the training?

A: (Captain Walter Sowden) Well, if I understand the question correctly, sir, I would go back to like the adaptive course model that Mr. Don Van de Griff developed and you let the individual, I'm just going to use the word "flounder" in the context and let them make their decisions and then with the use of reflective coaching whether during the event or after, you ask them why and you have them kind of go through a metacognitive process to look at how they're thinking, why they're thinking, and did they weigh all the potential ramifications and outcomes to the decision making? You don't necessarily say is something right or wrong unless it, you know, unless it's so ridiculous that you have to call them out on it. But you let them experience that decision making process for themselves in different situations, different contexts, sometimes the same context. Let them try different things out and then just help them look at the paradigm from different angles. Does that make sense?

Q: It does because I also know that in sort of my contextual introduction, to the degree that I rambled, I understand I might have not framed it. My question might be better illustrated or better conceived through an illustration. And I'll use, Joe, the scenario

you've mentioned. If the lieutenant in your mind was to report the incident of the child that was killed accidentally, and by all means within the ROE, etc., it's clearly just he was more inconvenienced that he was right or wrong. Because you had options as the battalion or the company commander to divert him from patrol or to accept the risk of either not ... [recording cut out completely for several minutes.]

... which is not valued neutral education. Well, this gets back to your question [inaudible] or anybody else, [inaudible] the majors. If they understand that omission of discourse is not value neutral education. Okay. Point being, if you don't talk about something, [inaudible]. You can be talking about [inaudible] decision to go on fourth down. I mean, it doesn't even have to be in a military context. Any time you're talking with your soldiers or your subordinates, you have an opportunity to talk about values or ethics or right and wrong. So omission of discourse in any context is not value neutral. And so that's why if you wrote this paper about character versus competence, and the answer is it's both. We are very competent [inaudible] Army and they can absolutely be seamless. [Recording cut out and buzz sound.]

A: (LTC Joe Doty) ... over. You know, and I'll never forget my kids ten years ago saying, "Dad, we're so tired of you talking about being a team player. Would you just stop talking about being a team player? That's all you ever talk about is being a team guy. Talk about something else." Well, they were complaining about the broken record theory. So if we as an army approach drinking a cup of coffee, going to Burger King, going to the motor pool, sitting on a FOB, sitting in the mess hall – if we approach mundane tasks as opportunities to have a values central conversation, as an Army, we will improve because it just becomes – it's training, education, development. It becomes who we are as people, but it's not what we do comfortably. I'm kind of rambling. But ...

Q: Joe, I appreciate it and we'll continue discussion. I would ask then that the group look at all the instruments that affect the ethical formation or development because I don't think you can build it; I think you actually develop it. You don't build a culture. You develop, you improve upon it. One of the instruments that maybe this symposium can look at in a different forum is, does our instruments for evaluation of performance and potential IEOER, NCR system do it a justice in enhancing and acknowledging the character. We talk about it in very check the block formations in one through eight, they're values based and as long as you don't say "no," you have it. But if you're going to inculcate this idea of character development, and putting people in challenges such as the counterinsurgency environments that we're experiencing both in Afghanistan and Iraq in the foreseeable future, we need to make sure that we acknowledge those leaders that are at least moving on the path that become well rounded and we've got to figure out a way to use all the tools as an example. I don't have a solution; I'm just saying make sure that the education path and the performance evaluation path in fact instruct the board members, leaders, etc. Look at those kind of comments that foster the selection of the right people to be in positions that they will be at the senior levels, be it the NCO corps or officer corps, so that their foundation is started from the very time that they're indoctrinated into the service and reinforce that in all the tools that you have. I think your panel's been exceptional. Your comments and your topics are very timely and I'm grateful to be here. Thank you.

A: (Colonel Joe McLamb) Sir, if I can address that. You asked the question about how we did

the training scenario. If the officer chose to do what we had clearly set him up to do, which was not report it and go on, then in the next 24 hour period, some consequences started to manifest themselves in the relationship with the local national population and with the enemy that would eventually drive him – and that was the point – the goal of it was, and we only had two lieutenants that went down that route. But both of them at some point turned to me and said, “You know, if I had just reported this at the beginning, I would be a lot better off than I am right now.” Okay. I’m not opposed to discourse or talk as we call it in the great state of Alabama, but I think as you, and I guess – a little truth in advertising – I consider Colonel Todd Ebel to be, if not the, certainly one of the two most ethical officers I’ve ever worked for, and he set a fantastic example for the brigade. And as you and I have shared many times, sir, people only learn two ways, blunt trauma or mindless repetition. And sometimes blunt trauma is the way to go. And so we did in fact set our training lanes up so that the lieutenant that made a decision of questionable ethical, a questionable ethical decision, he didn’t get me pulling him off to the side and going, “This is wrong because I say it’s wrong.” Instead, he got to watch the consequences of his actions play out within his platoon and within the area of operation that he was within. And I think that’s probably a valuable tool. I hope anyway.

A: (Captain Walter Sowden) Sir, can I add something to that? You know, sir, the flip side and I want to caveat first to say that I would be the first one to say you always report that personally. It’s in line with my values, but you also got to coach that lieutenant when they make that decision, what are the impacts on his unit. Because when he does that, there’s going to be some trust issues that are going to happen within his organization and you can’t just show him that that decision that he made is all happy and flowers. There is some negative impacts to him reporting that incident. And so as a coach, you kind of got to help him see it from all angles and see – and again, I’m not advocating that you don’t report it. But you’ve just got to have him go through that decision making process.

Q: Not to drag this out, but in the development, the question I’d ask back to you is, when do you relieve the lieutenant? When do you say he didn’t get it? You had an opportunity in the fact that they came to some realization and that’s an ethical dilemma for the commander as it may be, and what if you don’t have another lieutenant to put in his place at the time, etc.? So what I’m actually framing for you is an idea of everything has its context and do the analysis. You can break it apart and find answers that are somewhat convenient or truths. I mean, they’re easily principle/consequence based. But when you synthesize and bring that context back, the dilemma is in fact exacerbated. You yourself incur the dilemma as his leader in what’s right and having the moral courage to do what you think is right, and I appreciate the officer from Singapore. In the end, you have to look yourself in the mirror. And you accept a certain degree of risk either to self or to organization and mission, but you have to be able to walk away through it and I thought it was a very healthy article that I plan to read now as a result of that. Again, I applaud all you guys are doing. But you got to make sure that we’re asking for the development and establishing a tone within our institution of the Army of bringing these guys up that will look themselves in the mirror and be able to because they did what they thought was morally right. But when their moral right doesn’t equal your moral right, do you underwrite that risk or do you eliminate it by removing the individual who made a judgment that he thought was character based. Whether his values is compatible with yours, that is different. But he did it in his own character and what he valued, he or she. And so these are tough things and again, this is a

great symposium to figure this, to work through this issue. Thank you.

A: Good morning. There we go. 5-2, not Alabama. Captain Sowden, in your paper, you discuss, or you identify leadership and command as being responsible for ensuring soldiers “genuinely have character.” And obviously things go wrong and in the world of a strategic war, occasionally we have ethical decisions that also have criminal implications. And there becomes a national/social, even Army organizational desire to hold someone accountable for that. And if character building or character growth is a lifetime activity, how do you reconcile that? Where do you pin the rose? Because a battalion commander isn’t going to reach all the way down to the team leader. A company commander maybe not either. Well, it starts with your paper, I would open it up to the panel as a whole.

Q: (Captain Walter Sowden) Yeah, I guess, you know, I look back at one’s character and we value accountability and responsibility in our country as well as in our organization, the Army. It’s actually one of the paramount values. And, you know, Colonel Doty and I were talking about this this morning. In the Navy, when a ship goes to ground, they hold the commander responsible. They don’t go looking for the man on the radar, and I’m not very familiar with what goes on on a ship. But the radar guy or the gun or whatever. They pin that commander and he walks away. You know, he’s done. His time at the helm is over. And it goes back to that value of being accountable and being responsible for our actions. And so just like the colonel said, as a battalion commander or a company commander like I was, you kind of serve as the, what I like to say, the organizational flak vest and when something goes wrong, you take it. Or when something goes right, you kind of let the soldiers take credit. But when something goes wrong, you take that on and you take responsibility for it. So it’s our responsibility, in short, it’s our responsibility to foster the ethical climate of an organization. That’s something that we’re tasked with as commanders or officers in the Army. And so with that task, we have to take the responsibility. I don’t know if I answered your question, but that’s just an opinion of mine.

Now, another thing I would say is if you look at our profession, the use of discretionary judgment is something that every one of us should have the ability to hold and employ. But a lot of times, you don’t have that. You don’t have that support and you don’t have that – I mean, you trust, you know. And so it’s sort of taken away from you or reserved at a higher echelon of authority. And so that also factors in. You know, so who should be taking responsibility? And we’re all professionals. So it’s how you look at accountability and responsibility. I’m sure Colonel Doty has something to add.

A: (LTC Joe Doty) Great question. And I’m glad you picked up on that in the paper. One of the reasons we put that in the paper is it’s kind of a, it really is a philosophical argument, but if – I do find it unique that the Navy culture is if the ship runs aground, the captain’s fired, basically. You know, if the captain’s asleep, too bad, you’re fired. As an Army, we all know that bad, that there are bad people in our units and bad things are going to happen in our unit. If we as an Army approached it as leaders from the standpoint, “I’m going to be responsible if something bad happens in my unit,” everybody knows that you can’t prevent everything. So it’s a philosophical argument. But if you approach, you know, if commanders approach their duty, “Everything that happens, I’m responsible for everything that happens to this unit or fails to happen,” if you really internalize that, some of your behaviors may change, some of the way you conduct your business may change. That’s

kind of the point of why we put that in the paper. It's – if you internalize that argument, maybe instead of taking seven steps, you're going to take eight. Maybe instead of taking eight steps, you're going to take nine. I mean, I don't, you know. Does that help?

A: (Colonel Joe McLamb) I think what he said gets to what I would say is the heart of the issue, is that once something bad has happened, it's a question for the historians as to who was responsible. Where you draw the line I think is, just as Colonel Doty said, is ahead of time. If you assume that you are responsible for the organization, what do you do to make sure that organization is going to make the right decisions. And I will tell you, I'm a little bit off the topic here, but maybe I can tie this together. The single best thing that I think our Army has done in this war, compared to the last protracted war that it fought, is that we train units as units. We deploy them as units. We fight them as units and then we bring them home and run them through the cycle again. To the point that I'm almost convinced that that alone may account for 80 percent of the difference between our current army's performance and our performance in Vietnam, especially after 1969 when you started to see a major change in our performance. Because what happens now is commanders to every echelon have an opportunity to interact with and get to know their subordinate leaders to a much greater extent than would have been the case – you know, if you flew into Vietnam and were placed in command of a battalion, do you trust your company commanders? Well, I guess you do, but it's a matter of principle. There's really no basis for that trust. You're just hoping that those guys are going to do the right thing and that you won't find yourself being held responsible for something stupid that they did. But if you get the opportunity to do what I did, which is, you know, live with each one of your company commanders for months at a time back in garrison, to put them under stress, to watch their reaction, I think you do have, you have a much better basis for that trust when you take them over there, and you're not defending Captain McLamb because it's the right thing to do. You're defending Captain McLamb because you know him and you've learned that he does make the right decision most of the time. And on the other hand, during the training, I think this is the point that Colonel Ebel was trying to make. During the training cycle, if you become convinced that there's somebody in your organization who does not hold the values of the organization, you have to pull them before you take them into combat and hopefully early enough to get another guy in there to become cohesive with that organization before you take them. And that, if there's, you know, if there's an area for improvement in our Army, that may be it because we typically don't fill the units to full strength until about 90 days out and typically it's all you guys. It's the majors that come pouring into the brigade about 90 days out before deployment and those guys are hugely important and leaders have to make judgment calls on those guys very quickly. And as Colonel Ebel accurately pointed out, typically, with no replacement. The choice is not between this major and this major, or, do I take this major with me, or do I take a non-branch qualified captain in that major's position because I think his values are better? And unfortunately, or fortunately – I don't know how to depend on it – I think the right answer is the latter. The guy that you can trust who's a captain is more valuable to your organization than the guy that you're not so sure about who's a major.

Q: Sir, Major Curt Gerard, CGSC, Small Group 11 Bravo. Just one comment, one question. I'd like to just piggyback now, to dwell upon Colonel Ebel, but I think he brought up a good point, and also Captain Sowden, in the development of case studies, that we take an approach that we ... we get enough of the principles of the ideas and all the thought

processes out there, even if we can't ultimately get to an answer. It concerns me a little, you know, when you're sending a case study down potentially with a sergeant or whatever, and I'll take your 15-6 for example, what if it's a good thing? What if it's, hey, by reporting and launching a 15-6, we now have all the evidence out there, or we can pay them triple because we now know the facts. Or now the commander, it could be the brigade commander, Colonel Ebel, now knows that, hey, we did everything right and I can tell the division commander to move on. So I think it's just the difficulty when you started giving the fact [inaudible]. You know, we all laugh, we're trapped to the facts. [Inaudible] that comments how we're going to capture all those perspectives, both on both sides of the coin or can I drive on and report it en route to my next mission? Maybe the right thing is one little fact and the scenario changes. And we just keep that in mind.

Sir, the question I have, maybe you can comment on also, Captain Sowden. The basis is, not creating a distinction of ethics. Now we're talking about tactical, strategic, operational. But to me, it's always ethics no matter what environment. I think it creates different dilemmas, but I also think ethics – and you can call it garrison ethics versus deployment ethics – and I think I like that concept. Based upon that line, sir, did you see any correlation between some of the units or individuals and what they were doing ethically back at home station with how they dealt with their subordinates, how they dealt with each other or how they dealt with their units, and how that ultimately carried over into a combat environment where the dilemma is changed, but maybe the ethical thinking stays the same? And just some examples, you know, how we always sometimes put staff officer against commander, FOB against door kicker, you know, reservist against active duty. And there's other little scenarios that sometimes were just fun. But did you see any correlation between those two when you would deploy?

A: (Colonel Joe McLamb) Well, I'm going to give everybody else a chance to answer that because I think everybody probably has some insight into that. But the short answer for me is absolutely. But the thing, it's harder to see in garrison I think. And if for no other reason than we're only around each other, you know, depending on which brigade you're in, 16 or 18 hours a day instead of 24 hours a day like you are when you are in theater. But really, I think, my personal experience based on internal sort of reflection is that what combat does, I think, if you're involved in the actual execution of close quarters combat, what that does is it takes whatever your idiosyncrasies, whatever your personality quirks, whatever your shortcomings and it just expands them beyond belief. So that things that you do in garrison, people might find mildly irritating, in the realm of combat, become major issues. And so those indicators are usually there, but normally – and how do I say this correctly – we apply the rules of civil life in garrison. You know, that's his business, that's what he does, and I don't want to be rude to this guy, I don't want to be ... and then when you move into combat, you find out those little personality quirks, those little, you know, a guy has a tendency to exaggerate. I mean, we all know guys like that. Right? I mean, I'm one of them. People have a tendency to exaggerate. You know, "How are things going?" "Things are going great." Or, you know, "How are things going?" "Things are going horrible." Well, you put that guy in combat and people start getting killed and he's under the real pressures of combat and all of a sudden, he, that tendency to exaggerate can cause second and third order consequences through the reporting chain like nobody's business. Because he can be reporting that things in his AO are going great when really they're just going fairly. You know, they're just okay. Or he could be reporting that things are horrible, when in reality, they're not really

that horrible. So even minor personality quirks can come out once you get into theater.

But what you're really talking about are, what if a guy's got ethical issues? And my answer to that is, yes, yes, absolutely. I believe – have you read *An Anatomy of Courage* by Lord Moran? He wrote it, he was a battalion surgeon in World War I and he wrote this book about his experience with soldiers in World War I. And the greatest line in the whole book to me is he said, "What history has taught us from the great war is that a man of character in peace time is a man of courage in combat." And I think that proves to be true. Folks that have ethical issues in their civil life or in their personal life at home are going to be at greater risk to have ethical issues in theater. Now, there are certainly counter arguments to that and I'm not suggesting that everybody agrees with what I just said. There are plenty of people that don't. So I'll turn it over to you guys.

A: (Lt. Cmdr. Thomas Leak) I'm still fixated on the man kiss issue. Sounds like a crime to me. Something on a submarine it would be, right.

A: (Colonel Joe McLamb) You got to do what you gotta do.

A: (Lt. Cmdr. Thomas Leak) I don't have any particular expertise in this area. I mean, it just seems to me that we are who we are and we're not going to suddenly change when we get into combat. We carry our value system with us wherever we go and in fact I think that we're wired a certain way and that stress may actually cause us to act and behave in a way that is not always honorable. So I don't know how to answer the question. But I think we have to look – I don't want to be too controversial. I mean, I don't think we ... it's already been said here. We can't teach ethics here. We can't teach ethics to, you know, during our exercises out in the Pacific Ocean. Ethics are something that I think we bring to the table, we bring to the military when we come to the military. So I don't know what the greater answer is. Perhaps we need to make sure that our school systems and our families are better structured so that we can teach morals and ethics from the beginning. Because I don't think we suddenly change on the battlefield. I think that – or in combat. I think that we are who we are, and the best we can do perhaps is mitigate perhaps the damage that can be done by unethical decision making. Not a very satisfactory answer I know.

A: (Captain Walter Sowden) I guess to add a contrary point, I believe that the environment and the context does have an influence on one's behavior. I think the Commander is absolutely right that you come to the fight with who you are, you know, ethically, morally, tactically, physically, whatever. However, the context can change you and it can change you both in a negative sense to where you'll be more apt to commit a war crime, you'll be more apt to false report, you'll be more apt to, you know, sit in the FOB when your unit's out on mission. Or, it could quite frankly have the reverse effect where it causes the – and we all know it. We've all been company commanders. We had that one guy in our unit that in garrison was overweight dirt bag, you know, late to PT and then when we got him overseas, he was the first guy volunteering to go on missions and even, like in my unit, acted heroically in an event. And so it happens. The context or environment can absolutely change you. So that's my two cents.

A: (Major Shing-Tai Leung) Yeah, I agree that environment plays an important part as well. My operational deployments are limited to my homeland security operations, but

nevertheless, I mean, if you take maybe the Ranger course into context, you can see how a person changes when he's put under pressure and he behaves differently as opposed to when he's not on course. So I think these things do play a very important part.

A: (Colonel Joe McLamb) If I could conclude with one last comment on that. If we could do something at the Command and General Staff College, if we could help majors, and I think this was Colonel Ebel's point if I understood him correctly, is to help leaders anticipate how the policies, the orders and the procedures that we put in place affect the things that he's just talking about. That, everybody said the environment does have an impact and I absolutely agree with that. The question is, and it also ties back to your question, sir, about how do you – can you increase that sense of isolation? Helping majors to understand how what appear to very straightforward policies, procedures and orders can in fact put subordinates in very untenable, ethical decision making positions. That would be a valuable addition to the course I would think. Did that answer your question? Did someone have a ...?

Q: Sir, thanks for your comments. I think we got the issue across the spectrum now, thanks.

A: Okay, ma'am.

Q: Hi. Major Claudia Pritchard-Brown, Staff Group 19 Alpha. This is a comment and also a question leading from the comment, based on some of the comments that you all have already made. I just recently returned from Kuwait, but prior to going to Kuwait I was a Battalion S3 for training support battalion at Camp Atterbury. And one of the things we had to do was train reserve units that were being mobilized to go over. Within the training that we found, we had combat units going into train on combat issues. But very minimal training on how to handle ethical dilemmas. And I bring this question up because that's almost too late to try to put someone in a position to go over and be ready to deal with an ethical dilemma. I would say increase the amount of training we have for that, however, and this has reached out to anyone on the panel as well as here in the Foundation, what sort of training would we recommend for the Army as far as, or Army, Navy, Air Force, Marines, all of the services, as far as extending the amount of ethical training as in opportunities, scenario based training, based on you all's experience, placing them into a training format, to put an individual, a lieutenant, a senior NOC mission officer, junior NOC mission officer, into a position where we have a controlled environment of stress, a controlled environment of anxiety, to start determining how they would react prior to them going to a unit, prior to them leaving a schoolhouse, prior to them going to a MOB site to get ready to go over where they only have a certain amount of time to make that decision? This will also help us identify what type of leaders we're sending out there. What would you recommend to the Foundation who has a very great opportunity of affecting some of the leaders that we have right now that are making these decisions on policies. But my concern has always been right after leaving that assignment, my concern has always been what type of training we offer, rather than just Power Point slides and talking to it, how can we place a soldier or an individual in a situation that's controlled to say, "What would you do?" And I would like to know, you know, get some of your introspect on what you think we should do as an entire organization to improve all of the training? Because, again, when we're faced with the dilemma, we have to make that decision. But based off of what you were saying, we come with what we are. But if we have an opportunity to start training who we are and how to handle some of those situations, I think we'd have a more effective

leadership going out into combat situations. And again, it's not just combat situations that we have these ethical dilemmas, but on a daily basis in garrison also. So I'd open it up to you all to see what you think we can do as a better organization throughout the services.

A: You have somebody specifically or anybody?

Q: Any of you would be great. All of you would be great as a matter of fact.

A: (Lt. Cmdr. Thomas Leak) Believe it or not, at the Naval Academy, we have a lot of ethics classes. We try to teach ethics. And I think – and I think it's of some value. I think it presents them with scenarios and we see how they react to those and we try to instill some sense of honor and values in them. The one thing we have to be careful about in those type of scenarios in those classroom settings is that we don't get feedback or we don't hear what, or they don't tell us what we want to hear. In other words, when they're faced with an ethical dilemma, we have to be perceptive enough that we're able to tell that they're actually answering the question we think is correct as opposed to telling us what they think they think they want us to hear, to get out of the scenario, get out of the problem. And so I guess we need to attack the problem in that way as well.

A: (Captain Walter Sowden) You know, I think the Colonel said before that we are a conglomeration of our experiences and our paper that Colonel Doty and I have written is based on some things that I learned as a company commander in Iraq and getting ready to deploy to Iraq, and then also as a TAC at the United States Military Academy where, you know, as a company commander I'd get up and I would get these Power Point slides that were handed to me by the Battalion S3 on POSH or Army Values. And I remember sitting there and doing my best to present the Power Point slides or the canned briefing and I just remember watching the expressions of my soldiers as they leave and then later on whether it be in the motor pool, on the range or in the DREF or even out on mission. And they compartmentalized those classes and when they were out of the class, they checked the block, and they completely separated competency and character based training. And then at the United States Military Academy, as TACs, we teach this thing called PME² to all four classes. And I saw the same phenomenon where we'd bring in – you know, it was real prevalent with the sophomores and the juniors that they would literally walk in, listen to you, participate if they had to, if it was about their grade or not, and then leave and you'd hear them make fun of it, and you'd hear them act completely contrary to some of the things that we were trying to instill in them. And it wasn't until I was exposed to some of the other methods in pedagogy and how to develop character that I started to realize that we do it kind of in a cost intensive and ineffective way. Where I would recommend that we start with basic training and OBC and ROTC and OCS and we focus on the leaders, the squad leaders and the small group instructors at the schoolhouse and help them learn ways to infuse character and ethical dilemmas in everything we do. And then set the conditions so when we're at a MOB site and we're going through situational training events, it's comfortable, we talk about these things, we deal with them. It's up to the facilitator, the OC or the company commander or the squad leader to bring those events up and it's second nature to us. I know that's pie in the sky dreaming type stuff, but I think we can get there. But it takes everyone to get on board from the top down and the bottom up. And there's ways to do that. It's out there. I mean, people are using them. Like I said, DMI at West Point is using these types of vignettes and it just takes a little bit of creativity to write in

some ethical dilemmas, kind of what the Colonel did with his shoot and report/no report scenario or there's a variety of ways that we could develop that. It just takes some creativity and, to be quite honest with you, some risk on that mentor to have that conversation and facilitate that environment. Does that help?

A: (Major Shing-Tai Leung) Yeah, I think before we look at ethical training, we must look at foundations of ethical decision making and see that these decisions are actually driven by our values. And therefore, I think one important component is actually to see how we can imbue the right values in a person. Values can be imbued in a person in different ways. For example, leadership by example, how you react as commander to different situations, by actions, by your communications. You know, how often you can get your troops to emphasize the importance of these values to them. So I think this form of experiential learning, so to speak, is a more powerful method than any other thing.

A: (Colonel Joe McLamb) I think I'm going to kind of summarize what everybody else said and just say that the sooner that we come to grips with the fact that all training is ethical training, the better off we are. And to think that you can train something – and I think this was your point, sir – a not discussing ethics is having a discussion about ethics. And no matter what, you know, no matter what the training event is. Having said that, I think what that leads us to do is have more honest discussions with ourselves at all echelons of training, both institutional and organizational. And I shared this with Colonel Ebel this morning. You know, I came here for the PCC course before I took command and it was great. I mean, they showed us a lot of things and they gave us a lot of interesting pieces of information. But I remember about, you know, nine or ten months later, at the combat surgical hospital in Baghdad, one of my company commanders had just had one of his soldiers killed and the company commander was covered in the blood and body pieces of this guy and he just had a breakdown. I mean, it wasn't in front of his troops. It was just me and him and I think that's what, you know, he felt like it was okay because he was with his Battalion Commander. And he broke down, and he was just crying and we were sitting on this curb and his shoulder's on me, and the smell is horrific. I mean, the whole thing is just, it's traumatic. And you go, "You know, there were a bunch of people at that Pre Command Course that have experienced this. Why didn't they talk to me about this? Why didn't they talk to me about, here's how you deal with this young lieutenant colonel because you think that by the time I'm a lieutenant colonel, I know how to deal with all this." Well, here's a news flash for you. I didn't. I mean, you find yourself continually going, how do I cope with this? And I think what most people do is what I did. You look back at the guys that you consider to be the best ethical leaders that you know and you try to mimic their behavior. And maybe that's the only way to teach ethics. I don't know. Maybe that is.

Having said that, I'm going to hit one last issue, and it's this idea that all training is ethical training. In our rotation when I was a BCT S3, 15-6's were the flavor of the day in Iraq. Anybody here familiar with the drill? Right. Anything happens, you do a 15-6. And I came away with a huge bad taste in my mouth about 15-6's, like, oh, it's like having somebody put the rubber glove on and give you the full physical treatment. But as I was getting ready to go into command, I thought about that and I thought, you know, I can't change that. That's going to happen. So what can I do with that? What can I do, evaluate that? And so I remember. I called my XO and the Sergeant Major and I said, "Hey, I've got an objective and I want us to get this done before we deploy into theater." And they said,

“Okay, sir, what is it?” And I said, “I want every officer in the battalion to be a 15-6 officer at some point during our training, our train up to go over there. Every single officer does an investigation and there will be plenty of real things that we have to do, investigations. I mean, we lost ammo, and you know, all that normal crap that goes on in a battalion. And then I said, “But then any time something happens in a training event, then I want to do a 15-6 for that as well.” And the reason I did that, the logic behind that, everybody’s thinking, “Well, this guy is a moron,” and you might be right. But the reason I did that was, what I found when a lieutenant was actually, or a captain even, was a 15-6 officer and is responsible for assessing the moral decisions that were made, it changed his – it was an educational experience, not a training experience. In other words, he gained training on how to do a 15-6 and that’s good. But more importantly, he gained an education on ethics and morality and that was even better. And each lieutenant had to sit down, or officer, and had to out brief me on the 15-6 and often that was done on the hood of a Humvee or it was not a big dog and pony show or anything like that. But the questions that I would ask him was, you know, did this leader make the right decisions given the information that they had? Could they have anticipated making decisions earlier that would have prevented them having to make this really rough decision later on? And you know, who got punished as a result of 15-6 in the time that I was a Battalion Commander? Nobody. I mean, I can’t think of – I’m trying to think ... even the 17 SAWs that we destroyed, nobody got punished for that. In fact, that young captain is getting ready to go into a third company command out at Fort Riley here in just a few weeks and I just got a wedding invitation. So I guess he doesn’t hate me – or he wants a wedding present. But my point is that the – I think commanders at every echelon have to look for every opportunity to train and educate on ethics and the schoolhouse’s role is to help commanders see those opportunities when they exist and to pursue those. And this idea – I’m reiterating what Colonel Ebel said one more time – but this idea that if the schoolhouse can get colonels and majors and generals to see the ethical implications of their decisions down at the squad, company and platoon level, then we really will be moving in the right direction I think. Is that an adequate answer?

Q: Did great, thank you all.

A: Okay. I think we only have time for one more question. So you guys want to arm wrestle over this?

Q: My name’s Mike Sebchek from the School for Command Prep also. On my first day of flight school, the instructor said, “There are great pilots. There are great instructors. Only rarely are there great pilots who are instructor pilots.” I would – this is for Captain Sowden and Lieutenant Colonel Doty. I would also tell you that there are great ethical battalion commanders and there are great coaches who are battalion commanders or field grade officers, company commanders, senior NCOs, but there’s not always, just because you’re a great ethical person, you’re a great coach. And as I looked at your paper, and as I heard you talk, Captain Sowden, I very much saw the educating the reflective practice practitioner, the coach/mentor. Wouldn’t we be a lot better off as an Army if our approach to breaking this problem of ethical/legal issues and training, we focused at making senior NCOs and our captains and majors and lieutenant colonels better at ethical coaches and being able to do this reflective practice than doing more training or more education that, while we call it a different thing than just chain teaching or something bad happened and we go out and we say, “Train everybody with Power Point presentation.” Your thoughts?

A: (Captain Walter Sowden) Yes. I completely agree, sir. That if we spent our energy and resources into developing those squad leaders, the platoon leaders, the platoon sergeants, company commanders in the Army in how to conduct proper coaching and analysis of the situation and be able to teach people and show people and highlight things, those type of skills, we would be an immensely better organization. I completely agree. You know what? There are tools out there that I've had the, I've been fortunate enough to be exposed to. I mean, we're actually displaying one over there in the corner. It's something that the guys from [inaudible] developed for our center to help those individuals develop that skill set and how to coach and mentor and show the different angles of different situations. Not just ethical. I mean, to have that skill is something wonderful to having a kid to be able to look at a situation, let's say firing a 9 mil for the first time. If you can show them the different, you know, capabilities and what that means from different perspectives, it just helps that soldier become more comfortable and ultimately more confident with that weapon. So yeah, I completely agree with you. If we could put that energy into developing our, what I term mid-management leaders, yeah. That would be great.

A: (Colonel Joe McLamb) Sir, to avoid a beating, I'm going to let you talk.

Q: It's a quick comment. Everyone can't maybe be a good coach and training everyone to be a better coach is a good thing. But everyone can be a good example and there's no way to estimate the value of that. And if every officer is a good example, we're going to go places.

A: (Colonel Joe McLamb) I concur completely. Ladies and gentlemen, I think that brings our question and answer period to a close. I do want to thank you for this opportunity to come on behalf of myself and the other panel members and I think we'll see you at lunch. Have a good day. Thank you.

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Part 2: Ethical Issues at the Operational Level of War

Operational-Level Presentation

Col. Stuart A. Herrington, U.S. Army, Ret.
Counterintelligence Officer, Interrogator and Author

The Interrogation Perfect Storm *Remarks (As prepared)*

Part I: Introduction

Good afternoon. It is an honor to attend this first annual Fort Leavenworth Ethics Symposium to provide an interrogator's operational perspective. I would like to thank Colonel (retired) Bob Ulin, the C&GSC Foundation, and the College for this opportunity, and for their timely and firm commitment to the ethical challenges we face in today's Army.

I've entitled my remarks, "The Interrogation Perfect Storm," with apologies to author Sebastian Junger.

You may recall Junger's best-selling book, "The Perfect Storm," which describes the deadly Halloween Nor'easter that hit the waters off New England in late October, 1991. Three elements combined to create Junger's "perfect storm." A cold front from Canada collided with a front of warmer and dry air in the North Atlantic, with the resulting storm magnified by a third ingredient, heavy moisture left over from Hurricane Grace. The result: a once-in-a-century storm, with 100-foot waves and winds of 120 mph. The Gloucester-based fishing trawler *Andrea Gail* was lost with its crew of six and a National Guard helicopter crashed attempting a rescue. Coast Guard rescue personnel saved almost thirty lives in four days.

Today I would like to borrow Sebastian Junger's concept of the Perfect Storm and apply it to events in the shadowy world of prisoner interrogation since 9-11. The analogy might be a touch tortured (no pun intended), but the confluence of interrogation-related factors that propelled the United States down an ethical and moral *cul de sac* after 9-11 evokes the perfect storm concept—to wit, "a rare combination of circumstances that aggravate a situation drastically."

As with Junger's storm, the "Interrogation Perfect Storm" occurred when events from several different fronts collided to produce consequences of damaging proportions. But Junger's storm was a freak of nature that raged for four days, while the Interrogation Perfect Storm, wrought by men, has been permanently enshrined in infamy and continues to harm our country.

Permit me to begin by setting the stage. I served thirty years as a counterintelligence and human intelligence officer. I was not officially an interrogator. Interrogation was considered "sergeant's business," carried out by school-trained enlisted and NCO personnel, seasoned with a small cadre of the most experienced, who became warrant officers. During times of peace, my colleagues and I waged the Silent War, "spy vs. counterspy." During deployments, I morphed into the interrogator identity when it became clear there was a need.

In Vietnam, hundreds of MI captains were assigned to the Phoenix Program. The Vietcong "shadow government" was our target. Information from prisoners or ralliers was essential. Our Vietnamese allies were in the habit of torturing prisoners, and a MACV regulation advised us that when we encountered such abuses, we were to attempt to stop the activity, leave the scene, and report the incident.

The idea was noble, but ratting out one's counterparts as the MACV regulation required would have been poisonous to one's effectiveness as an advisor. Vietnamese military personnel routinely beat and otherwise abused captured Viet Cong, emaciated bunker-dwellers who would spin magnificent lies to stop the abuse. To show our ally the folly of brutalizing prisoners to obtain

information, I began to “borrow” recalcitrant and often defiant captives from the province jail, men who had been beaten (or worse), then written off by my counterparts as liars.

The approach was intuitive. I avoided conduct that labeled me as an interrogator. Instead, posturing myself as a concerned fellow soldier, I blurred the lines by showing empathy with my subject and offering unconditional, decent treatment—food, medical care, and clothing. Taking the moral high ground psychologically confused and disarmed the prisoner. I was not what communist political cadre had told him I would be. Invariably, my new “friend” would start talking, curious about this unthreatening American who spoke his language. From that point on, I was winning, as the first goal of any interrogator is to initiate a dialogue. Initially, conversations dealt with simple, mundane matters, not military information, but that came soon after.

Prisoners dismissed as liars by the South Vietnamese opened up, admitting to providing false names and cover stories about themselves and their units. They willingly led me and my surprised counterparts on operations targeting base areas, caches, and covert VC cadre. Working with CIA interrogator Orrin DeForest, who was running a “guest house” interrogation center in Bien Hoa using the same techniques, we showed the Vietnamese that information given voluntarily was far superior to whatever a prisoner might say when he was fighting off water torture or electrocution. Vietnamese reliance on torture in Hau Nghia Province and at the Vietnamese III Corps headquarters ended.

These experiences illustrated the hallowed first canon of interrogation. A prisoner is a recruitment challenge, an opportunity. One can employ legions of effective stratagem to achieve control over a potential recruit, but brutality, abuse, and torture have no place. A truly professional interrogator is more like a precise scalpel than a blunt force instrument. Real interrogators know this. They rely on a mastery of area knowledge and human nature, and a healthy dose of guile. Real interrogators assess the motivations and psyche of their subject, do their homework about their target’s world, and deftly manipulate the situation to achieve control. Those who lack such skills resort to abuse and torture. Instead of recruiting their prisoner, they reinforce his belief in his cause and radicalize him.

Years later, by then a colonel, I deployed to Panama for Operation Just Cause. Several thousand detainees had been captured, including Manuel Noriega’s closest henchmen—kleptocrats, torturers, election riggers, drug-runners, and murderers. When I arrived a day after Christmas, 1989, Noriega’s senior officers were housed in the Ft. Clayton jail, sixteen to a cell, at the mercy of junior interrogators who taunted and threatened them. These communal cells enabled the Panamanians to organize and collude. All knew who was being interrogated and how long each spent with the interrogator. It was a recipe for failure, I told the J2 and CINCSOUTH General Maxwell Thurman. The CINC’s guidance was crisp. “Fix it,” he ordered.

Authorized by Panamanian Vice President Ricardo Arias Calderon, we co-opted an island off the coast and set up a “guest house” facility to which we secretly moved captured archives and selected Panamanian detainees--those who could provide information in response to the CINC’s and national requirements. Each “guest” had a private, air conditioned room. Our lead card was unconditional decent treatment. My pick-up team employed captured archives, area knowledge provided by “good” Panamanians who had run afoul of Noriega and his thugs, and information provided by the “guests” themselves to play one source off against another. We never once threatened or laid a finger on a detainee. Over six months, we interviewed more than a hundred “guests.” Almost all of them eventually cooperated. They told us the sordid story of Noriega’s raging alcoholism, the attack against U. S. Marines at the Arrajan petroleum farm, Noriega’s ties to Castro, the covert training of Panamanian special operations soldiers at the Cuban base in Punto Cero, attempts to acquire SA-7 missiles from the PLO, Libya, and the Soviet Union, murder, drug-cartel deals, election-rigging, and massive financial corruption. When we returned these men to

Panamanian custody to face prosecution, some gave their interrogators gifts, and more than one cried as they thanked our team for treating them humanely.

Within a few months of our return to the United States, Saddam Hussein invaded Kuwait. Our team was summoned to Saudi Arabia and directed by the CINC to establish a special interrogation center. The “guests” were to be Iraqi general officers whom we expected to capture when the coalition attack was launched. Our approach was modeled after the recently-successful Panama example.

We afforded unconditional decent treatment to our Iraqi guests. We did not gloat at the coalition’s lopsided victory, but channeled their anger towards Saddam Hussein, who had set them up for defeat and humiliation. We told the Iraqis that we were not interrogators, but rather a team whose mission was to shed light on how our two countries managed to fight the wrong war, at the wrong time, against the wrong enemy (Iran being our common enemy). We told them that their bravery was not in question. Not only had they fought the Iranians for eight brutal years, but since the invasion of Kuwait, they had hunkered down in the desert, terrified at the prospects of Saddam’s promised “mother of all battles,” and sweating through a 39-day air offensive more intense than the aerial bombardments of World War II.

We immersed ourselves in captured documents, plied our guests with Middle Eastern food, medical care, and a generous dose of officer-to-officer empathy, all the while discreetly playing one guest off against the other. Cooperation approached 100%, as each Iraqi officer shared information sufficient to get him executed for treason by Saddam. We developed details on such command-sensitive matters as chemical weapons, the massacre of Kurds at Halabja, the secret run-up to the Kuwait invasion, Saddam’s possible successors, and how Iraqi ingenuity enabled them to avoid mass casualties in the face of the relentless coalition air campaign.

The Panama and Desert Storm projects reinforced the principle that approaching high-value detainees in a harsh, adversarial manner was counterproductive. Ours was the rapport-based, developmental approach, always employed from the moral and ethical high ground. There was no room on our team for charlatans who believed in sleep deprivation, inducing hypothermia, stress positions, face slapping, forced nudity, water boarding, blaring heavy metal music, or other amateurish, ineffective, and ethically-flawed tricks.

The Panama and Desert Storm interrogation centers were *ad hoc* facilities not called for in doctrine. But when operations result in the takedown of entire countries, the defeat of a huge army like Saddam’s legions, or the capture of senior *jihadists*, we need a capability more sophisticated than young NCO interrogators trained to squeeze tactical information from captured enemy riflemen. I retired in the spring of 1998, but not before ensuring that a new Joint Publication directed theater commanders in warfighting contingencies to establish a senior-level interrogation and debriefing center to exploit high-value detainees.

By then, the shadow of repeated fundamentalist terrorist attacks told many of us that we were facing a new conflict against a new kind of foe. I believed that the interrogation methods we had successfully employed in Vietnam, Panama, and Desert Storm had laid the groundwork for smart exploitation of such enemies, executed from the ethical and moral high ground—using guile, not force. In that belief, I was mistaken.

Part II: The Interrogation Perfect Storm

The first element of the Interrogation Perfect Storm came from the “high strategic level” of the War on Terror. Media reports and declassified documents are persuasive that Vice President Cheney, his Legal Counsel and Chief of Staff, David Addington, and a coterie of high-ranking DoD, and DoJ persons, names like Rumsfeld, Cambone, Yoo, Haynes, and Gonzalez (none known

for interrogation experience), came to believe that a shortcut to obtaining good intelligence from terrorist detainees was to “take off the gloves.” Against ruthless enemies, ruthless methods were in order. It was a seductive line of reasoning.

A flurry of memoranda and legal briefs reinforced and enabled this conviction. Efforts were made to parse and redefine torture, to define some prisoners as “unlawful enemy combatants,” and to unleash interrogators armed with new weapons, now called by the euphemism “enhanced interrogation techniques.” This “wrong turn” taken by our leadership, while well-intentioned and emanating from the shock of 9-11, led to sanctioned use of treatment and techniques long rejected by our government, our military, and the intelligence community as illegal, ethically wrong, ineffective, and reprehensible. Their employment was based upon two false premises, namely, that harsher, brutal methods would quickly yield more and better information, and that the end justifies the means.

The results of this ill-advised wrong turn were not long in surfacing. The Special Operations Task Force in Afghanistan, and ultimately in Iraq, treated detainees harshly, beating them, even burning them. Had my men and I done such things in Vietnam, Panama, or Desert Storm, we would have been reprimanded, or even faced charges. At Camp Nama, controlled by the Special Operations Task Force in Iraq, army enlisted interrogators humiliated prisoners by stripping them, induced hypothermia with fire hoses, mud, and air conditioners, and used military dogs to induce fear.

Some Nama interrogators feared legal consequences. They told their commander such treatment was against all of their training. Their colonel quickly produced two JAG attorneys who explained the concept of “unlawful enemy combatants,” reassuring the wary junior interrogators that such treatment was legal and “would not come back at you.” The measures being used against the prisoners were not inhumane, one JAG lawyer advised, because “they left no lasting mental or physical effects.”

In Afghanistan and elsewhere in the world, hastily-formed CIA interrogation nodes crossed the line. When some CIA officers expressed skepticism and reservations at the new path, which included waterboarding, they were told by their CIA superiors that the CIA’s Office of General Counsel and the Department of Justice had ruled that such treatment was legal. A few savvy pros declined to participate; others saw it as their patriotic duty and joined the team, a decision they surely regret today.

During a visit to Guantanamo in March 2002 to advise the new Army Commander of the Interrogation Task Force, I noticed that inmates were living in near-communal conditions and that camp custodial personnel adopted a harsh, one-size-fits-all treatment of detainees, treatment that frustrated DoD, FBI and CIA officers on site told me was facilitating militancy and collusion. Designed to control “the worst of the worst,” rather than to collect intelligence, Guantanamo was the diametric opposite of how I would have set up a facility. I recommended that the general adopt a “guest house” approach, at least for “Top Forty” detainees.

Instead, six months later, faced with increasing collusion and militancy of the detainee population, the general requested approval of a list of “counter-resistance strategies” that included deprivation of light and auditory stimuli, hooding, removal of clothing, forced grooming, and using “detainees’ individual phobias” (such as fear of dogs) to induce stress. The general’s Staff Judge Advocate forwarded the request, observing that the “proposed strategies do not violate applicable federal law.” Some military interrogators (to the dismay of FBI officers on site) became increasingly abusive, resulting in a number of cases of harsh, humiliating and amateurish interrogation tactics that brought scandal to the facility, to our Army, and our country.

Iraq was worse. During a visit there in December 2003 to evaluate interrogation practices, I reported, in writing, that the Special Operations Task Force was brutalizing detainees at their Camp

Nama facility before turning them in to the Baghdad Airport confinement facility. Unaware of the “wrong turn” taken in Washington, I expected a major investigation of rogue activity, but a feeble attempt to investigate was quickly dropped. Investigations into Camp Nama were unwelcome, because, we now know, the excesses that I and others reported were sanctioned at very high levels of the U.S. government. Camp Nama was what you got when leaders took a “wrong turn” in Washington—the first ingredient of the Interrogation Perfect Storm.

The second element of the Interrogation Perfect Storm rocketed up from the tactical level, from a miserable prison called Abu Ghraib. Tactical events can sometimes take on major significance, negatively impact on the strategic and operational levels of the conflict, and create havoc on the global stage where what we now call the “information war” is waged. Until Abu Ghraib, the massacre of civilians at the Vietnamese village of My Lai by American infantrymen was perhaps the best-known example of this.

At Abu Ghraib, months before it became a household word, I observed a situation that was a recipe for disaster:

- It was not secure. Unvetted Iraqi police, some of them insurgent sympathizers, were inside the walls. Outside the walls, insurgents found the prison an easy target for their mortars.
- A few hundred demoralized MPs with inadequate training, leadership and experience were trying to run a detention center with more than 6000 inmates. MP leadership was weak.
- MI leadership was substandard. Instead of a human intelligence full colonel, a civil affairs lieutenant colonel ran the interrogation effort.
- Undermanned and under-resourced interrogators were swamped by requirements, pressured by the chain of command for quick response, and faced with more sources than they could possibly interrogate.
- MPs were sneaking alcohol on site, in violation of General Orders.
- More than 1000 detainees were on “MI Hold” for interrogation. More than half of them were living in large tents, dozens per tent, where they could organize resistance and collude to frustrate interrogators. Twenty interrogators were supposed to screen and question this mob.

Unlike the brutality at Camp Nama, the misconduct at Abu Ghraib was not the direct result of the top-down orders from Washington to take off the gloves. MPs were bored, angry, ill-led, and alienated. One of their numbers, a former prison guard, became the equivalent of an “emergent leader.” He set the tone for the night shift’s misconduct and hi-jinx. Victims were largely criminals. The sexual humiliation of Iraqis at Abu Ghraib, while equally abhorrent as the Camp Nama mistreatment, was a separate show, not ordered and sanctioned by the chain of command.

At Abu Ghraib, I had hoped to find a sophisticated strategic interrogation facility being professionally run and resourced. Instead, I reported to BG Barbara Fast, who had invited me to conduct the inspection, Abu Ghraib was a squandered and lost opportunity. Not even a vestige of the decent treatment approach could be found. The second ingredient of the Interrogation Perfect Storm emanated from Abu Ghraib when bored, poorly led, and resentful night shift personnel breached discipline.

The wrong turn ordered from Washington and the misconduct at Abu Ghraib required only the third element of a Perfect Storm, the “moist air” if you will, to lubricate the whole thing and make it even more damaging. Enter the global media, for whom Abu Ghraib and its sick photos became one of the most compelling stories of the war. And why not? The sheer depravity of the mistreatment, the idea that American soldiers would descend to such depths of conduct, and the availability of victims willing to describe their shame—these were the ingredients of a story that had to be reported. As with My Lai thirty-five years earlier, Abu Ghraib was a godsend for those

who wished to discredit and end the war.

The resulting Interrogation Perfect Storm was also a precious gift to our enemies, who could and did use the story to prove that the American infidels were evil incarnate. Gone was the moral high ground. Not surprisingly, anti-war elements in the U.S. and around the world have been only too pleased to keep the story alive.

Let's turn briefly to the operational impact.

Part III: Challenges to Interrogation Operators in the Post-Interrogation Perfect Storm Environment

After the Interrogation Perfect Storm broke, a great but painful national debate ensued. Congress became involved. Human rights organizations and the media went into a frenzy of Freedom of Information Act requests to fix responsibility—the higher up, the better. Laws were passed and the President issued an Executive Order. Congress decreed that all government agencies must interrogate according to the new Army Human Intelligence Collector Operations Field Manual, and that the manual be unclassified. Only those approaches listed in it can be used. A bevy of court actions resulted in the determination that some classes of detainees have habeas corpus rights and the right to counsel. The Supreme Court ruled that Article 3 of the Geneva Conventions applies as a matter of law to the conflict with Al Qaeda.

For interrogators, it has become a new ball game.

The unambiguous message sent by the Administration, the Congress, and the Courts forbidding torture, abuse, or cruel and degrading treatment is a positive. The pending creation of a High-Value Detainee Interrogation Group run by the FBI, with DoD and CIA assets, reporting to the White House through the National Security Council, is fraught with possible problems. But regardless of which agency interrogates high-value detainees in the future, the operator's challenges have become more difficult. The people who conceived of the “wrong turn” described here are no longer in government, but the consequences of the ill-conceived and ethically deficient path they followed remain. Here is what I would have to cope with if called tomorrow to set up an interrogation operation in some faraway theater of operations.

Loss of the moral high ground: Historically, interrogation was often advantaged by the fact that most prisoners, once recovered from the trauma of capture, were relieved and even content to be held by the Americans. In 1991, one captured Iraqi general described how he and the division staff undertook a risky nocturnal march to the west so they would be captured by the Americans, not by the British or any of the Arab forces in the coalition. Another Iraqi general recalled how an American colonel spotted his general's epaulets and took him to his track, offering him dry clothing and warm tea. One Iraqi brigade commander shed tears of rage as he described how his British captors had ripped his brigadier's epaulets from his shoulders and stomped them into the sand, humiliating him in front of his soldiers. These officers were so happy to be in American custody that half of our job was done when they walked through the door. In the wake of the Interrogation Perfect Storm, one suspects that fewer battlefield adversaries would go out of their way to surrender to Americans. Some might fight all the harder.

Forfeiture of secrecy: In past contingencies, my sensitive interrogation facilities were shrouded in secrecy. The press did not even know we existed in Vietnam, Panama and Desert Storm. No reports were leaked to the media for political reasons. Our “guests” did not have to worry that their revelations would appear the next day in the *Washington Post*. As Commandant of our facilities, I had zero interface with the media. Those days are gone, and understandably so. There are now journalists whose “beat” is the interrogation world, and leaking interrogation results has become

a political weapon. If, tomorrow, I answered the call to set up and run an interrogation center, I would be joined at the hip with the Public Affairs Officer, and the media would be camped outside my facility.

More lawyers: Again, understandable in view of events. In Panama and Desert Storm, we coordinated closely with the JAG, who reviewed our operational concept and SOPs. We were happy to welcome the JAG or the Red Cross on site, announced or spontaneous. After the recent scandals, in which some JAG officers were complicit, confidence in the sanctity of legal advice has been undermined at a time when legal oversight of interrogation operations will surely be more rigorous than ever.

If I ran a facility now, some prisoners might have a right to an attorney, unheard of in my career. A detainee advised by an attorney is an interrogator's worst nightmare. Most attorneys of even minimal competence know that rule number one is to instruct their client to say nothing. Rule number two is to discredit anything the client might have already revealed, by insisting, for example, that he was tortured. One captured Al Qaeda counter-interrogation manual advises "brothers" to always claim that they were tortured.

Congressional oversight: Members of Congress and their staffers would surely flock to my location. I never saw one member or staffer in Vietnam, Panama, or Desert Storm. Not having to manage such distractions was helpful to mission accomplishment. We worked seven days a week, fifteen hours a day, and had no time for weekly VIP hand-holding of the sort I saw at Guantanamo. Those days are likely gone.

The "guests" have read our playbook: Everything is public. Interrogation approaches are limited to those that appear in the unclassified Army Field Manual (FM 2-22.3), which has become the equivalent of U.S. law. An Arabic-language translation of this manual has already been captured in Iraq, annotated with Al Qaeda advice on how to cope with each approach. The bad guys know our limitations, and they are training their operatives on lessons-learned provided by colleagues who have been released from Guantanamo. Nothing would preclude us from using the rapport-based, developmental approach I have described to you today, but we would operate against guests who have read our unclassified playbook, and whose fanatical belief in their cause has been reinforced by the abuse scandals.

Restrictions on who may interrogate: The Army Field Manual directs that interrogations may only be carried out by persons who have been formally trained and certified. Most understandable, but with this restriction, neither I nor many of the officers whom I recruited and served with in Vietnam, Panama and Desert Storm would be allowed to perform interrogations, since we were older, more senior human intelligence officers without formal interrogation training. If deployed tomorrow, valuable area expertise and human intelligence savvy would be lost to me unless I could persuade the chain of command to somehow waive the interrogator training requirement of the field manual.

The Army has activated two full interrogation battalions since Operation Iraqi Freedom. But new interrogators are primarily enlisted soldiers, in their early twenties, too young and fresh to exploit Mullah Omar's deputy operations chief.

Stigma of interrogation duty: In light of efforts to investigate and possibly prosecute those interrogators who went along with the Cheney "wrong turn," I have little doubt that many talented intelligence officers would walk away from the chance to serve in an interrogation facility rather than take the risks and hassles that such duty might bring. How many CIA officers would wish to tackle interrogation duties if offered or assigned? Some Agency officers, assured that "enhanced

interrogation techniques” were blessed by the lawyers, are now hiring lawyers to defend themselves in future lawsuits, while avoiding travel to countries in Europe that may indict them for their actions.

New Restrictions on “Separation:” In all interrogation centers I have worked in or commanded, we separated the guests from one another. Most welcomed this. A prisoner might cooperate if decently and cleverly treated, but only if we could provide a discreet environment where he could feel comfortable spending long hours talking with us. That meant each “guest” had to have a private room, and could not be exposed to any other detainee (encounters in the hallways, for example). This was critical. Housing high-value detainees communally is fatal to successful interrogation. At Gitmo’s Camp X-Ray, where trips to the interrogation booths were public events, I was told that detainees were shouting in Arabic, “Abdul, stay strong!” or “Ibrahim, what took you so long? What did they ask you?”

The new Army Field Manual, in Appendix M, has classified “Separation” as a “Restricted Interrogation Technique.” Separation may only be used against specific unlawful enemy combatants, initially only for a period of thirty days. Its employment in a theater of war requires the written approval of the combatant (4-star) commander. That obtained, I may only isolate a detainee from his fellow detainees after I have provided a justification and an overall interrogation plan to the first general or flag officer in my chain of command, who must personally approve it. These procedures are for unlawful enemy combatants. Other prisoners—an Iranian Quds colonel or a North Korean officer, for example, cannot be separated, a true show-stopper.

Operating under this restriction, we could not have successfully interrogated the “guests” in Vietnam, Panama, and Desert Storm, since none of them could have been separated under the restrictions of the Army Field Manual’s Appendix M. Professional interrogators who cannot separate key targets have their hands tied.

Part IV: Conclusion

For a professional interrogator, these new operating conditions are onerous, and translate into a net loss for our national security. Responsibility for this can be traced back to zealous officials in the Bush Administration who decided that brutality in interrogations was an effective shortcut to obtaining good information—against the wisdom and experience of mainstream professional interrogators. These senior officials, from the Vice President on down, co-opted more than a few attorneys in key positions—who should have known better—and launched some American military officers—who also should have known better—on one of the most errant paths in recent American history. Ironically, their ill-advised and unethical actions were taken in the name of protecting the nation, but wound up doing harm. The United States, which has historically condemned brutal interrogations by the Gestapo, the Japanese Kempeitai, the North Koreans, and the North Vietnamese, suddenly seemed to be saying, “It was wrong when done by others, but it’s OK for us, as long as it’s necessary for ‘national security.’”

Reflecting on the coterie of senior government and military officers who perpetrated the “Interrogation Perfect Storm” in the name of national security, one is reminded of the wise words of Justice Louis Brandeis. “The greatest dangers to liberty,” he observed, “lurk in the insidious encroachment by men of zeal; well-meaning but without understanding.”

Biography

Col. (Ret.) Stuart A. Herrington

Retired Col. Stu Herrington, a native of Pittsburgh, Pa., served 30 years as a military intelligence officer before retiring in 1998.

Herrington graduated from Duquesne University (B.A., Political Science) and the University of Florida (M.A., International Relations). During his military career he served four years in Vietnam interrogating prisoners and defectors and deployed to numerous other contingencies, including Operation Just Cause in Panama, in which he established and led a special center for the interrogation of Manuel Noriega's inner circle. During Operation Desert Storm he was responsible for interrogating captured Iraqi general officers.

From 1983 to 1994, Herrington commanded counterintelligence and human intelligence units, including the U.S. Army Foreign Counterintelligence Activity. Under his command this unit unmasked some of the worst Army spies of the Cold War.

Since his retirement in 1998, the Army has dispatched Herrington on missions to Guantanamo in 2002 to assess detainee interrogations; to Iraq in 2003 to conduct a similar assessment; and to San Antonio in 2006 to train a new U. S. Army Interrogation Battalion that was preparing to deploy to Iraq.

Herrington is the recipient of numerous awards including two awards of the CIA's coveted Agency Seal Medallion. He is the author of several books, including "Stalking the Vietcong: Inside Operation Phoenix," and "Traitors Among Us: Inside the Spy Catcher's World." His op-ed pieces have appeared in many daily newspapers around the country. Herrington retired from his second career with Callaway Golf in 2008.

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At What Cost, Intelligence?

A Case Study of the Consequences of Ethical (and Unethical) Leadership

by Major Douglas A. Pryer

We must remember who we are. Our example is what will cause us to prevail in this environment, not our weapons.

Major General Martin Dempsey, 1st Armored Division (IAD) Commander, from 30 October 2003 email to his Brigade Commanders¹

Tough up, man. This is how the Army does things.

Unidentified interrogator, Forward Operating Base (FOB) Tiger, in response to a military policeman's concern about enhanced interrogation techniques²

Opening Salvo

The summer of 2003 was a hot, frustrating time for coalition forces in Iraq. In Baghdad, soldiers experienced temperatures over 100°F for 91 consecutive days.³ Far worse, contrary to the expectations of most soldiers and their military and political leaders, there was not only an active Iraqi insurgency but an insurgency that was growing rapidly in size and lethality across the country. In July, coalition forces experienced twice the number of attacks they had experienced in June.⁴ And, in August, they witnessed the rise of the “vehicle-borne explosive device”, to include a suicide car bombing on 11 August 2003 in Baghdad that killed 11 people and closed the Jordanian Embassy. Amidst Iraq’s summer heat and many bombs, the hope of many U.S. soldiers for returning home by Christmas had evaporated.

It was in this context that a Military Intelligence (MI) captain working in the CJ2X section of Combined Joint Task Force-7 (CJTF-7) sent an August 14, 2003, email to the Human Intelligence (HUMINT) section leaders of CJTF-7’s major subordinate commands.⁵ In the opening salvo of what would become a battle for the soul of CJTF-7’s HUMINT community, this captain requested a “wish list” from subordinates of interrogation techniques they “felt would be effective.”⁶ He stated that “the gloves are coming off...regarding these detainees,” and he said that the Deputy CJ2 “has made it clear that we want these individuals broken.”⁷ He concluded that the “casualties are mounting and we need to start gathering info to help protect our fellow soldiers from any further attacks.”⁸

This email evoked strongly worded, antithetical responses from the two ideologies (or “camps”) of CJTF-7’s subordinate HUMINT sections. One camp (to which the CJ2X captain also clearly belonged) included Chief Warrant Officer 3 Lewis Welshofer, Jr., of the 3d Armored Cavalry Regiment and an unidentified HUMINT leader of the 4th Infantry Division.⁹ The other camp was represented by Major Nathan Hoepner, the operations officer of the 501st Military Intelligence (MI) Battalion, Task Force 1st Armored Division. The units of all three of these officers operated in the “Sunni Triangle,” the most dangerous part of Iraq during Operation Iraqi Freedom I (OIF I).

In his reply to the CJ2X captain’s email, Welshofer wrote that “a baseline interrogation technique” should include “open handed facial slaps from a distance of no more than about two feet and back handed blows to the midsection from a distance of about 18 inches.”¹⁰ He also added: “Close confinement quarters, sleep deprivation, white noise, and a litnany [sic] of harsher fear-up approaches...fear of dogs and snakes appear to work nicely. I firmly agree that the gloves need to come off.”¹¹ The unidentified 4th Infantry Division HUMINT leader submitted a “wish

list” that included some of the same techniques but also added “Stimulus Deprivation,” “Pressure Point Manipulation,” “Close-Fist Strikes,” “Muscle Fatigue Inducement,” and “Low Voltage Electrocution.”¹²

In his returning salvo, Major Hoepner spoke from a higher vantage point:

As for ‘the gloves need to come off...we need to take a deep breath and remember who we are...Those gloves are...based on clearly established standards of international law to which we are signatories and in part the originators...something we cannot just put aside when we find it inconvenient...We have taken casualties in every war we have ever fought--that is part of the very nature of war. We also inflict casualties, generally many more than we take. That in no way justifies letting go of our standards. We have NEVER considered our enemies justified in doing such things to us. Casualties are part of war--if you cannot take casualties then you cannot engage in war. Period. BOTTOM LINE: We are American soldiers, heirs of a long tradition of staying on the high ground. We need to stay there.’¹³

We Americans, MAJ Hoepner was clearly saying, adhere to moral standards that are more important to us than simply winning one battle: to forfeit these standards is to lose who we are as American soldiers.

The Two Rival Camps: Background

The “intelligence at any cost” mindset of the first camp has had a much longer (and more potent) life in U.S. military history than is commonly taught or understood in America. For example, during the Philippine-American War, the 1902 Senate Committee on the Philippines documented the systematic use by U.S. troops of the “water cure,” a harsher, often fatal version of what we today know as “waterboarding.”¹⁴ More recently, many CIA and U.S. military advisors who belonged to the U.S.’s controversial “Phoenix Program” during the Vietnam War did not attempt to stop, and in a few cases even encouraged, the use of torture (including electric shock) by South Vietnamese intelligence officials.¹⁵ In both of these historical examples, U.S. soldiers rationalized that the need for actionable intelligence justified torture.

In its purest form, this rationale is referred to as the “ticking time bomb scenario.” In a 2001 interview, the French General Paul Aussaresses, who was a senior French intelligence officer during the French-Algerian War, expressed this rationale as follows:

Imagine for an instant that you are opposed to the concept of torture and you arrest someone who is clearly implicated in the preparation of a terrorist attack. The suspect refuses to talk. You do not insist. A particularly murderous attack is launched. What will you say to the parents of the victims, to the parents of an infant, for example, mutilated by the bomb to justify the fact that you did not utilize all means to make the suspect talk?¹⁶

Forty years later, CJTF-7, 3d Armored Cavalry Regiment, and 4th Infantry Division HUMINT leaders would similarly argue that, to save lives, the “gloves” were “coming off” with regard to interrogation techniques.

However, this camp does not represent the dominant tradition within U.S. military history. When MAJ Hoepner argued that we Americans are governed by moral standards, he was speaking from this dominant tradition, a tradition as old as America’s first enduring colony. In a 1630 sermon, John Winthrop told Puritan colonists (who were soon to disembark from the *Arbella* and found the Massachusetts Bay Colony) that they should “do justly” and “love mercy” and that their new colony should be “as a city upon a hill” for the rest of the world to watch and emulate.¹⁷ Similarly, during the Revolutionary War, leaders of the Continental Army and Congress judged that

it was not enough to win the war; they had “to win in a way that was consistent with the values of their society and the principles of their cause.”¹⁸ General George Washington applied this ideal to the treatment of British and Hessian prisoners, adopting an uncommon policy of humanity. In one written order, for example, he directed that 211 British captives be treated “with humanity” and be given “no reason to Complain of our Copying the brutal example of the British army in their Treatment of our unfortunate brethren.”¹⁹ During the more than two centuries that have passed since the Revolutionary War, the U.S. Army’s treatment of its enemies has been largely consistent with this tradition of humanity, with such wars as the Philippine-American War and various Indian wars representing racially motivated exceptions to this rule.²⁰

Case Study Hypothesis

The decision that may be most critical to the ultimate effectiveness of U.S. leaders in combat is their choice of an essential ethical position: will they be governed by ideals and reside in the “city upon the hill?” Or, will they attempt to live hidden from view in the shadow-covered valley, in the “end-justifies-the-means camp?” (Leader may try to stand in the middle, but they must beware this hill’s slippery slope and watch their footing carefully.) This critical decision may take place downrange, or it may occur months, years, or even decades before deployment. But ultimately, no decision is more important to a U.S. combat leader than this choice.

In this essay, a case study methodology is adopted to explore the hypothesis that the essential ethical position assumed by leaders is the most important determinant of, one, the level of detainee abuse in interrogation units, and, two, whether these units are strategically effective on today’s battlefield. This hypothesis will be validated by continuing the storylines begun with the email exchange above. If this hypothesis is correct, then the interrogation facilities influenced by the CJTF-7, 3d Armored Cavalry Regiment, and 4th Infantry Division HUMINT leaders who decided that the “gloves” were “coming off” should have escalated to serious detainee abuse, and conversely, the TF 1AD detention facility should have remained relatively free of allegations of detainee abuse since its leaders viewed interrogation operations from a higher ethical vantage point. Characteristics which have been frequently described as causes of detainee abuse (such as higher policy, manning issues, overcrowding, and interrogator inexperience) will be discussed before these “control factors,” since they were shared by all of these facilities, are discarded as largely irrelevant to the widely disparate results that followed. Once this hypothesis is validated, it is applied to the present to indicate what steps our Army still needs to take to prevent future interrogation abuse and the strategic defeat such abuse creates.

We start this experiment with CJTF-7.

Strategic Defeat at Abu Ghraib

The head of the Coalitional Provisional Authority, Ambassador Paul Bremer, approved coalition use of Abu Ghraib Prison on July 3, 2003.²¹ Due to the prison’s notoriety as a site of torture and execution during Saddam Hussein’s regime, Bremer approved the re-opening with the understanding that the prison would only be used until a new facility could be built.²² However, the commanding general of CJTF-7, Lieutenant General Ricardo Sanchez, directed that CJTF-7 interrogation operations be consolidated at the facility (now deemed an enduring facility) by October 1, 2003. This decision was probably driven by the perishable nature of intelligence and the fact that Camp Bucca, the Theater Internment Facility, was located a full day’s drive south of Baghdad on Iraq’s border with Kuwait.

The Abu Ghraib facility had grave issues from the very beginning. For one, it was in a dangerous

area and regularly received mortar fire, sometimes with catastrophic results: on August 16, 2003, a mortar attack killed five detainees and injured 67 other detainees,²³ and on September 20, 2003, a mortar attack killed two U.S. soldiers and injured 11 other soldiers (including the commander of the Joint Interrogation Center).²⁴ The facility also grew rapidly overcrowded, holding 7,000 detainees by October 2003.²⁵ This crowding caused severe undermanning, with just 90 military policemen managing the detainee population --far less than the full battalion that doctrine required for a detainee population of this size.²⁶

Alpha Company, 519th MI Battalion, supplied the first group of interrogators at the facility.²⁷ Fatefully, this company had served in Afghanistan during the December 2002-January 2003 time period in which enhanced interrogation techniques derived from American SERE training had been systematically employed in Afghanistan.²⁸ In fact, Criminal Investigation Division agents were in the process of substantiating charges that two of these interrogators had contributed to the brutal treatment and deaths of two detainees on December 4 and December 10, 2002, at Bagram Air Base.²⁹ Unsurprisingly, these same two interrogators would sexually assault a female detainee at Abu Ghraib on October 7, 2003.³⁰

A few weeks after the CJTF-7 J2X's call for a "wish list" of interrogation techniques, CJTF-7 published its first list of approved techniques. Although this September 14, 2003, interrogation policy did not include all of the techniques emailed by the HUMINT leaders above, it did include three of these techniques, which the policy called "Sleep Management," "Presence of Military Working Dogs," and "Yelling, Loud Music, and Light Control."³¹ It also included other harsh techniques inspired by military SERE schools,³² to include "Stress Positions," "Isolation," "Environmental Manipulation," "False Flag," and "Dietary Manipulation."³³ The use of three of these enhanced interrogation techniques required the personal approval of the CJTF-7 commander when employed on Enemy Prisoners of War.³⁴ However, since the vast majority of U.S. detainees in Iraq were not Enemy Prisoners of War (captured enemy soldiers) but rather Civilian Internees (suspected insurgents and criminals), there was some confusion as to the applicability of this restriction.

Upon review, CENTCOM deemed CJTF-7's September 14, 2003, interrogation policy to be "unacceptably aggressive."³⁵ So, CJTF-7 published a new policy on October 10, 2003. Unfortunately, this new policy was treated almost as permissively as the September policy by some interrogators, most notably at CJTF-7's new "Baghdad Central Correctional Facility" at Abu Ghraib. This permissive treatment occurred for many reasons. For one, although the new policy took away blanket approval for interrogators to use enhanced interrogation techniques, it gave Sanchez the option of approving such techniques on a case-by-case basis. Thus, for example, Sanchez would approve 25 requests by interrogators to employ the "Isolation" technique on subjects.³⁶ Also, since Colonel Pappas, the 205th MI Brigade Commander, apparently believed that he had been delegated approval authority by Sanchez for his interrogators to use the harsh techniques of "Sleep Management" and "Use of Military Working Dogs," it remained a simple matter for his interrogators to receive approval to use these two techniques.³⁷

Worse still was the confusion the new interrogation policy generated when it quoted a rescinded army field manual. Interrogators, the new policy said, should "control all aspects of the interrogation, to include the lighting, heating and configuration of the interrogation room, as well as the food, clothing and shelter" given to detainees.³⁸ It is easy to see how this vague instruction may have been interpreted by some interrogators as their receiving blanket approval to use the enhanced interrogation techniques of "Dietary Manipulation" and "Environmental Manipulation." Worst of all, the reference to controlling subjects' clothing supported the belief of some interrogators that they could employ (at their own discretion) the "Forced Nudity" technique—an enhanced interrogation technique which had been briefly permissible during their previous deployments to either Gitmo or Afghanistan and which had never been approved for use in Iraq.³⁹

Inadequate ethical leadership also played a role in key leaders failing to either take seriously or to investigate reports of detainee abuse at Abu Ghraib by the International Committee of the Red Cross.⁴⁰ These leaders largely ignored Red Cross reports stemming from two visits to Abu Ghraib in October 2003 (just as the facility's most serious criminal abuses were beginning).⁴¹ In a summary of these reports, the Red Cross stated that "methods of physical and psychological coercion used by the interrogators appeared to be part of the standard operating procedures by military intelligence personnel to obtain confessions and extract information."⁴² The Red Cross also described "abuse" (later corroborated by military investigators) of detainees being held naked for days, being yelled at, insulted, threatened, undergoing "sleep deprivation caused by the playing of loud music or constant light," and held in isolation.⁴³ This "abuse," though, describes little more than soldiers implementing enhanced interrogation techniques which had either been formally promulgated by the CJTF-7 Headquarters or which these soldiers believed had been authorized based on their personal experiences in other theaters.

Thus it was that the decision of key leaders at CJTF-7 Headquarters and at Abu Ghraib to take "the gloves off" set the stage for the "Abu Ghraib Scandal." This scandal, which erupted after photos of serious criminal misconduct at Abu Ghraib were televised on April 28, 2004, would be intimately connected with interrogation operations. While only two of the "Abu Ghraib Nine" were interrogators (seven were military policemen), investigators concluded that, while enhanced interrogation techniques had not directly caused the most serious criminal abuses at Abu Ghraib, these techniques had perpetuated a climate where such criminal abuse was possible.⁴⁴ It is difficult to fathom, for example, how the infamous photographs of "naked human pyramids" could have occurred if interrogators had not been directing military policemen to employ the "Forced Nudity" technique as part of Pride (Ego Down) approaches.

The "Abu Ghraib Scandal" constituted a strategic defeat for the United States. In its aftermath, the credibility of the U.S. within the international community, particularly the world's Arab community, was severely damaged. Also, the Iraqi insurgency was energized: "'They used to show events [on television] in Abu Ghurayb,'" said one of many mujahedeen brought to Iraq by the horrific images. "The oppression, abuse of women, and fornication, so I acted in the heat of the moment and decided...to seek martyrdom in Iraq."⁴⁵ Ominously, for a counterinsurgency force trying to win the support of the people, Coalition Provisional Authority polls showed Iraqi support for the occupation plummeting from 63 percent before the scandal to just nine percent after the photos were published.⁴⁶ Most ominously, however, the scandal accelerated the decline of U.S. popular support for the war, a decline that eventually caused a newly-elected U.S. Congress to try (unsuccessfully) to force U.S. forces from Iraq in 2007.

We move now to the 3d Armored Cavalry Regiment (3ACR).

Enhanced Interrogation in Al Anbar

In a February 2004 report, the Red Cross summarized its major findings concerning the treatment of detainees from March to November 2003 in 14 U.S. facilities in Iraq.⁴⁷ This report listed two facilities at the CJTF-7 level (Abu Ghraib and Camp Cropper) that it assessed as "main places of internment where mistreatment allegedly took place."⁴⁸ At the division or brigade level, it assessed three facilities as being centers of alleged detainee abuse: one (and perhaps two) of these three facilities belonged to the 3ACR. The Red Cross described the facility that clearly belonged to the 3ACR as located in "a former train station in Al-Khaim, near the Syrian border, turned into a military base."⁴⁹ This description matches descriptions in court testimony of "Forward Operating Base Tiger," operated by the 1st Squadron of the 3ACR.⁵⁰ The Red Cross also described a center of detainee abuse as the "Al-Baghdadi, Heat Base and Habbania Camp in Ramadi governorate."⁵¹

While units of the 3ACR operated in the Al Habbaniyah area during the timeframe (July-August 2003) of the Red Cross's allegations of abuse at this facility, the U.S. Army's cursory criminal investigation into this allegation failed to even uncover whether a conventional Army or Special Forces unit had committed this alleged abuse.⁵² The Red Cross report was disturbing, though, with 25 detainees alleging at Abu Ghraib that, during their previous internments at Al Habbaniyah, they had undergone such mistreatment as painful stress positions, forced nudity, beatings, dog attacks, and sleep deprivation—all allegations consistent with the use of enhanced interrogation techniques.⁵³

There is no question, though, that the 3ACR operated the detention facility on Forward Operating Base (FOB) Tiger. In 2005 and again in 2006, Human Rights Watch interviewed a military police sergeant who had served as a guard at the facility from May 2003 to September 2003.⁵⁴ This guard's testimony corroborated the Red Cross's 2004 allegations of abuse at this facility. According to this military policeman, he routinely witnessed interrogation abuse at the facility. This sergeant alleged that guards were regularly ordered to subject detainees to sleep deprivation, dangerously high temperatures, hunger and thirst, and, while facing a wall, prolonged standing (up to 24 hours).⁵⁵ He also alleged that he witnessed interrogators beating detainees, threatening them with loaded weapons, and subjecting them to bright strobe lights and loud music.⁵⁶ According to this sergeant, both Army (including Special Forces soldiers) and CIA interrogators conducted these abusive interrogations.⁵⁷

Since this guard was describing enhanced interrogation techniques that were common to those facilities that employed such techniques, it seems unlikely that he fabricated these allegations. Moreover, the described techniques are consistent with specific techniques (such as "wall standing") described in recently declassified CIA memoranda.⁵⁸

Unfortunately, the use of enhanced interrogation techniques was not limited to the squadron detention facility at FOB Tiger; these techniques were also employed at FOB Rifles (the 3ACR Regimental Holding Area at Al Asad Air Field) as well as at a temporary detention facility that the regiment established east of al Qaim for an operation called "Operation Rifles Blitz."⁵⁹ Like the FOB Tiger facility, this temporary facility was also located at a train station.⁶⁰ The nickname of this facility was "Blacksmith Hotel."⁶¹ The senior interrogator in charge of interrogation operations at these two regimental facilities was Chief Warrant Officer 3 Lewis Welshofer.

As described in the email exchange above, Welshofer's response to the request for a "wish list" of interrogation techniques was to request the use of techniques resembling those used by SERE instructors.⁶² When CJTF-7 published a permissive interrogation policy on September 14, 2003, that seemed to permit some SERE techniques, Welshofer apparently felt he had permission to use all of the techniques he had previously learned as a SERE instructor. Welshofer applied one of these techniques, "close confinement quarters," in a particularly brutal manner, often wrapping detainees in a sleeping bag to induce feelings of claustrophobia.

This "interrogation technique" would have tragic results. On November 26, 2003, Welshofer interrogated Iraqi Major General Abed Mowhoush at "Blacksmith Hotel."⁶³ At the end of this interrogation, Welshofer placed Mowhoush in a sleeping bag. Then, Welshofer wrapped the bag tightly with electrical cord, sat on him, and covered his mouth with his hand.⁶⁴ Within minutes, the 56-year-old general was dead. Mowhoush's death certificate later listed his cause of death as "asphyxia due to smothering and chest compression," and a December 2, 2003, autopsy stated that Mowhoush had, prior to his death, received numerous "contusions and abrasions" along with six fractured ribs.⁶⁵ The fractured ribs were apparently due to a group of Iraqis (who allegedly worked for the CIA) severely beating Mowhoush during an interrogation two days before Mowhoush's death.⁶⁶

This was not the only interrogation-related death in the 3ACR. Five weeks after the conclusion

of Operation Rifles Blitz, 47-year-old Lieutenant Colonel Abdul Jameel died during an interrogation at FOB Rifles on Al Asad Airfield. According to a *Denver Post* article allegedly based on leaked military documents, before dying, Jameel had been kept in an isolation cell with his arms chained to a pipe in the ceiling.⁶⁷ When released from these chains, he reportedly lunged at a Special Forces soldier, causing three Special Forces soldiers to allegedly punch and kick him “for approximately one to two minutes.”⁶⁸ This article states that Jameel later escaped and was re-captured.⁶⁹ Upon recapture, his hands were allegedly tied to the top of his cell door, and at some point, he was gagged.⁷⁰ Five minutes later, a soldier noticed he was dead.⁷¹ Another article in the *New York Times* is more specific about Jameel’s gagging, alleging that a “senior Army legal official acknowledged that the Iraqi colonel had at one point been lifted to his feet by a baton held to his throat, and that that action had caused a throat injury that contributed to his death.”⁷²

The coroner who performed Jameel’s autopsy identified the cause of death as “homicide,” describing Jameel’s body as showing signs of “multiple blunt force injuries” and a “history of asphyxia.”⁷³ An Army criminal investigation was also completed. This investigation recommended charging 11 soldiers from both the 5th Special Forces Group and the 3ACR with crimes related to Jameel’s homicide.⁷⁴ Two of these soldiers, this report recommended, should be charged with Negligent Homicide and nine others charged with crimes ranging from Assault to False Official Statement.⁷⁵ Inexplicably (considering the investigating agent’s recommendations and subsequent news reports), the commanders of these soldiers decided to ignore these recommendations altogether, determining that the detainee had died as “a result of a series of lawful applications of force in response to repeated aggression and misconduct by the detainee.”⁷⁶

As a result of the Army criminal investigation into Mowhoush’s death, Welshofer’s commanding general issued Welshofer a letter of reprimand. In his letter of rebuttal to this reprimand, the unrepentant warrant officer repeated a claim he had made in the email to the CJTF-7 captain, namely, that Army doctrine--patterned as it is on the Law of War--is insufficient for dealing with unlawful combatants.⁷⁷ Welshofer also referred to Jameel, saying that, before Jameel’s death, Jameel had led soldiers to the location of a large explosives cache.⁷⁸ Welshofer used this example to justify his own harsh treatment of Mowhoush, saying that this cache had contained “thousands of potential IEDs [Improvised Explosive Devices]” and that the “bottom line is that what interrogators do is a dirty job but saves lives.”⁷⁹ Despite his specious reasoning here (after all, just because Jameel knew where IED caches were does not mean that Mowhoush did), Welshofer was still charged with negligent homicide, and in January 2006, he was court martialed at Fort Carson, Colorado.

Welshofer’s court martial was a media sensation. During his court martial, Welshofer claimed that the only CJTF-7 interrogation policy he had seen in Iraq had been the September 2003 policy (the policy that had explicitly authorized certain enhanced interrogation techniques). A warrant officer who had observed parts of Mowhoush’s interrogation testified to a technique used by Welshofer on Mowhoush the day prior to Mowhoush’s death that was essentially “waterboarding.”⁸⁰ According to this warrant officer, Welshofer also hit Mowhoush repeatedly on his elbow with a stick.⁸¹ Welshofer’s use of a stick to strike Mowhoush, this warrant officer alleged, “was not that extreme when you consider other things that were happening at the facility.”⁸² Also, the company commander of these two warrant officers testified that she had authorized the “close quarters” or “sleeping bag” technique and that she had seen Welshofer slap detainees.⁸³ Disappointingly, despite damning evidence that Welshofer had implemented enhanced interrogation techniques which had not been approved for use by U.S. soldiers in Iraq and which had clearly contributed to Mowhoush’s death, Welshofer received a sentence extremely controversial for its lightness—a letter of reprimand, restriction to his house and place of worship for two months, and a fine of \$6,000.⁸⁴ Ultimately, the media controversy resulting from Welshofer’s court martial and light sentence, though not a strategic defeat of the magnitude of Abu Ghraib, reinforced the U.S. military’s loss of

moral standing among Americans.

We turn now to the 4th Infantry Division (4ID).

Troubles in Tikrit

In their February 2004 summary of alleged U.S. detainee abuse in Iraq from March to November 2003, the Red Cross identified the “Tikrit holding area (former Saddam Hussein Islamic School)” as an alleged center of detainee abuse.⁸⁵ While the 4ID was headquartered at this time in Tikrit, it is unclear from this description if the Red Cross’s alleged abuse occurred in the 4ID’s detention facility on FOB Iron Horse. Also, since this allegation was apparently never investigated, it is unclear exactly what abuse was allegedly committed by whom: as in the case of the “Al-Baghdadi, Heat Base and Habbania Camp,” it is just as possible that the alleged abuse occurred--if it occurred at all--at the hands of unconventional rather than conventional forces.

Still, the 4ID detention facility at FOB Iron Horse certainly had its troubles. Most significantly, investigators found soldiers at fault in two detainee deaths at the facility. On September 11, 2003, a guard shot and killed a detainee for allegedly placing his hands too-near the concertina wire of his isolation area.⁸⁶ The guard was charged with “manslaughter,” and he was chaptered out of the army in lieu of a court martial.⁸⁷ Also, on February 8, 2004, another detainee died due to medical inattention.⁸⁸ In addition, precisely relevant to this case study, the 4ID detention facility had a case of substantiated interrogation abuse that derived directly from the decision of HUMINT leaders to take “the gloves off.”

This case began on August 17, 2003, when the staff sergeant in charge of the 4ID’s Interrogation Control Element submitted the requested “wish list” of more effective interrogation techniques.⁸⁹ After this submission, he saved this file onto his desktop, where it was read by a new interrogator.⁹⁰ Soon after, he spoke to his new interrogator about these techniques.⁹¹ They later disagreed in sworn statements about the nature of this discussion: the junior interrogator alleged that his supervisor had given him tacit permission to use these techniques (asking him if he “could handle” implementing such harsh techniques); his superior stated that they had discussed the techniques in general and that he had never given this interrogator permission to use these techniques.⁹²

With the arrival of a detainee at the facility who had been accused of killing three Americans, the stage was set for two abusive interrogations. The new interrogator was physically imposing (standing six foot, six inches tall). So, “to extract time-sensitive intelligence information that could save lives,” the staff sergeant assigned his junior interrogator to conduct this detainee’s interrogation while approving a “Fear Up (Harsh)” interrogation approach.⁹³ During the first abusive interrogation on September 23, 2003, the new interrogator forced the detainee to assume various stress positions, yelled at him, threatened him, and struck him 10-30 times on his feet, buttocks, and possibly his lower back with a police baton.⁹⁴ Six days later, a different interrogator with the same interpreter forced the detainee to circle a table on his knees until his knees were bloody.⁹⁵ Ironically, just two days before the first harsh interrogation, the 4ID Commander had published a command policy prohibiting “assaults, insults, public curiosity, bodily injury, and reprisals of any kind.”⁹⁶ According to the junior interrogator’s statement, he would have reconsidered his techniques if he had seen this policy.⁹⁷

The officer who investigated the incidents recommended a letter of reprimand for the staff sergeant and a field grade Article 15 for both interrogators.⁹⁸ The staff sergeant’s letter of reprimand admonished him for his failure “to set the proper leadership climate” and for his “inadvertently” leading at least one interrogator to believe he “condoned certain practices that were outside the established regulations.”⁹⁹ In his rebuttal, however, the staff sergeant boldly alleged it was not he who had failed to set the proper leadership climate for his subordinates but rather the problem was

“the command climate of the division as a whole.”¹⁰⁰ In support of his claim, he referred to an illegal practice where certain 4ID units would seize the family members of targeted individuals in an effort to coerce these individuals into turning themselves in.¹⁰¹ The staff sergeant also quoted an unidentified “senior leader” as saying that detainees “are terrorists and will be treated as such.”¹⁰²

Although it may not be especially likely that Lieutenant Colonel Allen West was the 4ID “senior leader” that made this remark, West is still worth mentioning in this context. West, a battalion commander within the 4ID’s 2nd Brigade, was relieved from command for an incident that occurred one month before the abusive interrogations on FOB Iron Horse: to coerce intelligence from an unwilling detainee, West had watched five of his soldiers beat a detainee on the head and body, then he had taken the detainee outside, placed the detainee near a clearing barrel, and fired two shots into the clearing barrel.¹⁰³ As a result of this incident, not only media pundits but also U.S. senators hotly debated the morality of West’s actions. Ultimately, in the midst of rancorous public debate, West was allowed to retire rather than face a court martial.

In short, although the interrogation element at FOB Iron Horse flirted with the use of enhanced interrogation techniques, the actual use of these techniques was never systemic at FOB Iron Horse as it was at Abu Ghraib or at three facilities within the 3ACR. In fact, when such techniques were implemented during two abusive interrogations, a 4ID command policy coupled with a thorough investigation (and decisive punishment) seem to have eradicated any confusion these interrogators had regarding acceptable interrogation methods. Thus, in the 4ID the media circus evolving from abusive interrogation techniques and an intelligence-at-any-cost mindset would not involve interrogators at FOB Iron Horse: this particular media circus would rightly engulf Lieutenant Colonel West.

We are now ready to examine the 1st Armored Division.

Out Front!

Soon after assuming command of the 1AD on July 16, 2003,¹⁰⁴ Brigadier General Martin Dempsey directed that the 1AD be called “Task Force 1st Armored Division” (TF 1AD). This was a nod to the division’s many attachments, which had more than doubled the size of the division to 39,000 soldiers.¹⁰⁵ To this date, TF 1AD during OIF I remains the largest force controlled by a division headquarters in U.S. Army history.¹⁰⁶ Throughout OIF I, TF 1AD operated in Baghdad, an environment as complex and dangerous as any in Iraq. The lives of 133 TF 1AD soldiers lost and 1,111 soldiers wounded in combat serve as profound, poignant testimony to this fact.¹⁰⁷

The 501st MI Battalion (now inactivated) was 1AD’s organic MI battalion. During OIF I, the unit ran the TF 1AD detention facility and provided HUMINT and other intelligence support to the giant task force. The motto of the battalion was “Out Front!”, and its leaders clearly intended the unit to serve as an ethical role model. In the first sentence of his command philosophy, Lieutenant Colonel Laurence Mixon, who commanded the battalion for most of OIF I, matter of factly asserted that the battalion was a “values-based organization.” Then, in the very next sentence he borrowed the shining “city upon the hill” metaphor by presenting key moral principles as “guideposts, lighting our way ahead.”¹⁰⁸

The TF 1AD detention facility (which MI personnel called the Division Interrogation Facility, or DIF) was located at the Baghdad International Airport. This facility struggled with the same basic issues that the 3ACR and 4ID facilities struggled with during OIF I. Most notably, it had too few (and too inexperienced) interrogators operating amidst mounting U.S. casualties and a growing pressure for intelligence.¹⁰⁹ Nonetheless, the facility not only incurred zero substantiated cases of detainee abuse, but it did not even have any cases of alleged serious abuse.¹¹⁰ The only three instances of abuse at the facility seem to have been extremely minor--two cases of military

policemen counseled for yelling at detainees and one instance of a contract interrogator who was fired for threatening a detainee.¹¹¹

In addition to the absence of serious abuse, there were none of the potential indicators of abuse at the TF 1AD detention facility that had occurred at a few other facilities in Iraq. There was not, for example, a single riot, detainee shooting, detainee death, or escape attempt at the facility.¹¹² Also, the facility passed all Red Cross inspections with no significant deficiencies or allegations of detainee abuse noted.¹¹³ Considering these facts, it is perhaps no wonder, then, that when Stuart Herrington (a retired colonel and one of America's foremost experts on interrogation operations) inspected CJTF-7 interrogation operations in December 2003, he singled out TF 1AD's detention facility as "organized, clean, well-run, and impressive."¹¹⁴

Importantly, interrogators at the facility never employed enhanced interrogation techniques, even during the brief period in which CJTF-7 explicitly approved such techniques.¹¹⁵ In fact, across Baghdad, Brigade S2s and 501st MI Battalion leaders refused to allow their interrogators to employ these techniques.¹¹⁶ Chief Warrant Officer 3 John Groseclose, who was in charge of HUMINT operations at TF 1AD's 3rd Brigade before taking charge of interrogation operations at the TF 1AD detention facility, said the following:

When that memo [CJTF-7's September 14, 2003, interrogation policy] first came out, I went to Major Crisman, the S2 at the brigade, and showed the memo to him. I told him that I thought this memo was a very bad idea. It just didn't look right to me. He agreed. So, we never used those techniques. I didn't see any purpose for them.¹¹⁷

Chief Warrant Officer 3 Kenneth Kilbourne, who was Groseclose's counterpart at TF 1AD's 1st Brigade, echoed Groseclose's comments. "This memo was idiotic," Kilbourne said, "It was like providing a new, dangerous piece of equipment to a soldier and telling them that they are authorized to use it, but you don't have an instruction manual to give them to show them how to operate it."¹¹⁸

These experienced HUMINT leaders believed that it was not only wrong for American soldiers to employ enhanced interrogation techniques on real world enemies, they believed that such techniques were largely ineffective. "For an interrogator to resort to techniques like that [techniques derived from SERE schools] is for that interrogator to admit that they don't know how to interrogate," said Groseclose, who was awarded the U.S. Defense Department's HUMINT Collector of the Year Award for 2003.¹¹⁹ He added: "Our interrogations produced results."¹²⁰

Major Hoepner (today Lieutenant Colonel Hoepner) credited not just the battalion's HUMINT warrant officers but he also credited command climate for the battalion's stand on the moral high ground.¹²¹ His judgment is no doubt correct. Four days after assuming command, for example, Dempsey criminalized detainee mistreatment in a fragmentary mission order.¹²² This criminalization included the use of any interrogation technique that could be construed as "maltreatment."¹²³ What is more, Dempsey consistently reiterated to his Brigade Commanders the need to ensure their troops treated Iraqis with respect and humanity--a reminder his Brigade Commanders hardly needed. As Colonel Pete Mansoor, the commander of TF 1AD's 1st Brigade, has eloquently written:

Whether or not mock executions, naked pyramids, beatings, and other forms of abuse succeed in extracting information, such behavior often slides down a slippery slope to more severe forms of mistreatment, perhaps leading eventually to injury and death. Prisoner abuse degrades the abuser as well as the abused; as Americans we should stay on a higher moral plane...We had to remain constantly vigilant in this regard, lest we lose our soul in the name of mission accomplishment.¹²⁴

Still, despite the best efforts of senior leaders throughout TF 1AD, allegations of serious detainee abuse did occur in TF 1AD, and some of these allegations were substantiated.¹²⁵ Thus, what was

truly unique for a unit of its size was that none of TF 1AD's cases of detainee abuse involved school-trained interrogators. The principal reason for this was that each interrogator in the TF 1AD had a chain-of-command, from their commanding general to their immediate warrant officer supervisor, who understood the ground their interrogators needed to stand upon. This ground was the moral high ground.

Case Study Findings

The Abu Ghraib detention facility had, in some ways, a different tactical problem than the division and regimental facilities in Al Anbar Province, Tikrit, and the Baghdad Airport. Abu Ghraib was overcrowded, its military police unit was undermanned, and it operated under near-constant harassing mortar fires--fires that frightened, and in some cases traumatized, the troops working there. But in important ways, the tactical problem was the same. This common tactical problem was as follows: "How do we interrogate effectively, when casualties are mounting, higher interrogation policy is permissive, resources are limited, and our interrogators are young and inexperienced?" Tragically, interrogators at Abu Ghraib, in the 3ACR, and at FOB Iron Horse had HUMINT leaders who felt morally justified in sanctioning enhanced interrogation techniques, and this belief led their interrogators to use these techniques--use that slipped into truly serious abuse at Abu Ghraib and in the 3ACR. Furthermore, due to personalities unique to Abu Ghraib, abuse descended further still into the sadistic, sexualized violence that shamed our nation--and nearly led to our defeat in Iraq. In retrospect, it is ironic that, while these leaders had meant to save lives via enhanced interrogation techniques, their actions helped to destabilize Iraq. This destabilization, in turn, created thousands more casualties than these leaders could ever have prevented through tactical methods.

The detention facility run by the 501st MI Battalion, however, was a shining example of another type of facility, the type of facility to which most U.S. detention facilities belonged during OIF I. By using doctrinal interrogation methods, leaders at these facilities managed to solve their basic tactical problem without their interrogators incurring investigations, letters of reprimand, UCMJ actions, or being court martialed. Also, of strategic importance, their interrogators stayed out of the news.

Of course, those who believe in the efficacy of enhanced interrogation techniques will argue that the 501st MI Battalion was not as successful tactically as it would have been if it had employed such techniques. Although this may be true, it is unlikely to be true. The 501st MI Battalion's experienced HUMINT warrant officers certainly did not accept such an argument. To a man, they believed that they would have been less successful if they had employed such harsh techniques, often saying "torture is for amateurs, professionals don't need it."¹²⁶ These leaders believed that Army doctrine was right when it stated that the "use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear."¹²⁷ Their judgment here is corroborated by other sources. In "How to Break a Terrorist," for example, Matthew Alexander (one of the interrogators who led U.S. forces to Musab al Zarqawi), convincingly argues that interrogators who build rapport with subjects and then intelligently apply doctrinal approaches are more successful than those who unthinkingly rely on brutal methods.¹²⁸

Nonetheless, although enhanced interrogation techniques are decidedly inferior to more intelligent methods, it is probable that such harsh techniques may, in very specific circumstances, extract useful intelligence. This possibility does not mean, however, that it is ever wise for the citizens of a western democracy to employ such techniques. As experienced by America at Abu Ghraib (and by France in Algeria), the risk of strategic defeat is too great to ever justify the use of

harsh interrogation techniques by a western democracy on today's media-saturated battlefield.

This case study began with the hypothesis that the essential ethical position chosen by leaders is the most important determinant of the level of detainee abuse in interrogation units and, ultimately, the strategic effectiveness of these units on today's battlefield. It should now be clear that this hypothesis is valid. As illustrated above, when HUMINT leaders in Iraq chose ethically different solutions to a common tactical problem, the level of interrogation abuse that then occurred within their units was also dramatically different--as was these units' strategic results.

Surprisingly, the "Independent Panel to Review Detention Operations" has been the only major investigator of OIF I interrogation operations that emphasized the role played by poor ethical decision-making in interrogation abuse. Chaired by James Schlesinger, a retired Secretary of Defense, the five-member panel had this finding:

For the U.S., most cases for permitting harsh treatment of detainees on moral grounds begins with variants of the "ticking time bomb" scenario...Such cases raise a perplexing moral problem: Is it permissible to employ inhumane treatment when it is believed to be the only way to prevent loss of lives? In periods of emergency, and especially in combat, there will always be a temptation to override legal and moral norms for morally good ends. Many in Operations Enduring Freedom and Iraqi Freedom were not well prepared by their experience, education, and training to resolve such ethical problems.¹²⁹

The panel concluded that "major service programs, such as the Army's 'core values'...are grounded in organizational efficacy rather than the moral good" and that these values "do not address humane treatment of the enemy and noncombatants, leaving military leaders and educators an incomplete tool box with which to deal with 'real-world' ethical problems."¹³⁰ The panel recommended a "review of military ethics education" and said that a "professional ethics program" is needed to equip military leaders "with a sharper moral compass for guidance in situations often riven with conflicting moral obligations."¹³¹

Why was the Schlesinger Panel unimpressed with our Army's basic tool for ethical decision-making, our "Army Values" paradigm? It was probably because the six "values" of this paradigm ("Loyalty, Duty, Respect, Selfless Service, Honor, Integrity, and Personal Courage") are broad ideals, not definitive guidelines or a practical methodology for solving specific ethical problems. In fact, these values can actually be used to support an interrogator's use of "the ticking time bomb" rationale. One could argue, for example, that Abu Ghraib interrogators displayed their "loyalty" to their Army, unit, and other troops by using enhanced interrogation techniques to save the lives of these troops; they did their "duty" by working hard and displaying initiative; they treated detainees with the "respect" they deserved (which was with no respect, since these detainees were suspected terrorists and criminals); they exercised "selfless service" by doing hard, dirty work for good ends; they showcased "honor" by living up to the other Army values; they demonstrated "integrity" by using only those harsh techniques which they believed to be approved for use; and they exhibited "personal courage" by deliberately agitating dangerous detainees. Thus, what seems patently obvious to most Americans--that, say, leaving an untried suspect naked, alone, and shivering in a brightly lit, air-conditioned cell for days at a time is behavior that is inconsistent with our nation's core values--is easily lost when leaders apply our Army's basic tool for ethical decision-making.

This is not to say that this tool actually condones enhanced interrogation techniques. After all, this same tool could also be used to argue that certain interrogators at Abu Ghraib were disloyal to the U.S. Constitution when they punished detainees without "due process of law"; that they failed in their duty to enforce the prohibition of Common Article 3 of the Geneva Convention's against committing "outrages upon personal dignity, in particular humiliating and degrading treatment" of captives;¹³² and that they violated their integrity by thus breaking the law. However, this argument

can truly only be made in the light of recent U.S. Supreme Court decisions. During OIF I, the legal limits of interrogation techniques were hotly debated by the U.S.'s most senior civilian and military lawyers and were not at all clear to politicians, military leaders, or interrogators. Thus, what the Army needs is a different tool, or at least a sharper tool, to more usefully guide ethical decision-making when laws are ambiguous (as they often are).

Clearly, our Army's most important challenge before OIF I was ensuring our troops would behave ethically on today's battlefield. As an Army, we should have placed great emphasis on, one, developing solid ethical tools, and two, growing ethical leaders who could immediately recognize if an action "looked right." Unfortunately, this challenge was not fully recognized. Consequently, despite our many post-invasion tactical successes, our strategic errors were sometimes grave indeed.

And just as clearly, our Army faces the same challenge today.

Where We Are Today

The challenge of improving the quality of our leaders' ethical tools and decision-making belongs not just to the Army's MI community but to the entire U.S. military. As the military's lead service for interrogation operations,¹³³ the U.S. Army has made some progress in this regard. Nonetheless, our Army still has far to go. Consider the following:

- Even today, some enhanced interrogation techniques are not explicitly prohibited in MI doctrine.¹³⁴ This would be a serious oversight if it were not for the Detainee Treatment Act of 2005, which made it illegal for any military interrogator to use approaches or techniques other than those included in FM 2-22.3, *Human Intelligence Collector Operation*. Nonetheless, MI doctrine should be updated so as to prevent future misunderstanding here.
- Thankfully, U.S. Army doctrine published post-OIF I is far superior with regard to promoting ethical leadership and adherence to the Law of War than doctrine published before OIF I. However, some current doctrine was published before OIF I. Worse still, as noted earlier, Army doctrine has failed to sharpen or expand our basic tool kit for ethical decision-making.
- Army doctrine now contains one unnecessary and crippling over-reaction to the strategic damage done to the United States by the use of enhanced interrogation techniques during the early years of the GWOT. According to Appendix M of FM 2-22.3, interrogators may not keep subjects separated from other detainees without the approval of a General Officer. However, the separation described in this appendix is not the enhanced interrogation technique of "Isolation," which involves sensory deprivation, but rather it is the manner of housing a detainee that is almost always a precondition for the successful interrogation of that detainee. Unless separated from a detention facility's general population, potential sources will always be briefed on how to resist their upcoming interrogations by other detainees. Also, sources are far less inclined to cooperate with interrogators when they know that other detainees will be watching should they meet regularly with interrogators. Thus, since potentially cooperative sources often become firmly non-cooperative during the time it takes an interrogator to obtain General Officer approval to separate them from the general detainee population, the requirement to obtain this approval needs to be rescinded while maintaining the new doctrinal assurances that separated sources will be housed humanely and will not suffer from sensory deprivation.
- More interrogation units are being stood up, which promises to reduce the risk that non-HUMINT troops with little knowledge of the Law of War will conduct interrogations.¹³⁵ This process is not nearly complete, though: at present in Iraq, few interrogation teams are assigned at the division-level.¹³⁶ More critical still is the lack of experienced, professionally

educated, senior warrant officers who can properly guide our Army's growing body of junior interrogators.¹³⁷

- Our Army has neither conducted a systematic “review of military ethics education” nor stood up its own “professional ethics program.”
- Ethical training in Army units today looks much as it did ten years ago. In general, this training consists of uncertified instructors giving a non-standard “Army Values” brief once a year. Commonly, this brief includes a review of the doctrinal definitions that pertain to each Army Value as well as examples of leaders who exemplified (or did not exemplify) these values. Seldom does such training employ practical exercises to help troops reason through complex moral problems for themselves, and seldom does someone conduct this training who has received the professional education necessary to usefully guide troops toward ethical solutions.
- School curriculum that makes a serious attempt at improving the ethical decision-making skills of Army leaders is rare. Nearly all Army officers, for example, attend Command and General Staff College, but the school provides few blocks of instruction related to improving ethical decision-making skills. This lack of attention is not the fault of any one college department, for all departments have subject matter in which they can introduce ethical vignettes. Instead, it is symptomatic of a lack of emphasis that still exists across our Army.

Our Climb Ahead

Our Army has come a long way with regard to HUMINT doctrine and force structure since our awful strategic errors of OIF I. Still, we cannot rest now. We must continue to improve our doctrine as well as the number and quality of our HUMINT soldiers. Most urgently, since sound doctrine and force structure is ineffective without sound training, we need to turn our attention to getting ethical training and professional education right across the Army. At stake is not just our preventing future strategic defeat, which is important enough, but our permanently solving what briefly became an existential crisis for our Army. This crisis arose when the “end justifies the means” camp grew far more influential than it should have grown during OIF I. Although this camp will always have adherents, this camp is not who we are, and it is definitely not who we should become.

American soldiers belong in the city upon the hill.

Endnotes

- ¹ Peter R. Mansoor, *Baghdad at Sunrise*, New Haven & London: Yale University Press, 2008, 178.
- ² Human Rights Watch, “No Blood, No Foul,” *Human Rights Watch*, July 2006, <http://www.hrw.org/en/reports/2006/07/22/no-blood-no-foul-0> (accessed February 17, 2009), 34.
- ³ Kenneth W. Estes, *US Army soldier Baghdad 2003-04*, Oxford: Osprey Publishing, Ltd., 2007, 6.
- ⁴ Anthony H. Cordsman, “Iraq’s Evolving Insurgency: the Nature of Attacks and Patterns and Cycles in the Conflict,” *Center for Strategic & International Studies*, http://www.csis.org/media/isis/pubs/060203_iraqicombattrends.pdf (accessed 4 December 2008), 32.
- ⁵ Thomas E. Ricks, *Fiasco: The American Military Adventure in Iraq*, New York: The Penguin Press, 2006, 197.
- ⁶ 4th Infantry Division Headquarters, “AR 15-6 Investigation,” *American Civil Liberties Union: Torture FOIA*, August 24, 2003, http://www.aclu.org/torturefoia/released/041905/6570_6668.pdf (accessed February 20, 2009), 55.
- ⁷ Ricks, *Fiasco*, 197.
- ⁸ *Ibid.*
- ⁹ Welshofer is identified as the writer of this email in online court documents and various news stories.
- ¹⁰ 4th Infantry Division 15-6 Investigation, “Exhibit A (Email Correspondences).” *American Civil Liberties Union: Torture FOIA*, October 6, 2003. http://www.aclu.org/torturefoia/released/041905/6570_6668.pdf (accessed March 15, 2009), 54.
- ¹¹ *Ibid.*
- ¹² *Ibid.*, 59.
- ¹³ 4th Infantry Division 15-6 Investigation, “Exhibit A (Email Correspondences)”, 53. Major Hoepner’s name is redacted in the published version of this document.
- ¹⁴ Henry Graf, ed., *American Imperialism and the Phillipine insurrection; testimony taken from hearings on affairs in the Phillipine Islands before the Senate Committee on the Phillipines, 1902*, Boston: Little, Brown and Company, 1969.
- ¹⁵ Mark Moyar, *Phoenix and the Birds of Prey*, Lincoln: University of Nebraska Press, 2007.
- ¹⁶ Martin Brass, *Torture to Prevent Terrorism? Interview with a French Master Torturer*, 2004, http://www.military.com/NewContent/0,13190,SOF_0704_Torture,00.html (accessed March 20, 2009).
- ¹⁷ John Winthrop, In *Speeches that Changed the World*, edited by Owen Collins, Westminster: John Knox Press, 1999, 65.
- ¹⁸ David Hackett Fisher, *Washington’s Crossing*. New York: Oxford University Press, 2004, 375.
- ¹⁹ *Ibid.*, 379.
- ²⁰ Numerous historical studies have highlighted the role racism has played in creating exceptions to this rule. See, for example, Wayne E. Lee’s essay, “From Gentility to Atrocity: The Continental Army’s Way of War,” which contrasts the restraint shown by the Continental Army when fighting the British Army versus its brutality when fighting the Iroquois in 1779.
- ²¹ Colonel Robert Hipwell, “800th MP BDE Inaugural Jails/Justice/Jails Meeting with CPA 1000

hrs Thursday,” *Email Forwarded to Author from V Corps Historian*, Camp Victory, Baghdad, July 3, 2003, 1.

²² Lieutenant General Anthony R. Jones, “AR 15-6 Investigation of the Abu Ghraib Prison and 205th Military Intelligence Brigade,” *United States Department of Defense [Hereafter USDOD] Detainees Investigations*, August 25, 2004, <http://www.defenselink.mil/news/Aug2004/d20040825fay.pdf> (accessed March 20, 2009), 10.

²³ International Committee of the Red Cross, “Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq During Arrest, Internment and Interrogation, 10 May 2004,” *GlobalSecurity.org: Military*. http://www.globalsecurity.org/military/library/report/2004/icrc_report_iraq_feb2004.htm (accessed January 16, 2009), 23.

²⁴ Major General George R. Fay, “AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade,” *USDOD Detainees Investigations* August 25, 2004, <http://www.defenselink.mil/news/Aug2004/d20040825fay.pdf> (accessed March 20, 2009), 72

²⁵ Department of the Navy Inspector General, “Review of Department of Defense Detention Operations and Detainee Interrogation Techniques,” *The Office of the Secretary of Defense and Joint Staff Reading Room, Detainee Related Documents*, March 7, 2005, <http://www.dod.mil/pubs/foi/detainees/>

[church_report_1.pdf](#) (accessed February 10, 2009), 80.

²⁶ *Ibid.*

²⁷ Donald P. Wright and Timothy R. Reese, *On Point II, Transition to the New Campaign: the United States Army in Operation IRAQI FREEDOM, May 2003 - January 2005*, Fort Leavenworth: Combat Studies Institute Press, 2008, 207.

²⁸ Department of the Navy Inspector General, “Review,” 6-7.

²⁹ Fay, *AR 15-6 Investigation*, 119. According to news reports, these homicide cases involved two detainees being tethered to ceilings and beaten over the course of several days.

³⁰ Department of the Navy Inspector General, “Review,” 297.

³¹ CJTF-7 Headquarters, “Interrogation and Counter-Resistance Policy Memorandum, September 14, 2003,” *American Civil Liberties Union: Torture FOIA*. <http://www.aclu.org/FilesPDFs/september>

[%20sanchez%20memo.pdf](#) (accessed November 2, 2008), 4-5.

³² The U.S. military’s Survival, Escape, Resistance, and Evasion (SERE) schools are designed to teach U.S. military personnel, most commonly pilots and special operations personnel, how to survive interrogations conducted by an enemy who is not bound by the Geneva Conventions. Specifically, the interrogation techniques used at these schools derive from methods used by the Chinese Communist Army during the Korean War to extract false confessions from prisoners for their propaganda value. The “Senate Armed Services Committee Inquiry into the Treatment of Detainees in U.S. Custody,” posted on Senator Carl Levin’s website, is perhaps the best open source account of the migration of enhanced interrogation techniques to Gitmo and Afghanistan, and from these theaters, to Iraq.

³³ CJTF-7 Headquarters, “Interrogation and Counter-Resistance Policy Memorandum, September 14, 2003,” 4-5. For “False Flag,” an interrogator pretended to be from another country. “Stress Positions” were defined as the use “of physical postures (sitting, standing, kneeling, prone, etc.)”

³⁴ Ibid.

³⁵ James R. Schlesinger, Harold Brown, Tillie K. Fowler, and General Charles A. Horner, “Final Report of the Independent Panel to Review DoD Detention Operations, August 23, 2004,” *United States Department of Defense Detainees Investigation*, <http://www.defenselink.mil/news/Aug2004/d20040824finalreport.pdf> (accessed November 2, 2008), 12.

³⁶ Fay, *AR 15-6 Investigation*, 92.

³⁷ Wood, Captain Carolyn, “Sworn Statement of CPT, 519th MI BN; Annex to Fay/Jones/Kern Report,” *American Civil Liberties Union: Torture FOIA*, May 21, 2004, <http://www.aclu.org/projects/foiasearch/pdf/DOD000598.pdf> (accessed January 10, 2009), 7. See Major General Fay’s investigation for Colonel Pappas’ belief that he could approve “use of military working dogs” (Fay, 83). Sanchez has denied delegating this approval authority to Pappas.

³⁸ CJTF-7 Headquarters, “Interrogation and Counter-Resistance Policy Memorandum, October 12, 2003,” *American Civil Liberties Union: Torture FOIA*. <http://www.aclu.org/FilesPDFs/october%20sanchez%20memo.pdf> (accessed December 12, 2008), 1.

³⁹ Fay, “AR 15-6 Investigation,” 87-88.

⁴⁰ Ibid., 64. Lieutenant General Anthony Jones shares this observation (Jones, 7).

⁴¹ Ibid.

⁴² International Committee of the Red Cross, “Report of the International Committee of the Red Cross”, 13.

⁴³ Ibid.

⁴⁴ See, for example, Lieutenant General Jones’ comment that, “The use of clothing as an incentive (nudity) is significant in that it likely contributed to an escalating ‘de-humanization’ of the detainees and set the stage for additional and more severe abuses to occur.” (Jones, 10).

⁴⁵ Ibid., 144.

⁴⁶ Fareed Zakaria. “Pssst...Nobody Loves a Torturer,” *Newsweek*, November 14, 2005, <http://www.fareedzakaria.com/ARTICLES/newsweek/111405.html> (accessed April 11, 2009).

⁴⁷ International Committee of the Red Cross, “Report of the International Committee of the Red Cross,” 3, 6.

⁴⁸ Ibid, 7.

⁴⁹ Ibid.

⁵⁰ United States of America, Article 32 Hearing: United States v. CW2 Williams, SFC Sommer and SPC Loper,” *Washington Post*, December 2, 2004, http://www.washingtonpost.com/wp-srv/nation/documents/mowhoush_court_document.pdf (accessed March 21, 2009), 20, 33.

⁵¹ International Committee of the Red Cross, “Report of the International Committee of the Red Cross,” 7.

⁵² United States Army Criminal Investigation Command, “CID Report of Investigation – Final (C)/SSI –0177-04-CID259-80266/5C2B/5Y2E/5X1,” *American Civil Liberties Union: Torture FOIA*. August 3, 2004, <http://www.aclu.org/projects/foiasearch/pdf/DODDOACID004133.pdf> (accessed March 22, 2009), 12, 14. Inexplicably, in his search for the detainees and unit in question, the investigating agent did not even interview any soldiers responsible for detention operations at the Al Habbiniyah airfield during the time period of the alleged abuse.

⁵³Ibid., 20.

⁵⁴ Human Rights Watch, 25-26.

⁵⁵ Ibid., 26-30.

⁵⁶ Ibid.

⁵⁷ Ibid., 26.

⁵⁸ Steven G. Bradbury, *Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency*, May 10, 2005, http://luxmedia.vo.llnwd.net/o10/clients/aclu/olc_05102005_bradbury_20pg.pdf (accessed August 21, 2009), 33.

⁵⁹ The 3ACR operated out of the Al Asad Air Field from September 2003 to March 2004 (United States of America, “Article 32 Hearing,” 19). “Operation Rifles Blitz” was a two-week cordon-and-search operation that took place at the end of November 2003 in the al Qaim area (United States of America, “Article 32 Hearing,” 21).

⁶⁰ United States of America, “Article 32 Hearing,” 33.

⁶¹ Ibid.

⁶² 4th Infantry Division Headquarters, “AR 15-6 Investigation,” 54.

⁶³ United States of America, “Article 32 Hearing,” 100.

⁶⁴ Josh White, “Documents Tell of Brutal Improvisation by GIs,” *Washington Post*, August 3, 2005, http://www.washingtonpost.com/wp-dyn/content/article/2005/08/02/AR2005080201941_pf.html (accessed March 22, 2009).

⁶⁵ Human Rights Watch, “No Blood, No Foul,” 39.

⁶⁶ Ibid., 38.

⁶⁷ Mike Moffeit, *Brutal Interrogation in Iraq*, May 19, 2004, http://www.denverpost.com/search/ci_0002157003 (accessed August 24, 2009).

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Douglas Jehl, *Pentagon Will Not Try 17 G.I.’s Implicated in Prisoners’ Deaths*, March 26, 2005, http://www.nytimes.com/2005/03/26/politics/26abuse.html?_r=1, (accessed August 24, 2009).

⁷³ “Final Autopsy Report,” *American Civil Liberties Union: Torture FOIA*, http://www.aclu.org/torturefoia/released/041905/m001_203.pdf (accessed August 22, 2009), 108.

⁷⁴ United States Army Criminal Investigation Command, “Army Criminal Investigators Outline 27 Confirmed or Suspected Detainee Homicides for Operation Iraqi Freedom, Operation Enduring Freedom,” *United States Army Criminal Investigation Command*, <http://www.cid.army.mil/Documents/OIF-OEF%20Homicides.pdf> (accessed August 23, 2009) 7.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Lewis Welshofer, “Memorandum For Commander 82d ABN DIV,” *American Torture*, February 11, 2004, <http://www.americantorture.com/documents/iraq/10.pdf> (accessed March 20, 2009), 2.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid. At “In Their Own Words” hyperlink; Steven G. Bradbury, *Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency*, May 30, 2005, 15. During Welshofer’s court martial, this warrant officer testified under oath, “We basically held him [Mowhoush] down on his back and poured water on his face.” The CIA memorandum cited here says that when waterboarded, “the detainee is placed face-up on a gurney with his head inclined downward” and “a cloth is placed over his face on which cold water is then poured for periods of at most 40 seconds.” Other than the use of a cloth specified in the SERE-derived CIA technique, there is no apparent difference between the tactic employed here by Welshofer on Mowhoush and the CIA technique known as waterboarding.

⁸¹ Kusnetz. At “In Their Own Words” hyperlink.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ibid. At “Case Closed?” hyperlink.

⁸⁵ International Committee of the Red Cross, “Report of the International Committee of the Red Cross,” 7.

⁸⁶ 4ID Staff Judge Advocate, “Documents provided by the 4th Infantry Division SJA,” *American Civil Liberties Union: Torture FOIA*, May 12, 2004, <http://www.aclu.org/projects/foiasearch/pdf/DOD043552.pdf> (accessed March 22, 2009), 2. Of note here is that “Isolation” is a SERE or enhanced interrogation technique.

⁸⁷ Ibid.

⁸⁸ Unidentified Investigating Officer, “Memo for Record – Evidence,” *American Civil Liberties Union: Torture FOIA*, February 4, 2004, <http://www.aclu.org/projects/foiasearch/pdf/DOD043571.pdf> (accessed March 22, 2009), 1.

⁸⁹ 4th Infantry Division Headquarters, “AR 15-6 Investigation,” 43.

⁹⁰ Ibid., 74.

⁹¹ Ibid., 73-74.

⁹² Ibid., 26, 73-74.

⁹³ Ibid., 56.

⁹⁴ Ibid., 5.

⁹⁵ Ibid., 47, 62.

⁹⁶ Major General Raymond Odierno, “Treatment of Detainees in the Custody of U.S. Forces,” *American Civil Liberties Union: Torture FOIA*, September 21, 2003, <http://www.aclu.org/projects/foiasearch/pdf/DOD043596.pdf> (accessed March 22, 2009), 1-2.

⁹⁷ 4th Infantry Division Headquarters, “AR 15-6 Investigation,” 48.

⁹⁸ Ibid., 49.

⁹⁹ Ibid., 24.

¹⁰⁰ Ibid., 28.

¹⁰¹ Ibid. This practice violates Common Article 3 of the 1949 Geneva Conventions, an article the U.S. Supreme Court has upheld as applying even to “unlawful combatants.” For alleged use of this

technique by 4ID units, see Ricks' *Fiasco*, pgs. 236, 256, 260, 283, 357.

¹⁰² Ibid.

¹⁰³ Department of the Navy Inspector General, "Review," 299.

¹⁰⁴ Estes, *US Army soldier Baghdad 2003-04*, 32.

¹⁰⁵ Ibid., 22.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid. 1AD's deployment was extended in Iraq for Operation Iron Saber, April to July 2003.

¹⁰⁸ Lieutenant Colonel Laurence Mixon, "501st MI Battalion Command Philosophy," July 1, 2003.

¹⁰⁹ Major Douglas A. Pryer, "Interview with LTC Nathan Hoepner," *Operational Leadership Experiences in the Global War on Terrorism*, December 19, 2008, http://cgsc.cdmhost.com/cdm4/item_viewer.php?CI

SOROOT=/p4013coll13&CISOPTR=1441&CISOBX=1&REC=6 (accessed March 24, 2009), 11, 17.

¹¹⁰ Ibid., 16, 18.

¹¹¹ Ibid., 16; 501st MP Platoon Leader, "Collection Point & Internment Facility Interview Questions," *American Civil Liberties Union: Torture FOIA*, March 23, 2004, <http://www.aclu.org/projects/foiasearch/>

pdf/DOD018576.pdf (accessed March 23, 2009), 17.

¹¹² Lieutenant Colonel Nathan Hoepner, *Email to Major Douglas A. Pryer: Re: Interview!*, March 25, 2009.

¹¹³ Lieutenant Colonel Nathan Hoepner, *Email to Major Douglas A. Pryer: Re: Interview!*, March 28, 2009.

¹¹⁴ Department of the Navy Inspector General, "Review," 60.

¹¹⁵ Pryer, "Interview with LTC Nathan Hoepner, 10-11.

¹¹⁶ Although the TF 1AD did not employ enhanced interrogation techniques, guards and/or interrogators at a few TF 1AD facilities temporarily allowed the use of light "stress positions" as a means of controlling unruly detainees (not to coerce intelligence from detainees). At the time, MP but not MI doctrine specifically prohibited this practice. MI doctrine now clearly prohibits this practice as well.

¹¹⁷ Major Douglas A. Pryer, "Interview with CW3 John Groeclose," *Operational Leadership Experiences in the Global War on Terrorism*, January 7, 2009, <http://cgsc.cdmhost.com/cgi-bin/showfile.exe?CISORO>

OT=/p4013coll13&CISOPTR=1429&filename=1431.pdf#search=%22Pryer%22 (accessed March 25, 2009), 12.

¹¹⁸ Major Douglas A. Pryer, "Interview with CW3 Kenneth Kilbourne," *Operational Leadership Experiences in the Global War on Terrorism*, December 21, 2008, http://cgsc.cdmhost.com/cdm4/item_viewer.php?CISOROOT=/p4013coll13&CISOPTR=1440&CISOBX=1&REC=2 (accessed March 31, 2009), 7.

¹¹⁹ Pryer, "Interview with CW3 John Groeclose," 2, 11.

¹²⁰ Ibid., 13.

¹²¹ Pryer, “Interview with LTC Nathan Hoepner,” 11.

¹²² 1AD Headquarters, “FRAGO 383A [General Order - Civilian or Detainee Maltreatment] to OPORD 03-215 (Iron Stability),” *American Civil Liberties Union: Torture FOIA*, July 21, 2003, <http://www.aclu.org/projects/foiasearch/pdf/DODDOA027333.pdf> (accessed March 4, 2009), 58-60.

¹²³ *Ibid.*

¹²⁴ Peter R. Mansoor, *Baghdad at Sunrise*, 178-179.

¹²⁵ Department of the Navy Inspector General, “Review,” 298-302. The Church Report identifies five substantiated cases of interrogation abuse by soldiers (not school-trained interrogators) of TF 1AD. Two of these cases occurred at the point of capture; three occurred in temporary holding facilities.

¹²⁶ *Ibid.*

¹²⁷ Department of the Army, *Field Manual 34-52, Intelligence Interrogation*, Washington, D.C.: U.S. Department of the Army, September 1992, 1-8.

¹²⁸ Matthew Alexander and John R. Bruning, *How to Break a Terrorist: The U.S. Interrogators Who Used Brains, Not Brutality, To Take Down the Deadliest Man in Iraq*, New York: Free Press, 2008.

¹²⁹ Schlesinger, Brown, Fowler, and Horner, “ 123.

¹³⁰ *Ibid.*, 125-126.

¹³¹ *Ibid.*, 126.

¹³² International Committee of the Red Cross, “Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva,” *International Humanitarian Law – Treaties & Documents*, August 12, 1949, <http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/6756482>

d86146898c125641e004aa3c5 (accessed March 25, 2009). The U.S. Supreme Court held that Common Article 3 applies even to unlawful combatants in its June 29, 2006 decision, “Hamdan vs. Rumsfeld.”

¹³³ Army interrogation doctrine and regulations are binding for all military services.

¹³⁴ Department of the Army, *Field Manual 2-22.3, Human Intelligence Collector Operations*, Washington, D.C.: U.S. Department of the Army, September 2006.

¹³⁵ Department of the Navy Inspector General, “Review,” 294-302. Of 16 substantiated cases of interrogation abuse in Iraq, that had been closed as of 30 September 2004, only six cases involved trained interrogators.

¹³⁶ Lieutenant Russell Godsil, *Email to Major Douglas A. Pryer: Re: Re: Interview!* February 19, 2009. According to Lieutenant Colonel Godsil, the recently redeployed Deputy G-2 for the 1AD, one HUMINT Battalion supported theater-wide HUMINT operations, thus leaving few HUMINT Collection Teams to support divisions. This is little different than the situation during OIF I.

¹³⁷ *Ibid.*

Moral Implications of For-Profit Security Organizations

by Cmdr. Joseph J. McInerney, U.S. Navy

Mercenarism has long been a topic of public debate, falling under the scrutiny of writers, scholars, politicians and military members alike. Volumes have been written on the subject, and given the almost unprecedented use of privately funded military force in recent military history, one would think that a strong consensus regarding the use of mercenaries would have arisen by now. And, indeed one can argue that a strong consensus has arisen, one that universally condemns the practice. We need only turn to Webster's dictionary to see the negative connotations associated with the term. Webster describes mercenaries as "...serv(ing) for pay or sordid advantage" and supplies the synonyms of venal (capable of being bought) and greedy.¹ Webster is not alone in painting this negative image. Writers, both past and present have sought to convince us that mercenaries and privately funded combatants are at a minimum morally suspect and are most likely morally reprehensible.²

Yet despite the consistent condemnation of mercenaries, providing a precise definition of the term and, more importantly, determining the ethical ramifications of employing private combatants remains a surprisingly difficult enterprise. Article 47 of the 1977 Additional Protocols to the Geneva Convention provides a thorough, six part definition of the term. According to the article a mercenary is any person that is recruited locally or abroad, takes part in hostilities, is essentially motivated to take part in hostilities for private gain, is neither a national or a resident of the nation that hires his/her services, is not a member of the armed forces of a party to the conflict, and has not been sent by a state that is not a party to a specific conflict as a member of its armed forces.³ Despite its attempted precision, the impact of this definition is likely the opposite of its authors' intent. A number of commentators have observed that its interpretation is so vague that it is unenforceable from a practical perspective.⁴ By attempting to specify every aspect of a mercenary into a single definition the article seems to have drawn the lines around which private combatants must maneuver in order to avoid the mercenary label.

The failure of an authoritative body to provide a precise definition may be surprising to some (if not all), especially in the case of a mercenary, who when met in "real life" through the modern media or even through the lens of history, is relatively easy to identify. Mentioning a historical perspective, however, brings even more uncertainty to the issue. Warfare, in particular modern warfare with its rapid advance of technology, changes so quickly that there seems to be a general hesitancy to equate the Private Security Contractors (PSCs) of today with the mercenaries of the past. In addition, the rise of the modern corporation has established a different operating context for private combatants. In this new context it is difficult to assign the label of mercenary. P.W. Singer notes that,

...PMFs (Private Military Firms) are considered legal entities bound to their employers by recognized contracts and in many cases at least nominally to the home states by laws requiring registration, periodic reporting, and licensing of foreign contracts...This status differentiates them...from mercenaries.⁵

Corporate structures that can be regulated confer a greater degree of legitimacy than would be assigned the mercenary bands of old.

On top of these recent phenomena, there is a long history of condemning mercenaries as individuals. Thomas Aquinas implies this condemnation in his writings on just war.

...belligerents should have a right intention, so that they intend the advancement of good, or the avoidance of evil.⁶

The implication being, advancing one's material good through the death of others is not likely to be considered a right intention. Condemnation of mercenarism is also a frequent theme of modern scholarly literature. Sarah Percy's work on the existence of a norm against mercenary activity is a recent description of how mercenary activity has been consistently condemned dating as far back as the 12th century.⁷ Her argument is founded, in part, on the idea that mercenaries are morally problematic because they fight for selfish reasons.⁸

Despite this focus on the individual mercenary as a bad actor or intrinsically evil, there has been very little hesitancy to privately contract people to fight wars in the recent past. Indeed, one can argue that there are more people fighting for private gain now than at any other time in history. This rise in the use of private combatants is the result of a complex combination of factors, not the least of which are powerful economic and political realities that make their use seemingly necessary. In addition to these realities, there is a lack of thought that situates the use of private combatants in the context of a theoretical framework that could provide compelling reasons for or against their use.⁹

The goal of this essay is to help fill that void by shifting the moral analysis from an examination of individual fighters to one in which the organizations that employ these fighters comes into focus. We will start from the hypothesis that although it is legitimate to discuss the virtues (or lack thereof) of private combatants at the level of the individual, providing critiques of mercenary activity at the structural, organizational level is both easier to understand and more effective in providing compelling arguments against the use of private military force.¹⁰ To support the hypothesis I will review recent literature regarding the monetary motivation of modern fighters and the difficulty in making moral distinctions between fighters of a military service and those employed by a private entity. I will then briefly examine the divergent purposes of military forces and private security corporations. Finally I will review how these different organizational purposes are imbedded in the decisions and behavior of each organization engaged in combat and how those imbedded values impact the choices and morality of their members. The modern reality of warfare demonstrates that without mercenary organizations there are no mercenaries. Perhaps we can come to a better understanding of why we intuitively distrust private combatants if we situate them in their proper organizational context.

Fighting for Private Gain in the Context of the All-Volunteer Military

The advent of the professional, all-volunteer military force (dating back to 1973 in the United States) has changed the context in which the monetary motivation of individual fighters can be considered. Due to this contextual shift, it has become significantly more difficult to arrive at convincing moral distinctions between privately hired soldiers and those of a national military. Reviewing the writings of Machiavelli on mercenarism and a number of current authors critical to his thoughts will demonstrate that difficulty.

Several contemporary writers have used Machiavelli's critique of mercenaries as the starting point for their discussion regarding the effect of pecuniary motivation on the moral behavior of mercenary fighters. Macchiavelli's perspective does not revolve around the typical concern that a person willing to kill for money (what else might this person do for money?) is likely to be an evil person. He is concerned about the mercenary's monetary motivation, but more from the perspective that money is not a sufficient cause for a mercenary to be willing to sacrifice his life for the good of his employer.

The fact is, they have no other attraction or reason for keeping the field than a trifle of stipend, which is not sufficient to make them willing to die for you. They are ready enough to be your soldiers whilst you do not make war, but if war comes they take themselves off or run from the foe...¹¹

Machiavelli goes on to criticize mercenaries for lacking fidelity, discipline, and courage, although he does not explicitly link these supposed faults with their monetary motivation.¹²

In their essay “The Good Mercenary” Tony Lynch and A.J. Walsh contest Machiavelli’s assertions stating that,

The good mercenary is neither logically impossible nor psychologically implausible.¹³

In addressing Machiavelli’s thought they provide a threefold characterization of his critique. They assert that Machiavelli’s position boils down to the ideas that mercenaries are not bloodthirsty enough, they are too untrustworthy, and their role corrupts human character, that is the character of the rulers who employ mercenaries. Although they recognize some value in Machiavelli’s thoughts, in particular Machiavelli’s concern that mercenaries are not a trustworthy tool for use by the state, they offer significant arguments to counter Machiavelli’s positions. In the context of our analysis their thought regarding the monetary motivation of private combatants is particularly helpful in examining how the employment of mercenaries is morally opaque.

Lynch and Walsh begin their search for morally appropriate killing motives by taking up the argument that the mercenary’s killing motives are inappropriate because they are founded on financial concerns. They provide two arguments against this concern. First they say that it can’t be that work for money is immoral, otherwise any work for pay would have to be considered immoral.¹⁴ This counter argument seems to overlook Kantian thought, which articulates the principle that persons should always be treated as ends in themselves rather than as means to an end.¹⁵ Applying this to the killing motives of mercenaries, it would seem that killing people as a means to the end of accruing monetary profit would be wrong because it treats a person as a means to an end and not an end in himself/herself. Although missing the Kantian context undermines this first counter argument, their second argument, that modern militaries promote themselves as offering competitive compensation and thus motivate soldiers like mercenaries¹⁶ is substantive and worthy of further examination.

Lynch and Walsh contend that it cannot be the desire for money in the context of war that distinguishes the mercenary as vicious, as opposed to his virtuous counterpart, the military soldier.¹⁷ Both can be motivated from a monetary perspective, so they conclude that one must examine more closely what it is about monetary motivation that may be morally objectionable. They distinguish two ways that monetary motives can affect a person’s deliberation. In the first case, financial concerns can be one among a number of factors that a person considers in the process of making a decision. In the second case, monetary considerations play the premier and dominant role in the decision-making process. In the second case financial concerns are not being weighed against other considerations, but are the determinative factors that triumph over all other considerations. Lynch and Walsh label this type of person as a lucrepath and point to lucrepaths as the culprits that give mercenaries their bad reputation. It’s not the fighter who is motivated by money and many other factors that raises concern. It is the fighter that allows money to be the sole motivation for engaging in combat, the lucrepath, that is morally vicious.¹⁸

Having established lucrepathology as the concern in assessing the moral status of combatants, Lynch and Walsh are hopeful that their distinction can be of use in evaluating the moral difference

between military soldiers and mercenaries. In their attempt to apply it, however, they conclude that their approach still fails to provide a significant moral difference between the mercenary fighter and the soldier. They present a twofold argument in support of their view. First, they contend that there is nothing in the structure of the military that prevents its soldiers from being lucrepaths. On the other side of this observation is the reality that there is no reason to think that a mercenary is necessarily lucrepathic.¹⁹ Any individual mercenary could be motivated to fight for what most would consider honorable reasons, just as any individual soldier could be motivated to fight for reprehensible reasons. A number of authors support Lynch and Walsh in their characterization of the lucrepath. One such supporter, Deane-Peter Baker, contends that most people feel there is something wrong with fighting for money and in light of that view Lynch and Walsh's analysis is both important and helpful. In his own essay, "Of Mercenaries and Prostitutes", Baker quotes Lynch and Walsh to describe just why it is that lucrepathology is morally objectionable.

Those criticizing mercenaries for taking blood money are then accusing them of being lucrepaths... it is not that they do things for money, but that money is the sole or the dominant consideration in their practical deliberations.²⁰

The analysis put forward by Lynch and Walsh in regard to lucrepaths is both valid and convincing. Their presentation is helpful in examining the morally troubling aspects of monetary motivation in relation to the participation of individuals in armed conflict. Despite the merits of their analysis, however, it seems that they fail to get to the root of why allowing monetary motives to dominate all others in the case of a soldier or a mercenary is immoral. While it is no doubt true that most observers take offense at a lucrepath who values money above all else, there is a reason for this offense that Lynch and Walsh fail to make explicit. In his valuing of money over all other goods, the lucrepath makes a false judgment whenever he values money over a greater good. Using the situation of a lucrepathic mercenary (or soldier for that matter) as an example, such a person would be taking the instrumental good of accruing money over the more fundamental good of preserving human life. One should not sacrifice a greater good for a lesser good, which is precisely what the lucrepath would do in taking human life solely (emphasis on solely) for the purpose of material gain. To put it in Kantian terms again, the lucrepathic soldier fights and kills other persons, who should always be ends in themselves, as a means to the end of making money. This failure of judgment also yields a general distrust of the lucrepathic fighter. If the lucrepath values monetary gain over the preservation of human life, it is likely that he will value money over other superior goods, as well.

Despite the fact that Lynch and Walsh do not get to roots of the moral concerns surrounding lucrepathic fighting, they correctly observe that,

It is no easy matter to distinguish on moral grounds between mercenarism as a professional activity and the activities of national armed forces.²¹

Their observation holds because their analysis of lucrepathology being equally applicable to private fighters and military soldiers is similarly valid when comparing the subordination of instrumental goods to fundamental goods. In the context of the all-volunteer military it is possible for the soldier of a national military force to be motivated to kill another solely for the end of making money. Were they to be so motivated, the uniformed soldier would be guilty of subordinating the preservation of human life to the lesser good of making money. Likewise, both the regular soldier and the mercenary soldier are capable of having morally appropriate motivations when participating in military combat. For example defending their homeland, which places the good of preserving their community over the good of preserving the enemy combatant's life, is a goal to which both types of

combatants can aspire. Since it is difficult, if not impossible, to identify these internal motivations at the level of the individual, the focus on them does not yield compelling arguments against the use of mercenaries in modern warfare. This is not the case, however, at the structural or organizational level of human interactions and it is to those structural considerations that we will now turn.

Ethical Implications of Military and Mercenary Organizational Structures

The purpose or mission of an organization operates at the structural level of a group in a similar fashion as motivation does at the level of the individual. At the level of the individual motivation is the cause for which a person makes particular choices or decides to engage in particular activities. It is the reason someone does something. Likewise, the mission of the organization is the reason that should, and in effective organizations does, drive the choices and activity of the organization's members. Since organizations, like people, are not perfect, the purpose of the organization will not likely influence every action or choice of its members. The more the choices of the organization's members align with its mission, however, the more effective it will be and the more likely it will be to endure and flourish.

At the same time, there are some important differences between organizational purpose and individual motivation. First, one can argue that the purpose of the organization has a more profound effect on the organization than that of motivation on the individual. This is the case because, unlike an individual person, the organization's very existence is founded on its purpose. Without a purpose there would be no reason to form the group in the first place. As a result the purpose of the organization can permeate virtually all aspects of the organization's existence. The people who comprise it, the relationships between its members, the departmental structure, the organizational culture, and virtually every other aspect of the group's existence can be affected by its mission. Second, the mission of an organization can be known with certainty and for the most part is known. Most organizations are quite open about their purpose because knowledge of its purpose, whether among members or people outside of the group, usually furthers the mission of the organization. Even in the case where the purpose of an organization requires a great degree of secrecy in its operations, the organization's members will most likely be aware of its purpose. Again, this contrasts with the motivation of an individual, which can be known, but can also be hidden, misunderstood, or misinterpreted. For an example of the opaque nature of individual motivation, we need only turn to our earlier consideration of mercenary and military soldiers, where many authors have concluded it is difficult, if not impossible, to isolate the motivations of each individual.

Having articulated these principles, we can apply them to the nature of private security corporations (PSCs) and national military forces (NMFs). The primary purpose of the PSC is financial gain. A PSC will also unavoidably have secondary purposes, but these purposes, in their nature as secondary, are subordinated to the primary purpose of making money.²² The primary mission of creating wealth will in turn have a profound effect on the way the company is organized, who it hires, the work in which it chooses to engage and a whole host of other considerations. The purpose of an NMF, on the other hand, is typically the defense of the nation which has established the force in the first place.²³ These two missions are quite distinct (although there is no doubt that they can be aligned to a certain extent) and, as a result, yield different organizational structures, different levels of commitment, different cultures, and ultimately different behavior on the part of its members.

Given the complexity of modern military force structures and that of contemporary combat operations, the impact of these diverging organizational purposes is both wide ranging and significant. For the purposes of this essay we will limit our discussion to two concrete examples in which the dissimilar organizational purposes of NMFs and PSCs impact the behavior of their

members. The first example will examine the tension often encountered between military forces and private combatants when working together. The second will consider the structural and cultural implications of the military oath of office and a typical civilian employment contract. In both instances we will observe organizational structures that yield significantly different behavior on the part of the individuals who comprise each type of organization.

Mission Divergence

We have asserted that the primary purpose of a PSC is distinct from that of an NMF. One of the implications of this distinction is that the use of a PSC will most likely engender missions that diverge from those of the military units with which they operate. In the best situations that divergence will be negligible; in the worst it could be catastrophic. Due to the nature of their organizational purposes, however, it is impossible to completely align the two missions. Since the primary purpose of the PSC is profit, the focus of the organization will typically be to fulfill the terms of their contracts, get their current contracts renewed if possible (or demonstrate why they would be best to be awarded future contracts), and minimize costs. Some argue that it is precisely these attributes that will lend to the ethical behavior of PSC employees. Writer Jim Carafano notes,

As for contractors, it is wrong to assume, as critics so often do, that they are not bound by codes of conduct as well... They are sanctioned by the kinds of codes that Adam Smith first envisioned as the best strictures of moral behavior for governing a free market—codes that are informed by and spring from enlightened self-interest... Although certainly not an absolute check on fraud, waste and abuse, the desire to continue to do business with the U.S. government, with other governments, and with NGOs around the world is a powerful incentive for legitimate companies to offer legitimate services and root out cases of criminality in their ranks.²⁴

There is little doubt that the market forces Carafano refers to significantly affect the manner in which a company would conduct its business. In order to get a contract renewed or to compete for other contracts a PSC that is able to do its job efficiently, effectively, and ethically will likely compete well. Problems do arise from an ethical perspective, however, when ethics come into tension with effectiveness and efficiency. The market can and often does reward effective and efficient actors that are unethical. This can be true because the market values efficiency and effectiveness over ethics and it can be true in the case where the company conceals its ethical flaws. In the latter case, where a company or its members have ethical shortcomings, the market provides a powerful incentive to hide those shortcomings. Thus, the market principles of Smith don't necessarily produce ethical behavior.

Adherence to these market principles can also yield mission divergence between private contractors and the military members with whom they operate. Mission divergence can become an issue when contractors interpret fulfillment of their contract or role narrowly, without regard to the overall mission. CDR James Lee, a Navy Engineering Duty Officer, has described the tension he experienced between his responsibility to supervise civil engineering projects in Iraq and the private security contractor tasked with protecting his team. The private contractor, Aegis, often sought to curtail his operational efforts in the interest of safety. CDR Lee's mission, the proper maintenance and operation of the public utility systems in a portion of Iraq, was not the primary concern of the Aegis contractors, whose job it was keep CDR Lee's team safe.²⁵ These divergent missions produced, what was for the most part, a benign tension that could be overcome within that operational context. In other situations, however, the resulting tension may hold significantly

greater moral and operational consequences. Author Steve Fainaru relates how this difference can manifest itself in a war zone.

Ann Exline Starr, an American who worked as a CPA (Coalition Provisional Authority) adviser, first traveled in Iraq with a military escort. The soldiers drank tea and played cards with the Iraqis, trying to cultivate relationships. But as security deteriorated, she was assigned guards from (private contractors). The change was startling. The contractors moved more aggressively, sometimes pushing people around. “What they told me was, ‘Our mission is to protect the principal at all costs.’ If that means pissing off the Iraqis, too bad.”²⁶

In both situations the contract is fulfilled at the possible cost of the overall mission. The first does not lead to any explicitly unethical conduct. The second, on the other hand, displays an attitude in which good conduct is not intrinsic to fulfilling the contract and likely could lead to immoral behavior.²⁷ In the case of the uniformed military, where a unified chain of command is combined with a culture of ethics (supported by the oath of office and UCMJ among other things), mission divergence between different units is much less likely to cause tension or drive actions that contradict the overall mission. Employing private contractors to use violence in support of the military mission, on the other hand, puts tension between the private and uniformed units prosecuting the mission and also places military decisions in the hands of personnel who have weaker organizational support for ethical decision-making.

The Oath of Office and the Employment Contract

Turning to our second example, the manner in which PSCs and NMFs hire or appoint their employees is a fundamental structural difference with significant moral implications.²⁸ Using the United States military as an example, members of the Army, Navy, Air Force and Marine Corps upon joining the service sign a contract that includes an oath of office.²⁹ Although the oaths for enlisted members and commissioned officers differ slightly, each member of the military solemnly swears or affirms that they will execute the duties of the office on which they are about to enter. A typical enlistment contract is for a given period of time, usually two, four, or six years, while officers may serve an initial commitment, ranging from three to as many as nine or ten years (based on the level of training received from the military prior to joining its ranks). Interestingly, the oaths for both officers and enlisted only indicate the general duty of defending the constitution, but otherwise do not mention specific tasks the member will perform. Instead the focus of the oath is on the manner in which the member is to carry out his or her duties. Military members promise to obey, to be true, and in the case of officers, they take their obligation freely and in good faith. Failure to fulfill the oath comes with significant consequences, which are built into the administrative structure of the military, as well as its operational culture. From the perspective of structures, military personnel who do not adhere to their oath can be administratively separated (fired) or brought to court and tried under the Uniform Code of Military Justice. From a cultural and operational perspective, failure to live up to one’s oath of office risks alienation from one’s comrades and in the worst cases can be the cause of one’s death or the death of his or her peers. Death would typically be the result of catastrophic failure to live up to one’s oath in the context of combat or one of the many intrinsically dangerous working environments in which military personnel find themselves (e.g. the flight deck of an aircraft carrier). It is worth noting that fulfilling one’s oath can also lead to a service member’s death, either his or her own or that of a fellow service member.

When examining an employment contract typically signed by employees of private

corporations we find significant differences.³⁰ Employment contracts are formal agreements in which an individual agrees to perform specific activities, or work, in exchange for remuneration. Significant terms of the contract may cover holiday or vacation rights, location of work, and the length of the typical workday, not to mention a host of other considerations (pension benefits, healthcare, etc.).³¹ Most contracts stipulate a period of time for which the contract is valid, but there is considerable flexibility in the length, given the fact that either the individual or company can terminate the contract as long as they give appropriate notice.³² Reviewing employment agreements for independent contractors one can also find language that allows the employee to determine the method, details and means of performing the services they have agreed to provide.³³ The employment contract focus is on what the employee will do and how the employee will be compensated. It does not usually stipulate how the employee will conduct himself or herself in the performance of the assigned tasks. Failure to fulfill the terms of the contract on the part of the employee normally results in the termination of the contract.

The differences between the oath of office and the employment contract hold significant moral implications. The oath of office, with its focus on how one ought to behave and its solemn nature, establishes a context in which the morality of an individual's behavior is more important than the role the person actually plays. The Uniform Code of Military Justice and the administrative procedures of the military services are mechanisms that provide significant accountability for upholding the morality and values articulated in that oath. The employment contract, on the other hand, provides no guidance regarding the morality of an employee's behavior and may even explicitly authorize the employee to determine the manner in which he or she accomplishes the assigned task. Similarly, there is no legal code to which the employee is held accountable (outside of the civil law of the local jurisdiction) because the employment contract does not make demands upon one's manner of behavior. Given the business context in which innovation and creativity are critical to maximizing profit in a competitive market, the flexibility of the employment contract is the appropriate and more effective hiring mechanism. Shifting the context to military combat, where the morality of the individual's behavior can impact both the mission and safety of his or her unit, the oath of office seems to be the preferable mechanism. The oath and the regulatory context in which it is situated encourage, support, and, to a certain extent, require ethical behavior where the employment contract does not.

Levels of Commitment and Organizational Culture

In addition to the behavioral differences emphasized by the oath of office and the employment contract, each of these hiring mechanisms yields different levels of commitment on the part of the individuals who comprise each type of organization. These differences produce divergent organizational cultures that have considerable influence on the moral behavior of their members.

Returning to the oath of office, we noted that through it military members agree to abide by a code of honorable behavior (they will bear true faith and allegiance, they will obey, they will be faithful, etc.). In addition the term of enlistment or commission is an extended period of time. The practical impact of these two aspects of the oath is a culture that bonds members to the organization and each other in an almost unparalleled manner. Steve Fainaru relates a short scene that vividly portrays that culture.

Once in Balad, I wrote a story about a Humvee that tumbled upside down into a freezing canal in the predawn. The three soldiers inside immediately drowned, but one- by-one their colleagues dove in after them, suffering hypothermia and nearly perishing themselves as they tried to wrench the bodies from the submerged

vehicle. One air force firefighter hurled himself into the water and never came up. Finally a group of Iraqi soldiers who worked with the Americans dredged the canal with a tool they had welded themselves. It took almost twelve hours, but all the bodies were eventually recovered.³⁴

Agreement to abide by a code of ethical behavior and the sheer fact of being stationed together for extended periods of time yield a culture of trust and teamwork that is extraordinary by any standard. It is a culture that will encourage and support behavior that demands the respect of one's teammates; behavior that is admirable and ethical.

Looking back at the context established by the employment contract of a private company we see a significantly different situation. In signing their contract the employees do not agree to any code of behavior and due to the functional ability of contractors to leave their position at any time, an environment is produced where the employees of private companies do not spend the length of time in the same organization that is characteristic of military units. The inevitable result is a culture less supportive of the selflessness and honor present in the culture of the military. Turning to Fainaru's account he observes,

The contractors had their own bond, for sure, but it was different, tempered by the money and the basic fact that any of them could walk away at any time. The sheer turnover...muddled concepts like loyalty and cohesiveness.³⁵

In the dynamic, dangerous, and high pressure environment of combat every factor that helps a soldier make a good decision, like strong unit cohesion, can make the difference between life and death; between choosing the good but hard path over the path of least resistance.

Moral Inferiority of PSCs in Comparison to NMFs

Our above examples illustrate the fact that the structural differences between NMFs and PSCs have significant impact on the morality of their members. The fundamental moral concern with PSCs that participate in armed conflict is the fact that they place a greater good as a means to achieving a lesser good. They pursue the accumulation of profit through the destruction of human life. Unlike the case of individual mercenaries, where it is difficult to know how the desire for profit influences a person's actions, the profit making motive of the PSC is both public and known. The NMF on the other hand does not suffer from this intrinsic flaw. NMFs exist to protect a particular community. Assuming they engage in combat operations for a just cause, they will be fighting and possibly killing to defend the community or establish peace under just conditions, both of which are greater goods than the preservation of individual life. One can argue, however, that a PSC can participate in armed conflict for the same meritorious reasons (defense of a community or the establishment of peace) as the NMF. This is a valid argument which in the right circumstances could mitigate the structural problems we've noted. It does not change the fact, however, that the primary and fundamental purpose of the PSC is profit and that their use in combat will place the destruction of human life in service to that monetary goal. The nature of the PSC's end (profit) makes it morally inferior to the NMF, (whose end is defense) in the prosecution of war. For that reason the use of PSCs in armed combat should be avoided.

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Endnotes

1 *Merriam-Webster's Collegiate® Dictionary, Eleventh Edition*. See also Lynch and Walsh, 'The Good Mercenary?' *The Journal of Political Philosophy*. 8/2, 2000, p 135.

2 For the purposes of this essay the term mercenary will be used interchangeably with private combatants and other associated terms. This not an attempt to ignore the legitimate distinctions between the terms, but is done in an effort to highlight their continuity and avoid focusing on the intricate debate of defining these words.

3 Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. Part III: Methods and Means of Warfare -- Combatant and Prisoner-of-War Status #Section II -- Article 47 -- Mercenaries.

4 See James Carafano, *Private Sector, Public Wars: Contractors in Combat-- Afghanistan, Iraq, and Future Conflicts* (Westport, CT: Praeger Security International, 2008), p. 59. See also Sarah Percy, *Mercenaries: The History of a Norm in International Relations* (New York: Oxford University Press, 2007), p. 53.

5 P.W. Singer, *Corporate Warriors: The Rise of the Privatized Military Industry* (Ithaca, NY: Cornell University Press, 2008), p. 46.

6 St. Thomas Aquinas, *Summa Theologiae* (New York, Benziger Brothers, 1948) 2a, 2ae, 40, I.

7 Percy, *Mercenaries: The History of a Norm in International Relations*, p. 7.

8 *Ibid.*, p. 1.

9 *Ibid.*, p. 3.

10 It is important to note that private military/security corporations provide a wide range of services. For our purposes the services that cause moral concern are any offensive combat operations (which seem to be relatively rare) and any defensive operations that are likely to result in the use of deadly force. E.g. providing security for a convoy through a combat zone will likely require frequent recourse to the use of deadly force. This is morally significant. Drawing a line between offensive and defensive military operations does not recognize the fact that defensive security operations must consider and employ offensive military tactics to be effective. Thus, one should consider security operations in combat zones in a similar moral context as offensive military engagements.

11 Nicholo Machiavelli, *The Prince* (Brandywine Studio Press, 2008), p. 25.

12 Nicholo Machiavelli, *The Prince* (Brandywine Studio Press, 2008), p. 25.

13 Lynch and Walsh, 'The Good Mercenary?', p. 141.

14 *Ibid.*, p. 135.

15 Immanuel Kant, *Grounding for Metaphysics of Morals* (Indianapolis: Hackett Publishing, 1993), p. 36.

16 Lynch and Walsh, 'The Good Mercenary?', p. 135.

- 17 Ibid.
- 18 Lynch and Walsh, 'The Good Mercenary?', p. 136.
- 19 Ibid., p. 136-137.
- 20 Lynch and Walsh cited in Deane-Peter Baker, "Of 'Mercenaries' and Prostitutes: Can Private Warriors be Ethical?" in *Private Military and Security Companies: Ethics, Policies and Civil-Military Relations* (New York: Routledge, 2008), p. 34.
- 21 Lynch and Walsh, 'The Good Mercenary?', p. 133.
- 22 Organizations can, and usually do, have secondary purposes that can support or even conflict with its primary mission. If the secondary purposes replace the primary purpose of the organization, either the nature of the organization will change or the organization itself could dissolve.
- 23 It is also important to remember that the structures and cultures of both organizations are affected by external factors as well. E.g. PSCs must abide by regulatory regimes in order to function as a private corporation. NMFs are usually established through and operate within the legal apparatus of a particular nation. These external factors have a significant impact on the manner in which both PMCs and NMFs operate, but are also secondary to the organizational mission.
- 24 James Carafano, *Private Sector, Public Wars: Contractors in Combat-- Afghanistan, Iraq, and Future Conflicts*, p. 165, 167.
- 25 CDR James Lee, U.S. Navy Engineering Duty Officer, Stockdale Center Fellowship Presentation, 10 Feb 2009.
- 26 Steve Fainaru, *Big Boy Rules: America's Mercenaries Fighting in Iraq* (Cambridge, MA: De Capo Press, 2008), p. 139.
- 27 Allegations of private contractor misconduct precipitating the September 2007 incident at Nisoor Square, if proven true, would be a vivid example of this problem.
- 28 The difference is manifest even in the fact that one must use two different terms, hire and appoint, to introduce the idea.
- 29 The military Oath of office is required under Title 5 of the U.S. Code, Section 3331.
- 30 In addition to signing employment contracts Blackwater employees have also taken the military oath of office upon being hired (see Carafano, p. 166). While not insignificant, the impact of the oath is attenuated because there are no legal (UCMJ) or administrative mechanisms to enforce it and its moral force is secondary to the legal force of the employment contract.
- 31 See Council of European Communities Directive 91/533/EEC of 14 October 1991 'On an Employer's Obligation to Inform Employees of the Conditions Applicable to the Contract or Employment Relationship' (Official Journal L 288, 18/10/1991) P. 0032 – 0035.
- 32 Business Link: Practical Advice for Businesses: 'Issue the Correct Period of Notice', www.businesslink.gov.uk.
- 33 See Virginia Employment Agreement - Independent Contractor at Findlegalforms.com. Sample Independent Contractor Employment Form, State of Virginia, p. 3.
- 34 Steve Fainaru, *Big Boy Rules: America's Mercenaries Fighting in Iraq*, p. 60.
- 35 Steve Fainaru, *Big Boy Rules: America's Mercenaries Fighting in Iraq*, p. 60.

Human Dignity and the Soldier in FM 3-24: *Counterinsurgency*

by Lt. Col. Celestino Perez, Jr., Ph.D.

Abstract

I argue that military doctrine supports the principle that human persons, individually and collectively, have human dignity. Moreover, this doctrine supports the principle that all persons—regardless of their nationality or combatant status—deserve the same amount of consideration. It follows that my nation’s combatants are not worth more than the noncombatants in the indigenous populations where we patrol, nor are my nation’s noncombatants worth more than other nation’s noncombatants. To make my case, I suggest that a certain type of reflection about right behavior in the conduct of war is helpful to the profession of arms. Second, I demonstrate that the moral equality of all persons is consistent with military doctrine, and particularly Field Manual 3-24, *Counterinsurgency*. Third, I show that if a military professional is to embrace the moral equality of all persons, the cognitive burden may require more than a professional commitment, but perhaps also a first-order, fundamental commitment that extends, so to speak, all the way down. Finally, I suggest that thinking through the relationship between human dignity and the profession of arms illuminates the interior dimension of our current military campaigns.

Let us consider the validity of the following equations: A soldier’s estimate of the dignity of *the other* during deployments is equal to that of one’s own friends and loved ones back home. It follows that the American soldier accepts no difference in moral worth between the elderly taxi driver who lives in the village where he patrols and an elderly taxi driver back home. Similarly, the American soldier accepts no difference in moral worth between those indigenous children who nag him for pens, soccer balls, and chocolates and their counterparts back home. And, perhaps most surprisingly, the American soldier accepts no difference in moral worth between the insurgents or terrorists whom he rightly strives to kill or capture and the soldier’s best friends from home.

The foregoing equation indicates that each person—regardless of nationality or combatant status—possesses equal dignity. Although the symbol of “human dignity” is abstract, the consequences that proceed from this abstraction are vivid and concrete. The philosophers Avishai Margalit and Michael Walzer seem to propose one such consequence. They recommend a moral imperative that denies any moral distinction between *my* nation’s noncombatants and the noncombatants belonging to *my enemy’s* nation. Moreover, they deny any distinction between *my* nation’s soldiers and the noncombatants belonging to *my enemy’s* nation.

Margalit and Walzer write: “This is the guideline we advocate: Conduct your war in the presence of noncombatants on the other side with the same care *as if* your citizens were the noncombatants.” They continue: “By wearing a uniform, you take on yourself a risk that is borne only by those who have been trained to injure others (and to protect themselves). You should not shift this risk onto those who haven’t been trained, who lack the capacity to injure; whether they are brothers or others.”¹

If these imperatives about (a) the equal dignity of all human persons and (b) the military professional’s duty to protect noncombatants are valid, they entail enormous cognitive demands. Were a military professional to accept (or reject) these demands as obligatory, she would have to apply some rigorous thought to answering several first-order questions. What is “human dignity”? How do I ground or dismiss “human dignity”? How do others ground or dismiss “human dignity”? What does it mean to be a human person amidst my own community and nation? What does it mean to be a military professional serving my nation? What does it mean to be a human person

and a military professional on patrol abroad? How do I situate myself, my community, my nation, and my army amidst the fact of a global plurality, according to which there are innumerable human persons, communities, nations, and armies, each with its own story? Is there such a thing as “the human condition” wherein persons—individually and collectively—carry on the business of day-to-day survival, work, and the generation of meaning and purpose for their lives?

My purpose here is to consider the plausibility that all persons are indeed equal in dignity. First, I suggest that thinking more broadly about right behavior in the conduct of war is helpful for the profession of arms. Second, I demonstrate that the moral equality of all persons is consistent with military doctrine, and particularly Field Manual 3-24, *Counterinsurgency*. Third, I show that if a military professional is to embrace the moral equality of all persons, the cognitive demands may require more than a professional commitment, but perhaps a first-order, fundamental commitment that extends, so to speak, all the way down. Finally, I suggest that thinking through the relationship between human dignity and the profession of arms illuminates the interior dimension of our current military campaigns.

On the value of ethical reflection

If the military profession’s new charter “to be nation-builders as well as warriors”² has multiplied the political variables our young leaders must consider while planning missions, so too has it complicated the ethical environment. The ethical demands of war and nation-building “among the people” are much more complex than the ethical demands of performing consolidation and reorganization on a remote desert objective after a tank battle. Military professionals have responded well. Although the scandal of Abu Ghraib entailed moments of ethical failure, it is true also that there are countless and unnoticed smaller- and larger-scaled successes occurring daily in Iraq and Afghanistan. These innumerable successes indicate that the overwhelming majority of military professionals are meeting the ethical challenge quite nobly.

Nevertheless, today’s ethical complexity may still require some professional attention. The May 2007 release of the Military Health Advisory Team (MHAT-IV) survey produced troubling results. This non-representative survey queried fewer than 2,000 Soldiers and Marines who had served in units with “the highest level of combat exposure” in Iraq. The survey found that

approximately 10 percent of soldiers and Marines report mistreating noncombatants or damaging property when it was not necessary. Only 47 percent of the soldiers and 38 percent of Marines agreed that noncombatants should be treated with dignity and respect. Well over a third of all soldiers and Marines reported that torture should be allowed to save the life of a fellow soldier or Marine. And less than half of soldiers or Marines would report a team member for unethical behavior.³

Although Army doctrine specifies that “preserving noncombatant lives and dignity is central to mission accomplishment” in counterinsurgency,⁴ the survey reported that between one-third and one-half of Soldiers and Marines who answered the survey dismissed either the importance or the truth of the dignity attendant to noncombatants.

Shortly after the publication of the MHAT’s findings, General Petraeus urged troops to use the survey results to “spur reflection on our conduct in combat.” He added that “We should use the survey results to renew our commitment to the values and standards that make us who we are and to spur re-examination of these issues.”⁵ Although there is no evidence of pervasive moral failure, it may still be worthwhile—as military professions—to follow General Petraeus’s call to reflect on the values “that make us who we are” and reexamine our commitment to them. My focus here

is on the symbol of human dignity and the ethical demands this symbol requires of the military professional and those persons amongst whom the American warrior fights and builds.

A curious linguistic symbol common to both the MHAT survey and Army doctrine is the fugitive term “dignity.” Army doctrine places explicit emphasis on human dignity, although field manuals are clear neither about human dignity’s definition nor its exact doctrinal role. I wonder specifically about whether the Army posits human dignity solely as an intermediate end (i.e., as a means to some other objective) or as an ultimate, moral end? I argue that the Army’s doctrine, as manifest in FM 3-24: *Counterinsurgency*, advocates an extensive, and perhaps surprising, relationship between human dignity on the one hand and the military ends we seek to realize on the other. Specifically, our doctrine contains an ethical subtext that gestures strongly toward an examined embrace of human dignity as an ultimate end of military action.

There are two ways to understand the Army’s declaration that “preserving noncombatant lives and dignity is central to mission accomplishment.”⁶ In one sense, this norm of counterinsurgency is utilitarian; i.e., we ought to preserve lives and dignity because it pays, or it is in our interest, or it conduces to mission success. For instance, if a soldier fails to preserve the dignity of indigenous human persons, enemy insurgents will launch a propaganda campaign to exploit the soldier’s failures and thereby denigrate our military’s efforts among the population.

Similarly, just as we preserve the dignity of indigenous human persons as a means of increasing the probability of our tactical, operational, and strategic success, so too must we become knowledgeable and appreciative of those indigenous human persons’ culture. Again, we may become culturally appreciative either as an end in and of itself or merely as a means to mission accomplishment. Insofar as cultural awareness is a means or “competency,” Army doctrine seems to privilege culture’s utilitarian function:

Cultural awareness has become an increasingly important competency for small-unit leaders. Perceptive junior leaders learn how cultures affect military operations. They study major world cultures and put a priority on learning the details of the new operational environment when deployed. Different solutions are required in different cultural contexts. Effective small-unit leaders adapt to new situations, realizing their words and actions may be interpreted differently in different cultures. Like all other competencies, cultural awareness requires self-awareness, self-directed learning, and adaptability.⁷

To be sure, one reading of doctrine, which clearly arises from the explicit text, is that we are to respect the human dignity and the culture of *the other* as a means of developing militarily expedient solutions and end states.

But I wonder whether there is a relevant non-utilitarian understanding of the declaration that “preserving noncombatant lives and dignity is central to mission accomplishment”? Might there be some justification inherent in our doctrine for positing the human dignity of *the other* as an end (and perhaps an ultimate end) that in some way determines (or makes sense of) the vast array of nested tactical, operational, and strategic ends specified in military orders and campaign plans? Similarly, is cultural awareness of *the other* valuable only as a tool, or should the military professional entertain the notion that a people’s culture is an ultimate, moral good?

I shall argue below that FM 3-24 considers military action to be in the service of human dignity. Yet I recognize also that the field manual does not explicitly make my argument. I must therefore justify my interpretive approach, which is—plainly put—to read between the lines. I begin by noticing that FM 3-24 introduces the terms *ideology* and *narrative* as analytical concepts useful for analyzing enemy insurgents. Hence, “Ideology provides a prism, including a vocabulary and analytical categories, through which followers perceive their situation.”⁸ Moreover, “The central

mechanism through which ideologies are expressed and absorbed is the narrative. A narrative is an organizational scheme expressed in story form. Narratives are central to representing identity, particularly the collective identity of religious sects, ethnic groupings, and tribal elements...Stories are often the basis for strategies and actions, as well as for interpreting others' intentions."⁹

FM 3-24's discussion of ideologies and narratives occurs within the context of the insurgent's thinking. Yet political philosophers and theorists have long recognized that all persons and groups possess narrative self-understandings. At times, these self-understandings become quite explicit. President George W. Bush's first inaugural address in 2001 provides an example of a self-consciously produced narrative:

We have a place, all of us, in a long story--a story we continue, but whose end we will not see. It is the story of a new world that became a friend and liberator of the old, a story of a slave-holding society that became a servant of freedom, the story of a power that went into the world to protect but not possess, to defend but not to conquer. It is the American story--a story of flawed and fallible people, united across the generations by grand and enduring ideals. The grandest of these ideals is an unfolding American promise that everyone belongs, that everyone deserves a chance, that no insignificant person was ever born. Americans are called to enact this promise in our lives and in our laws. And though our nation has sometimes halted, and sometimes delayed, we must follow no other course.¹⁰

You can be assured that wherever there is a *We* or an *Us* of any kind—a political party, a football team, a town, a movement, a nation, an insurgency, etc.—there is an accompanying narrative that describes who the *We* is in contradistinction to other *Wes*. It follows that Bush's narrative likely resonates with most Americans *as Americans*, irrespective of political stance.

Yet I contend that there is more to understanding the enemy and ourselves than the narrative. If political theorists and social scientists share agreement on the role that explicit narratives play within communal and political life, it is by now also well established that we possess implicit and often unarticulated beliefs about how we understand ourselves, others, and the world. These background premises enable or sustain our explicit narratives, which in turn determine the reasons we choose to perform such actions as waking up in the morning, seeking employment, praying, or developing a national security strategy.

The political theorist Stephen White approaches this intangible but decisive aspect of reality via two concepts. One concept is the *lifeworld*, which he describes as “the unthought of our thought, the implicit of our explicit, the unconscious background of our conscious foreground.”¹¹ White employs a similar concept, which he calls *ontology*. By using this term, which has a contested pedigree, he means to put his finger on a person's “most basic sense of human being”¹² or a person's “most basic conceptualizations of self, other, and world.”¹³

My argument relies on three social-scientific claims. First, I rely on the plausibility of FM 3-24's conclusion that a group's self-generated meanings, strategies, and goals are in large part a function of the group's aggregate narratives. Second, I rely on the plausibility of White's claim that narratives are in large part a function of implicit, unarticulated premises that sustain (or make possible) our conscious thoughts and outspoken declarations about ourselves, others, and the world.

Finally, I rely on a third claim, which is that our often unarticulated premises determine what we hold to be morally right and wrong. Thus, the Canadian philosopher Charles Taylor's version of White's “unthought of our thought” is the “social imaginary” (or “image of a moral order”), which “is an identification of features of the world, or divine action or human life that make certain norms both right and (up to the point indicated) realizable. In other words, the image of order carries a

definition not only of what is right, but of the context in which it makes sense to strive for and hope to realize the right (at least partially).”¹⁴

A concrete example may serve to illustrate the plausibility of these three claims. No one in the West entertains the Divine Right of Kings doctrine partly because John Locke’s *Second Treatise of Government* demolished it in the 1600s. Moreover, Locke’s short treatise affected our political self-understandings insofar as such notions as political rights, private property, political consent, and church-state separation roll trippingly and without controversy off our tongues. Today, most Americans never need to articulate general arguments against kingship and in favor of rights, property, consent, and secular politics because these principles have become part of our implicit intellectual baggage. In other words, these implicit and taken-for-granted notions are part of our implicit ontologies. It is precisely the ontological depth of the human being that (a) drives the requirement for cultural-awareness training, (b) explains the substance of our military and national security strategies, and (c) shapes our ethical appreciation for innocent human life. Indeed, as we re-read Bush’s words above, we take for granted that he is really talking about the notions of rights, property, consent, and freedom of conscience, even if these principles are nowhere mentioned in the quotation.

Thus far I have attempted to illuminate the importance of the implicit components of our narratives. I intend for this preliminary work to support my assertion that understanding the implicit premises of our thinking provides a basis from which to conduct a reflection on the value of the dignity of the human person. More importantly, if implicit ontologies and explicit narratives shape our ethical orientations, perhaps reflection on and examination of these relationships may serve as a way to strengthen or renew moral commitments.

Of course, the Army’s ethical training does not focus on narratives and their implicit sub-terrain. The Army’s institutional approach to ethics seems to hinge on lists and models. The Army Values, the Soldier’s Rules, the Code of Conduct, the Warrior Ethos, the law of land warfare, and specific rules of engagement and escalation-of-force requirements clearly prescribe rules of behavior. Some Army leaders receive a bit more instruction in ethics through exposure to the Army’s Decision Making Model and the Ethical Triangle.¹⁵ Nevertheless, the implicit morality I discern in FM 3-24 is more expansive than a simple encapsulation of rules or decision criteria.

Encapsulated rules, such as the Soldier’s Rules, are not self-standing structures in a vacuum. Norms and rules only exist and are most fully intelligible when considered within the wider context of a person’s (mostly unarticulated) notions about himself, others, the world, and—perhaps—symbols of ultimate meaning. These notions compose what are often barely perceptible and overlapping matrices of self-understanding.

Ethical decisions therefore involve not simply the application of rules and models, but an interior orientation. The philosopher Russell Hittinger reveals this fact when he describes the situation of a professor returning home from an academic conference:

An agent who is seriously inclined to, and who actually deliberates about, marital infidelity might make the “correct” decision according to rules advocated by one or another theory, yet the correctness of the decision does not alleviate, and indeed can obscure, the specifically moral dimension of the quandary. We can imagine, for example, a professor who returns from an academic conference and confesses to his wife that although he felt strongly urged to commit a marital infidelity, he deliberated about the moral significance of the action and concluded that it was a violation of the golden rule (if he is a deontologist), or perhaps that he came to his senses and saw that such an action would not bring about the greatest good for the greatest number (if he is a utilitarian). None of us would blame his spouse if she were as much or more concerned with the man’s character than with the fact that he

successfully resolved a quandary according to a rule.¹⁶

If our ethical choices involved nothing more than the cut-and-dry application of rules or theories, Hittinger's observation would not appear as strange as it does. Indeed, Hittinger's hypothetical professor appears to us as morally depraved *despite* his fastidious application of venerable ethical rules and theories.¹⁷ Our ethical selves do not kick into gear only during those moments of ethical decision; we carry a lifetime's worth of baggage into these moments. We make our ethical choices having already developed an orientation, the content of which are those explicit narratives and implicit ontologies that I have been describing.

Doctrine's implicit, strong embrace of human dignity

Stephen White's technique is to unearth the underlying premises of a thinker's or group's narrative. He explains: "I want to shift the intellectual burden here from a preoccupation with what is opposed and deconstructed, to an engagement with what must be articulated, cultivated, and affirmed in its wake." White holds that "conceptualizations of self, other, and world" are "necessary or unavoidable for an adequately reflective ethical and political life."¹⁸ If he is right, perhaps one way for the military professional to reflect on the place of human dignity in military theory and practice is to examine the implicit claims of our doctrine, particularly insofar as that doctrine goes on the attack.

I demonstrate that we can tease out our doctrine's unarticulated premises by attending closely to FM 3-24's critique of what it describes as the "all-encompassing worldview" of the extremist. Imitating White's technique, I reveal what FM 3-24 leaves in the wake of its critique of the extremist's worldview. It turns out that Army doctrine is quite demanding and stern, ethically speaking; i.e., FM 3-24 is no specimen of moral relativism.

Counterinsurgency doctrine takes a strong normative stand contra the narratives and goals of those extremists against whom we have fought in the past and are fighting against now:

Religious extremist insurgents, like many secular radicals and some Marxists, frequently hold an all-encompassing worldview; they are ideologically rigid and uncompromising, seeking to control their members' private thought, expression, and behavior. Seeking power and believing themselves to be ideologically pure, violent extremists often brand those they consider insufficiently orthodox as enemies.¹⁹

Whether religious or merely religiously flavored (e.g., bin Ladin) or secular (e.g., Stalin and Hitler), certain persons adopt worldviews and narratives that (a) reject compromise in favor of violence, (b) advance an all-encompassing or totalitarian worldview that specifies "approved" private, public, and political activity, (c) encourage the control of a human person's private thoughts, expressions, and behavior and (d) applaud the application of violence against those human persons whose worldviews differ from those of the extremists.

FM 3-24's description of the extremist's intellectual and interior habits betrays a subdued but integral normative preference for non-extremist or reasonable worldviews and narratives that (a) prefer compromise to violence, (b) acknowledge a difference between private life, public life or civil society, and institutional politics, (c) value freedom of thought, freedom of conscience, and freedom of action, and (d) at least tolerate and at most rejoice in the fact that a plurality of peoples, each with a distinct complex of worldviews and narratives, exists in the world. Counterinsurgency doctrine distinguishes between, on the one hand, the extremist, who calls for the forceful imposition of his worldview on others at the price of death and, on the other hand, a worldview that cherishes

the free flourishing of moral, political, and cultural diversity.

Let us be clear about FM 3-24's preferences. Throughout the field manual, the reader (i.e., the warrior) comes to appreciate the prohibition against "causing unnecessary loss of life or suffering."²⁰ In fact, FM 3-24 asserts an aggressive preference for life: "*Under all circumstances, they must remain faithful to basic American, Army, and Marine Corps standards of conduct of proper behavior and respect for the sanctity of life.*"²¹ Each and every life, whether that of an American warrior or an indigenous human person in theater, has "sanctity." The sanctity of life and the dignity of the human person extend even to those whom the warrior *rightly* aims to destroy or capture. This extension is manifest in those rules specifying the treatment of enemies whom we have captured, wounded, or killed. The prohibition against desecrating the enemy dead or dehumanizing enemy prisoners makes no sense apart from a narrative that specifies the sanctity and dignity of each human person—regardless of what these persons have done.

A substantial understanding of the human person and the world begins to emerge from and between the lines of FM 3-24. That is, FM 3-24 appears to advance the following ontology: *There exists, during this era of persistent conflict, the intermingling of widely diverse ways of looking at the world. This diversity arises expectedly when persons are free to live, think, and act. Each person individually possesses sanctity and dignity simply by virtue of his or her existence. Persons, if not restricted by handicap, physical or psychological assault, or crushing poverty will think and act in ways that sustain and create anew a vast array of narratives, worldviews, and cultures. Hence, a multiplicity of ethical norms, religious attitudes, and voluntary civil associations will, on account of the free exercise of moral and cultural freedom, flourish. This flourishing will produce also an expected diversity of political attitudes and systems. Here, FM 3-24, with a commendable consistency, continues to value freedom of thought, conscience, and activity by espousing the democratic principle of consent amidst such diversity. Regardless of the specific political systems that arise, FM 3-24 acknowledges, albeit in reserved and somewhat utilitarian fashion, the value of political consent: "Long term success in COIN [counterinsurgency] depends on the people taking charge of their own affairs and consenting to government's rule."*²²

If we posit a link between FM 3-24's theory and its practical application, we may conclude reasonably that the field manual proffers also a preferential option for the peaceful resolution of conflict. Whereas the extremist is "rigid and uncompromising," FM 3-24's principal advocate, General Petraeus, hopes to see "local reconciliation," an "attitudinal shift" against "indiscriminate violence and extremist ideology," "debate" instead of "violence," and "political dialogue rather than street fighting."²³ Note carefully that General Petraeus calls for (a) "reconciliation," (b) an "attitudinal shift," and (c) mutual antagonists' participation in "debate" and "dialogue." Take note also that General Petraeus *in effect* places heavy demands on the *interior* or *spiritual* dimension of Iraq's protagonists and antagonists.

Most surprisingly, FM 3-24 prescribes the adoption of what is likely an alarmingly substantive interior disposition toward *the other*. If there remains doubt as to whether FM 3-24's prescription to respect the dignity of the human person and develop a cultural appreciation is merely a means or an ultimate end, we learn that the warrior assumes also the "responsibility for everyone in the AO [area of operations]. This means that leaders feel the pulse of the local populace, understand their motivations, and care about what they want and need. *Genuine compassion and empathy for the populace provide an effective weapon against the insurgents.*"²⁴ FM 3-24 directs its leaders not simply to *exhibit* or *portray* compassion and empathy for the populace. The manual effectively directs leaders to cultivate a *genuine* compassion and empathy for the populace. And, in this era of the Strategic Soldier, it seems plausible that leaders must cultivate not only their own sense of authentic compassion, but must cultivate this virtue among the rank-and-file warriors within his or her command: "Leaders at every level establish an ethical tone and climate that guards against

the moral complacency and frustrations that build up in protracted COIN operations.”²⁵ FM 3-24 nudges readers toward the belief that among the means by which to establish this ethical tone and climate is the cultivation of *genuine* compassion and empathy.

In distinguishing between those worldviews and narratives that inform extremist ideologies and those worldviews and narratives that inform, say, the morality embedded in FM 3-24, the field manual sits in an awkward position. On the one hand, the manual—true to its previously stated norms—eschews cultural imposition: “Cultural knowledge is essential to waging a successful counterinsurgency. American ideas of what is ‘normal’ or ‘rational’ are not universal...For this reason, counterinsurgents—especially commanders, planners, and small-unit leaders—should strive to avoid imposing their ideals of normalcy on a foreign cultural problem.”²⁶ On the other hand, the field manual sets forth an embedded philosophical anthropology and morality that cherishes (a) compromise; (b) the distinction between spheres of life (e.g., private, public, political, religious, and secular); (c) each person’s freedom of thought, conscience, and action; (d) the fact of moral and cultural pluralism; and (e) political legitimacy via consent of the governed.²⁷

That these norms are not merely utilitarian ends but ends in and of themselves is patently visible in the prescribed morality to cultivate *genuine* compassion and empathy. Yet it is clear also that FM 3-24 prescribes a substantial morality or ethos for American warriors and, to the extent it distinguishes between those indigenous persons who cling to extremist notions and those who do not, *it expects American warriors to promote this same morality among the indigenous population.*

The integration of human dignity into the warrior’s own narratives

Based on a composite rendering of FM 3-24’s implicit and explicit understanding of the world, I argue that the field manual puts forth a morality requiring that one’s estimate of the dignity of *the other* during deployments be equal to that dignity possessed by the warrior’s own friends and loved ones back home. FM 3-24 also seems to jibe with Margalit and Walzer’s rule to approach military operations with the belief that all persons—regardless of nationality or combatant status—deserve exactly the same consideration.

If FM 3-24 does indeed proffer, albeit in embedded form, the foregoing morality or ethos, what are the implications for the ethical preparation of the military leader? Does the military professional truly buy into the notion that all persons are morally equal in dignity? That is, what does it take for a trooper to adopt the ethically demanding morality the military prescribes? How ought a leader to respond when he overhears a young specialist declare: “I would torch this entire town if it would bring back my buddies”? Or when a captain recommends, “We should just blow this country and its people off the face of the earth”? Or when a major concludes “The problem with this country is Islam itself”?

Prior to a deployment, the military professional finds herself already in the midst of a complex of social structures and institutions, each of which demands a justifying narrative and supporting ontology. She operates in the midst of intimate relationships, a network of family and friends, a job, a spiritual attitude, a political stance, an array of recreational activities, and her nation. Her involvement in each of these structures, institutions, and associations has some purpose, even if she has yet to articulate precisely why she participates in them. Moreover, each of her associations and activities has some relationship to the others. Were she to ascribe consciously a purpose to her involvement in each of her relationships and activities, the purposes or ends she pursues may be sufficiently complementary such that her examined life is free of contradictory aims. Another possibility is that her purposes and ends are grossly incongruous.

For an extreme but illustrative example, one can imagine the moral incongruity of a German WWII military officer who attends a religious service on Sunday, shows up for work to the human

crematorium on Monday, instructs a child's soccer team on the character-building aspects of sports on Tuesday, and perpetrates brute spousal abuse on Wednesday. These same inter-narrative frictions would appear were an American non-commissioned officer to be a closet white supremacist, or an officer were to act on the premise that women have no place in the military.

Of course, the problem of moral integration arises for every human person, but the problem is much more vivid for those within the profession of arms, which—unlike other means of employment—may call upon the employee to make the ultimate sacrifice of life for some likely intangible complex of values. The question arises: Is it possible for someone to develop a coherent framework wherein all aspects of one's life—worship, work, recreation, love, family, friendship, household management, finances—proceed under the rubric of a unified, rational plan for a life well lived? If all human actions from the minutest to the gravest aim to realize or preserve a specific goal or end, are the retail and wholesale ends in each of life's aspects congruent with each other and coherently justifiable? For instance, how does the American military officer, for whom her own mortal life is not the highest value, accommodate her vocation to her religious beliefs (assuming that she has indeed studied the basis for the profession of arms and is capable of defending the origins and development of her religious beliefs)? How do the procedures and products of the U.S. constitutional system mesh with her religion's catechism, and how do these mesh with the military missions she may be asked to execute? Finally, how do these in turn mesh with her patterns of play, love, family life, friendships, finances, and political choices?

The accommodation of retail and wholesale ends in all aspects of one's life takes on a special urgency for the U.S. military officer, who at some point must justify her decision to risk her life's worth of devotions and concerns as well as other persons' lives, devotions, and concerns for the sake of some effectively ultimate end or purpose. Yet I suggest that this accommodation is necessary also for operating “on all cylinders” as a military officer within this new era, which demands that we “achieve victory in this changed environment of persistent conflict only by conducting military operations in concert with diplomatic, informational, and economic efforts.”²⁸

General Petraeus declares that “our primary mission is to help protect the population” in Iraq.²⁹ To this end, over 5,000 professional warriors have sacrificed their lives in Iraq and Afghanistan. Tens of thousands more American men and women have been injured. These military professionals have sacrificed their lives and health in the execution not solely of offensive military actions to destroy an enemy, but also and perhaps mostly during the execution of the full range of missions associated with stability operations. Our military professionals put their lives at risk to preserve safety, improve essential services, advance civil associations, facilitate education, grow the economy, create self-sustaining governance, and provide for a measure of recreation. Each of these endeavors makes sense only to the extent that they better enable the flourishing of human persons in accordance with the anthropology embedded in FM 3-24, wherein this anthropology posits not employment, or governance, or military targeting as ultimate ends in themselves, but as means of preserving and enhancing the sanctity and dignity of human life and the liberties of thought, conscience, and action that tend to flourish with greater degrees of freedom.

If my recognition of an implicit morality in FM 3-24 is correct, one of many challenges for the American military professional is to make sense of each of the associations he participates in while at home such that what he is asked to do overseas—at the risk of death—makes him better able to (a) conduct and shape the full range of his military duties and (b) explain more convincingly to his peers and subordinates why they must perform their duties well.

FM 3-24 observes that “performing the many nonmilitary tasks in COIN requires knowledge of many diverse, complex subjects. These include governance, economic development, public administration, and the rule of law. Commanders with a deep-rooted knowledge of these subjects can help subordinates understand challenging, unfamiliar environments and adapt more rapidly to

changing situations.”³⁰ Thus, in addition to the cultural understanding demanded of the military leader, our doctrine requires a fair degree of technical knowledge in the disciplines of economics, political science, and law. And (to complicate things further) if the embedded morality I discern in FM 3-24 is not a phantasm, today’s military leader must devote some reflection *to the moral purposes* inherent in economics, politics, law, and the other structures that touch upon modern human life. If FM 3-24 is our guide, our young leaders’ efforts in applying and coordinating the diplomatic, informational, military, and economic tools ought to lead ultimately toward the attainment, preservation, and enhancement of the sanctity, dignity, and flourishing of the human person.

The *sine qua non* of success: the interior dimension of our campaigns

The sort of ethical reflection I describe (and which I believe FM 3-24 demands) requires no small amount of interior awareness and stamina. First, one must first recognize how extraordinary FM 3-24’s call to respect the dignity and culture inherent in each person is. Second, one must investigate one’s deepest convictions and actions to discern whether in fact such convictions and actions support FM 3-24’s exhortation to nourish a genuine appreciation for *the other’s* dignity, culture, and flourishing. Yet I assert also that such reflection equips the warrior to understand that the military’s current campaigns include a significant, and perhaps decisive, interior or spiritual component insofar as the populations whom we serve comprise flesh-and-blood persons who have some quite difficult choices to make.

General Petraeus’s opening remarks to the Senate Armed Services Committee in April of 2008 focused mostly on the establishment of security so as to enable political progress to advance in Iraq. He emphasized that the security gains alone were “fragile and irreversible,” but that even the political aspects represented significant challenges: “In the coming months, Iraq’s leaders must strengthen governmental capacity, execute budgets, pass additional legislation, conduct provincial elections, carry out a census, determine the status of disputed territories, and resettle internally displaced persons and refugees. These tasks would challenge any government, much less a still-developing government tested by war.”³¹

Looking closely, we have a series of obstacles to surmount if we are to achieve peace in Iraq and Afghanistan. There is the problem of establishing security against a variety of enemies. There is also the problem of achieving political consensus on a variety of questions whose resolution is necessary for establishing self-governance. Yet, if the ethic in FM 3-24 is real, the key to resolving the security and political challenges in the long term is the widespread acceptance of something approaching FM 3-24’s morality among Iraq’s and Afghanistan’s top political and military big shots and ordinary men and women in the street.

Having established local security, our forces may pacify an area in the short term by spending large sums of Iraqi and U.S. money on reconstruction efforts to improve employment, perceptions of governmental legitimacy, and quality of life. But our biggest challenge remains if the fundamental decision soberly entertained by a critical mass of youth³² consists in either (a) foregoing violence (and, thereby, respecting the sanctity and dignity of all human life) or (b) accepting payment of a few hundred dollars to slaughter dozens of innocent men, women, and children in a market square. If too many young persons possess this incentive structure and choose to slaughter or tolerate slaughter, our philanthropic and capacity-building spending risks becoming a policy of peace through placation, or bribery. For this reason, our security and development efforts must be about something more than paying people not to slaughter us (or native innocents) or tolerate those who want to slaughter us (or native innocents). Ultimately, there is an interior or spiritual variable at play.

A robust, deeply rooted, and long-term peace will require what General Petraeus calls an “attitudinal shift” among the variously aligned Iraqi citizens. Put simply, either we shall see an attitudinal shift that rejects extremist ideology and embraces the sanctity, dignity, and flourishing of human life in its local and national diversity, or the attitudinal shift remains at best a merely a hoped-for possibility amidst “fragile and reversible” improvements. At worst, it will become very clear to all persons the extent to which mundane but heroic spiritual decisions—i.e., to choose to forgive, to choose to reconcile, to choose to not kill innocents, to choose to respect the dignity of *every* human life, to choose to respect life’s flourishing, to perceive military and political leadership as service-oriented endeavors for the common good—drive what occurs in the diplomatic, informational, military, and economic fronts. If this way of framing the situation is true, is the ultimate key to reconciliation and campaign success principally a military matter? Or even a political matter?

Perhaps antiquity’s students of politics have something to teach us; i.e., maybe there is something of enduring value in Socrates’ observation that true statesmanship consists not in the day-to-day mechanical lawmaking and deliberations about such material things as harbors, dockyards, walls, and revenues, but in the cultivation of souls. In Plato’s dialogue *Gorgias*, Socrates teaches that the true political art or true statesmanship requires (a) a desire to serve, (b) a curiosity about what the highest good is not as a means, but as an end, and (c) a reflection on how to make citizens as good as possible. If the warrior must be both a student of politics and a practitioner, he or she must give thought to the possibility that true statecraft must attend to more than security and essential services (although these too are enormously requisite). Today’s warrior must give some thought to the validity of the maxim that *true statecraft is soulcraft*. To use General Petraeus’s terms, we will know that we have achieved the best effects of our political and military art when we finally observe the desired attitudinal shift among the people. It is this interior or attitudinal shift that our young military professionals await with hope, even as they continue to work.

Endnotes

- 1 Avishai Margalit and Michael Walzer, “Israel: Civilians & Combatants,” *New York Review of Books*, vol. 56, no. 8 (May 14, 2009).
- 2 FM 3-24, *Counterinsurgency* (Washington, DC: GPO, December 2006), Foreward.
- 3 Gale Pollock, DoD News Briefing with Assistant Secretary Casscells from the Pentagon, Office of the Assistant Secretary for Defense (Public Affairs) News Transcript, May 4, 2007. Accessed online on 8 July 2008 at <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=3958>.
- 4 FM 3-24, paragraph 7-25.
- 5 David Petraeus, letter dated 10 May 2007 to Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen serving in Multi-National Force-Iraq. Accessed on 9 September at http://www.mnf-iraq.com/images/stories/CGs_Corner/values_message_%2810_may_07%29.pdf.
- 6 FM 3-24, paragraph 7-25.
- 7 Ibid., paragraph 7-16.
- 8 Ibid., paragraph 1-75.
- 9 Ibid., paragraph 1-76.
- 10 George W. Bush, First Inaugural Address, January 20, 2001. Accessed on 10 September 2008 at <http://www.whitehouse.gov/news/inaugural-address.html>.
- 11 Stephen White, *Sustaining Affirmation* (Princeton: Princeton University press, 2000), 54.
- 12 White, 8.
- 13 White, 6.

- 14 Charles Taylor, *Moral Social Imaginaries* (Durham: Duke University Press, 2004), 8-9.
- 15 See Jack D. Kem's "The Use of the 'Ethical Triangle' in Military Decision Making," *Public Administration and Management*, vol. 11, no. 1 (2006).
- 16 Russell Hittinger, "After MacIntyre: Natural Law Theory, Virtue Ethics, and Eudaimonia" *International Philosophical Quarterly*, vol. 29, no. 116 (December 1989), 451-452.
- 17 If "moral orders" and "social imaginaries" are really operative in the United States and the West, then perhaps a more rigorous cultural awareness demands that leaders come to learn those "moral orders" and "social imaginaries" that have shaped and are operative in those theaters wherein we work.
- 18 White, 8.
- 19 FM 3-24, paragraph 1-79.
- 20 Ibid., paragraph 1-142.
- 21 Ibid., paragraph 7-2. Emphasis is mine.
- 22 Ibid., paragraph 1-4.
- 23 David Petraeus, "Gen. Petraeus's Opening Remarks on Iraq: Addresses the Senate Armed Services Committee Hearing," *CQ Transcripts*, April 8, 2008 as printed in the online edition of the *Washington Post* on April 8, 2008.
- 24 FM 3-24, paragraph 7-8. Emphasis is mine.
- 25 Ibid., paragraph 7-12.
- 26 Ibid., paragraph 1-80.
- 27 Of course, this embedded morality may be of interest in discussions about a posited gap between the Soldier and the state.
- 28 FM 3-0, *Operations* (Washington, DC: GPO, February 2008), Foreword.
- 29 Petraeus, "Opening Remarks."
- 30 FM 3-24, x.
- 31 Petraeus, "Opening Remarks."
- 32 This critical mass may be a small minority yet still be gravely problematic.

Operational-Level Q&A

Transcript

Q: (Colonel (Ret) Stuart Herrington) ... Maybe I missed this, but I seem to have heard Joe McLamb in his stellar presentation – and I really mean that sincerely – say that fundamentally he believes that soldiers know, instinctively and intuitively, what’s right and what’s wrong and what’s ethical and what’s not and what you can take home to mom and what you can’t. On the other hand, I heard Tino refer to a survey, even though it was not perhaps as empirical as it ought to have been, of a couple of thousand soldiers wherein the results with respect to the soldier’s ethical temperature, as to the recognizing right from wrong, supporting or not supporting brutality, was pretty low, was pretty low. Hence, my feeder question. Do you think that given the social trends in the United States, decline of two parent families, influence of pop culture on young people, increase in urban gangs from those areas where a lot of people become soldiers, some people say the dumbing down of our educational system – do you think that soldiers in light of these things come into the Army ill prepared to cope with the anger and the frustration and of combat that was so well described by Joe? Or conversely, it is it your impression that despite the way many young people are raised in our culture that soldiers do in fact have an innate sense of what’s right and what’s wrong, which augers I think a little bit better for the way we handle the challenge of socializing and ethicalizing, if there’s such a verb, soldiers? So that’s my feeder question and I’m going to toss it to the panel. And maybe my assumption’s all wrong. Maybe society is not as unhealthy as I see it. But from where I sit in California, I have serious, I have serious questions about – obviously, the kids from LA are not the same as the kids from Manhattan, Kansas. Go.

A: (Major Douglas Pryer) I’ll go ahead and try to attempt an answer to that question first. Interestingly, I basically after my OIF-1 experience, after being a – and also I went to Kosovo and a couple of other places and being gone for two years, my wife said, “Hey, you need to go do something else.” And for that reason, I went into, became an XO for a recruiting command, if there is any job in the Army that is a test lab for ethical problems, it would be an XO for a recruiting battalion. And that job actually gave me quite a bit of familiarity with young people and their motivations for joining and why they do what they do and what it takes to get them moving in the direction we want to get them moving. But I can say absolutely, based on my experience with the new recruits, these guys are very much ill prepared for the rigors of combat to a degree that’s probably surprising. There are a lot of good things out there. As a recruiting XO, I sat through a whole bunch of different briefs on the millennial generation and positive things. You know, they’re patriotic, willing to self sacrifice. All sorts of good things that are reminiscent of the greatest generation. But on the down side, they really need to be protected and coddled and to a degree that’s truly amazing for someone of my generation to be all you can be. So anyway, I would say yeah, absolutely not. These guys need to be taught and trained on how to deal with the rigors of combat. Fortunately, it’s something that can be done.

Q: More so than 20 years ago?

- A: (Major Douglas Pryer) Yes, I think my speaker isn't working properly. Can you hear me now. Fantastic. All right. Absolutely. Yeah, it's almost shocking. And again, there are always exceptions to the rules. You know, there are people – people are people. There are always individuals. But certainly, in my experience, the normal new recruit, I don't know if it's watching too much TV or playing too many games, typically seem out of touch with – not Depression era – but generations who had things much tougher than we do today.
- A: (Colonel (Ret) Stuart Herrington) I'll add one thing and then I'll turn it over to the gentleman here. When I taught interrogators at Fort Hood and they got a three day, 24-hour block on history of and ways one should interrogate and how we went astray. They were bright young people, average age in their early 20s, they seem motivated, but a number of them were troubled and it came out in a long Q&A that in reality the – what's the word – the provocations of international terrorists and the damage that they're willing to do was such that they weren't totally persuaded that treating them with dignity and respect was appropriate and in fact questioned specifically whether or not, how could this approach of treating people decently and rapport developing, rapport building approach work if you had a terrorist who had – and you had 24 hours to get the information out of him that would save Los Angeles. And when I said at the time, naively, "Where are you guys getting this? Because I've been doing this for three decades and I've never run into situations where, okay, here's the guy, he knows the code or he knows this and LA is going to disappear tomorrow if within 24 hours you don't get him to tell you? And the answer was, the show 24. These kids are getting it from pop culture. We went to 24 after that with Brigadier General Mike Finnegan, a JAG officer who was the Dean of Cadets at West Point. And Finnegan on the set of 24 told the 24 producers and writers that, you know, there's a real problem with your show. Our cadets at West Point, it's one of their favorite shows and the idea of Jack Bauer sticking a screwdriver in someone's armpit and twisting it and the magic results with information flowing rapidly, saving a US city, is polluting their minds. And Howard Gordan, the producer, looked at our little team that was visiting them said, "We made this up out of whole cloth. This is fiction. This is entertainment." And then he looked at me and said, "You're the first interrogator we've ever talked to. We just made this up." So Finnegan tried to get Kiefer Sutherland to come to West Point to give a speech to the cadets and tell them, "Look folks, entertainment is entertainment. Ethics and conduct on the battlefield is something totally separate. Don't mistake our entertainment here, which we made up out of whole cloth, for reality." So they agreed that Kiefer would do that, but to date, Kiefer has not shown up there. It just hasn't worked for whatever reason. Okay, sir.
- Q: Thanks to all the panelists for excellent presentation. But my question is specifically for Lieutenant Colonel Perez. I really liked your paper. It raises deep questions of a philosophical nature about what you're asking of people to frame their minds. Traditionally, that deep concept of human dignity in the west comes from one of two places. It comes from a religious tradition or it comes from Kantian ethics. Now, in a ...
- A: (LTC Celestino Perez) And it still comes from Christian tradition.
- Q: Obviously, but obviously in a constitutional order, you're not going to be able to explicitly draw in the religion bit unless people have it. Kantian ethics is hard even for pros who do it all the time. So one question is, how would you even hope to be able to inculcate such

deep philosophical understanding of humanity to recruits? And then my second question is one of genuine ignorance having never been in a combat environment. But what I've read about it is, for example, in Glen Gray's book, *The Warriors*, he has an excellent chapter on images of the enemy and he says, "The attitude toward the enemy that is the most difficult to sustain in combat, and in many ways the least functional, is that of the enemy as another human being just like you. That almost any other way of thinking about the enemy is more functional useful for the combat soldier. And therefore, they almost all inevitably move into it." And so when we hear stories coming out of Iraq, for example, of referring to Iraqis routinely as "haji's" and things like that, which suggest that either a stunning ignorance of Islam as a religion or an utter disrespect of what it represents, and I'm wondering whether that isn't just part of the kind of numbing and desensitizing that perhaps is unfortunate from a distance point of view, but inevitable in the combat environment?

A: (LTC Celestino Perez) The first question is, do I need to push this? The first question that has to do with how do we inculcate the ethics, and specifically the notion of human dignity and appreciation of it in new recruits, and I wouldn't say necessarily just new recruits, but I think also cadets in all services, ROTC, even recurrent training, you know, as military professionals. I don't know if it's strictly a problem of ethics, per se, you know, how do you teach this. Here's an interesting thing, that one of the biggest mantras of General Caldwell, you know, ABC's of leadership, well placed, was the importance of cultural understanding. And it's also in FM 3-0, the importance that every military professional ought to have a cultural understanding. And we talk about it all the time. Yet, we're never exposed in a curriculum as a requirement to learn about other cultures. So that you go K-12 and university without ever having to take a course in what other religious traditions put forth. You go through an entire ILE curriculum without ever having to do a sustained study of at least one person's understanding of Islam, or one person's understanding of Christianity, etc., and how these religious traditions mesh with human rights and a liberal understanding of a neutral governmental order. If human dignity means appreciating human dignity in the plurality of the human person, then it begins with simply knowing what's out there.

And I think that gets to the second part, the dehumanization of the enemy is something you're never going to avoid. I mean, it's natural. I mean, look at the environments in which soldiers operate. But for leaders, there has to be a time when I would hope we appreciate the tragic circumstances of the human condition where war is a reality, it's never going to go away, men and women have to fight it, and if just one theory is right, you could potentially have your best friend on the other side, and simply by virtue of circumstances – you know, you're trying to kill him and he's trying to kill you – exactly, the Civil War. And just contemplating, reflecting upon that fact I think helps you, I think, understand, prevent some of the abuses that might occur otherwise among your subordinates. But it's a very difficult problem. I think first, sustained cultural education, and then two, just reflection. Talking about these things. Not necessarily in doctrine, but talking about these things as military professionals. I don't know if that helps.

A: (Cmdr. Joseph McInerny) More of a couple of comments here. To your question, Colonel Herrington, I commanded an army base where its primary mission was to do basic combat training, converting these recruits that come off the street and what-not into soldiers. And it is a transformative process. Some call it magic and what have you. It's very well thought through. We do get from the streets all manner of human people, I mean, human

beings and imprinted values, etc. The job then of the drill sergeant and of those of us who are charged with turning them into soldiers becomes one of just almost ignoring that and imprinting what we have now as the Army Values. Prior to the development of the Army Values, it was more of a philosophy in our basic training of something akin to what the Marine Corps have. That is, I will put you through a gauntlet of difficulty and if you survive the gauntlet, I will, I might allow you into my Army. And so we had, you know, that was the model we used and it was a conscript model. It was a model that said, "I don't care where you came from. And if you drop out, fine, you drop out. We'll just issue to the recruiting board, you know, the draft board a higher number next time, next month around." Well, with a volunteer Army, and the latent development after that of the Army Values, institutional values, the human values, professional values, we had to completely change our basic training model. And so it's now built around taking the drill sergeant as an example – this is how the magic sort of occurs – taking the drill sergeant out of the tension. In other words, I'm not the tester. I'm not the person you have to get through to be able to prove that you're good enough to get into my Army. I am the trainer. I am the one who's going to put the standard out there for you. I'm going to train you how to meet the standard. I'm going to live the Values and demonstrate those values and you can make this. The Army Values became the guiding marks for the entire basic training process and every AAR, for every training event where the new soldiers are going through an AAR of what they did, how they could do better, who did what, so on and so forth, what's the training, what's the learning, it was always – each AAR was couched around a particular what value is demonstrated in the behavior, the way the task was performed and so on. So this notion of values was a daily, almost an event – there's a linkage between the value and the daily events and activities throughout their entire time in basic training. So the answer to your question is yeah, it's a heterogenous, very heterogenous, from an ethical/moral perspective, values perspective group of folks that come. But all of that is sort of taken away, the soldier's taken down and built back up again based around the Army Values. Now, does that persist beyond, I mean, into their term, throughout their term in the service? Yes and no, to varying degrees, based on the degree of imprint and so on and so forth.

Final comment about that from a recruiting perspective. What we tried to leverage was that no matter where they came from, no matter what values they had, what gangs they used to be in, or what their belief system was, we worked very hard at – well, of showing them what right looked at from a values, again, from a values perspective. We tried to leverage the fact that every one of them was choosing the military – in this case, the Army – to move from where they were to someplace better and that the military was the vehicle that they had chosen to do this with. So that motivation we tried to capture, leverage and turn into something good. So for what it is, I thought I'd, you know, [inaudible].

A: (Colonel (Ret) Stuart Herrington) That really helps me a lot and in that respect commend to you the book by Tom Ricks originally written in the early 90s, but just rereleased called, *Making the Corps* where Tom Ricks talks about what the Marine Corps challenges are as it assesses new recruits and what happened beginning in the 90s concerning the same problems and how the Corps had coped with it. He rewrote the book again recently where he took the platoon, the basic training company that he went with in Quantico or Paris Island and he revisited where are they now. And it's a fascinating book, and particularly in light of what you just said.

A: (Cmdr. Joseph McInerny) And to the last questioner's comment or question, there is what appears to be an inconsistency between human dignity, especially coming from a western culture, and the requirement to kill, you know, engage and kill the enemy, and that you can't necessarily do that while maintaining some sense of that enemy and their human dignity. I've written – I mean, I think Rick Atkinson wrote it probably most recently in his book, *Dawn of an Army*, and talking about North Africa and how the American Army hadn't been bloodied and so on and how he said that the Army had to learn to hate, was I think his expression, to become effective. And there is some of that. Having served in combat, and many I think of those who are here would know or would understand, it's at the moment of the engagement, yes, you are responding to training and you're looking at the enemy as targets, quite frankly. You're not looking at somebody and thinking of their family and their parents and so forth. But when you're not pulling the triggers, when the heat of an engagement is actually over, I didn't find it hard myself, and in talking with the soldiers, there's varying degrees of how this light or this switch is made again, but you do start seeing, you start seeing the human element, the human dignity element of even those that you were fighting or that you've captured or the bystanders and so forth. So I don't know how that happens in the brain quite frankly. I'm just not that smart. But it is not inconsistent, I believe, in maintaining a sense of human dignity even in our soldiers.

Q: Major Gill, Staff Recruit 24 Alpha. I have a two-part question and the first part might be somewhat rhetorical and also elementary. In the discussion, from the previous panel as well as this panel, I was wondering from the panel's perspective, how are you defining ethics? Because I'm hearing the term "ethics" used interchangeable with "morals," interchangeable with "values," interchangeable in some instances with legal notions and so how are you defining that? And if you define them as being synonymous, this is the rhetorical part of it, what are the legal implications of that? So that's comment number one.

Comment number two is, what role, if any, does the chaplaincy or revisions of the chaplaincy policies play in helping us as an organization accommodate, if you will, our soldiers in their pursuit towards a real well founded understanding of their faith? Is that clear as mud?

A: (Major Douglas Pryer) Well, I'll jump in here and try to answer the most difficult question first. In terms of – and I can only speak to obviously the way I use the terms, but in terms of ethics and morality, I typically use that interchangeably and define it as, in a particular circumstance, choosing what is good. You know, what is the good option as Lieutenant Colonel McLamb this morning said, "Doing the right thing." And that's not to say, and a lot of times the right thing can be, is situated in the specific context of a situation. And that's not to say that everything is relative, but that it's a very dynamic thing to figure out what the right thing is, although there are certain, you know, from my point of view, there are certain lines that you can't cross what the right thing is. You know, in some situations, there are some very, you know, generally rare situations, there are some things that are always going to be wrong or always going to be right. So that's how I would define. I kind of would equate the ethics and morality in that sense. I'm not sure that values goes in the same sense. But I'll keep my comments on that.

And then in terms of the chaplain question, your question is how to connect people with their faith?

Q: Sure. If we're saying that ethics is tantamount to having a moral foundation and that we as an organization want to promulgate or develop that moral foundation, then what role does the chaplaincy and how they execute their role in accommodating soldiers for the better good of the organization, how does that change, if any?

A: (Major Douglas Pryer) Well, that – not being a chaplain obviously limits my ability to answer that question. However, I have been studying moral theology and so integrating religious precepts and principles and secular philosophical precepts is obviously important to everybody. I think we all understand that we're working in the secular context, so there's only so much that we can bring religious precepts to bear in that secular context. That being said, the development of western culture is profoundly religious and even the secular context in which we just developed in the last couple of centuries really is based on religious thought as well. So I think we limit ourselves if we don't embrace some of those things. Obviously, respecting the difference in faith that people obviously have. I mean, we don't want it to be reduced to proselytizing for a particular viewpoint of faith. But there are riches in the faith tradition that we should try and inculcate into our conversation as the Colonel here was talking about. You know, ideas like empathy and love and self sacrifice. Those are things that are within our religious discussion that aren't necessarily preeminent in military discussions, but I think are very important to us being able to do our jobs well and ethically. So I'll turn it over to the other panel members.

A: (LTC Celestino Perez) One of the ways, and I think your question is good. I think whenever people say ethics and morality, you need to specify what it is that they're talking about just like we have to do about a lot of things. I think it's a good question. One of the ways to differentiate would be the ethics in long standing ways is a science of morality. Ethics is the science of morality. A science understood in the broad sense. And then morality is right conduct. And you can understand the ethics, the science of morality, in terms of values, rules, outcomes and there's different theories about what constitutes ethical behavior. Another way of looking at it though and it's prominent also in discourse about ethics is that ethics are group norms. So for example, a Roman Catholic has a group norm for that specific group to say to go to confession. But that's not a universal moral norm. A morality for this way of thinking would be universal standard. It doesn't matter what group you belong to, you have to adhere to this morality, however somebody comes up with it.

The legal implications are, well, longstanding tradition holds that not everything that is unethical ought to be outlawed and that you use prudence or judgment in order to determine what is going to advance the common good. So just because something is unethical may not mean it necessarily has to be outlawed, but that's something that legislators and courts can solve.

And then, what role do the chaplains play? And this is interesting and I don't know – I'm going to say this. But I don't know if it's automatically the case that chaplains ought to be teaching ethics. I think that it depends on what the training is. Ethics can either be theological – that is, grounded in religions directly. And hence, what is right and wrong comes from God. Or, you can say that ethics has a rational, that is a rational basis that one can discern what is right and wrong through unassisted reason; that is, through reason alone. And hence, you would have a science or a philosophy of ethics, right? Without theology or without revelation. If a chaplain understands by ethics, for this institution of the US military, within this country of the United States, then that understanding of what

ethics is ought to be based on unassisted reason. Otherwise, you get into the problem of proselytization. And so it ought not to be an automatic thing, but there ought to be some study. I don't know if that hurts people's feelings or not, but you know.

Q: Good afternoon, ladies and gentlemen. My name is Victor [inaudible]. I'm a Major. I am coming from Serbia. I would like, first of all, I would like to thank for the opportunity to be a part of this symposium. I have three questions for Colonel Herrington. Actually, just three. I will start with the easy one. I liked very much about what you talk about interrogation and torturing and maybe this is on operational level, but definitely it will have strategic implications. And I have three questions for you. First, what was the trigger to change interrogation politics after US Army success in Panama and Kuwait? If you have, what was the trigger and why you change the interrogation policy? If you have a team who is winning, you will not change players and tactics. You will adapt yourself to the new threats.

Another question is, if America wants to become and stay a leader to the rest of the world, countries and nations, what is your opinion? What was the message did the USA send to international community with all these cases with prison, torturing in Iraq, Guantanamo and what are the consequences? And that is the strategic level.

And last question is, if new administration concludes that torturing was illegal and that they know who was responsible for that, what are the next steps? Is it that court or just not to do anything? Whatever new administration decides to do, I think it will have some advantages and disadvantages, not only for domestic politics and domestic population but also for international community as well?

And maybe if you have time to make a comment, ...

A: Number four?

Q: Yeah. About the decision not to show new pictures of our torturing prisoners.

A: Oh why I didn't show pictures?

Q: No, actually new administration.

A: (Colonel (Ret) Stuart Herrington) Oh, the decision of the administration not to ... okay. Gotcha. Why did they not follow up after – you know, normally you would think our Army would be clever enough to see a successful model, build on that model, follow it as a road to more success. It's been my experience, and again I'm retired enough years I can say whatever I want. It's been my experience that at least in the military intelligence branch that the Army concept of lessons learned, AARs or whatever you want to call them, is really a misnomer in the military intelligence branch. All too often, it's lessons observed and then ignored. They don't build, they don't build on success.

For example, in the case of Panama and Desert Storm, knowing it wasn't in doctrine, I wrote a cookbook recipe, a complete thick folder, tabbed A through N about how you build one of these centers, who should participate, who should provide the computers, you name it. And I included a list of all the young officers and NCOs who worked in my centers

because I knew I was going to retire and somebody needed to know, here's the guys you give the, you pass the torch to. And I left that. So I had an expectation that something smart would happen in Operation Iraqi Freedom. It didn't happen and how did it break down?

First, as I said, because military intelligence is not very good at building on successful models in some cases. Secondly, if you really read the stuff that's out now, thanks to the media and FOIA requests and human rights organizations, you'll see that this was sort of like a plan by a small circle of folks at a very high level who cloaked it in secrecy, kept people out of the loop, and when people disagreed or might disagree with what they wanted to do, they were either marginalized or just kept out of the loop. So for example, the gentleman asked earlier, you know, how did it break down? Same question you asked. Wasn't there any human intelligence interrogation expert like Stu Herrington or somebody like that to say to them, "Whoa, time out." The answer is, in the military intelligence branch, human intelligence, counterintelligence people like me are rare, first. And secondly, those that are there, are not the ones who influence the branch. The ones who influence the branch are signals intelligence, imagery intelligence and other types. Strategic intelligence. But human intelligence, counterintelligence types are frequently not at the table. If you look at our General officers in the military intelligence branch, you will have to really hold your breath to find one who has the kinds of experience that makes him qualified and capable to stand up and talk authoritatively about interrogation of high value detainees. So it broke down because, number one, there was an intent at the top to keep it as close hold as possible and the trusted agents turned out to be the special operations community versus military intelligence. Had I been up there and heard about it and asked anybody about it, I would have been not read on or I would have been marginalized much like General Shinseki was marginalized when he gave the wrong school solution to the size of the force that would be required to succeed in Operation Iraqi Freedom.

Your second question, consequences of US abuses. You know, I try to say that as bluntly as I could, but it seems to me that we enabled our enemy, we provided our enemy with a tremendous, tremendous thing that he could use to motivate his own recruitment and his own soldiers. I think we lost tremendous face internationally because even though it may sound corny to a lot of us these days, the idea of a shining city on a hill, the Ronald Reaganesque rhetoric of America the shining city on the hill, that can chastise somebody like Gorbachev and say, "Tear down this wall," because we don't have walls and everyone wants to come to our country, we don't have to build a wall to keep them in – we lost a lot of that. We lost a lot of that. I would submit to you that, and this is not a political statement, just an observation, that because of a lot of the things that happened at 9/11, that the administration overplayed its hand, became arrogant, and made decisions that led to conduct that hurt our cause very, very seriously. I was recently in Germany for eight days visiting my former graduate school roommate and his wife and many of the Germans in that south German village were very enamored of our President. Very, very enamored of him. There's huge hope amongst the German population, even my friends who were conservatives, that Barack Obama would somehow put America back to the status where it was because people really, really – even people who wish us very well – missed the fact or are hurt by the fact that we did what we did and that our image is such that America no longer carries the moral and the cache that it carried before. So I can't overstate that. I'm reminded of the Lutchen, you know, the ship, the West German, the [inaudible] Marina

ship, the Lutchen, which after 9/11, requested permission to come aside an American carrier task force? When they came alongside, the entire crew was in dress whites along the rail and they had a huge banner on the ship that said, "We are with you," which caused every man on the carrier to break into tears. And the Germans were as on board as were a lot of countries as humanly possible. And I think there were a number of reasons why we lost that, but these abuses were a major one.

Fixing responsibility. There's a problem. How do you handle GS12's, GS13's, GS14's, lieutenant colonels and colonels who, when given a mission order, were told by JAG officers, by agency general counsel, DoJ, Department of Justice people, they were all told that what they were doing was legal and okay. And although some didn't want to do it, and some complained, many went forward and did it because of the outrages of 9/11, new ball game, but most importantly because they'd satisfied their requirement to challenge what they considered to be an unlawful order and they had been told by duly constituted JAG officers with LLB's and Doctors of Jurisprudence that it's okay. So the issue becomes, do you go after people like this and do investigations equivalent of 15-6's or grand jury investigation and see who you can punish and ruin for having done what they did. The argument would be, "Well, I don't care who told them what. They should have known it was wrong to do this or wrong to do that." I would submit to you that just as President Ford pardoned President Nixon at huge political cost because he knew that this ongoing thing would be a continuing stain and drain on our nation, its strength and its capability and its ability to recover from Watergate, that kind of the same thing goes for most of these folks. I don't like what they did. It certainly would have never happened on my watch. None of my people would have ever done such a thing. And if a guy of mine had even slapped a prisoner once, it would have been his last time in front of a gavel. So I abhor what they did. But I think from the point of view of a witch hunt, nonstop, going after people, punishing them, ruining their careers, etc., I generally think that's a bad idea. I think it's a bad idea and if I were a cynic I would say there were some political motivations to it.

Lastly, the pictures. The justification for not releasing – you all know what the pictures he's talking about are, right? There's more pictures from Abu Ghraib, more and more risqué, more offensive, more repugnant. And President Obama had initially said we should release these. We need transparency. Then, people from the Department of Defense, probably Secretary Gates got to the President, and said to the President, "You know, Mr. President, this is a bad idea. This perpetuates this mess. We're trying to heal from it. The notion that, well, we have to release this pictures because the Human Rights Watch wants them released, it's understandable why they might feel this way, but you are the President of the United States. You are not the representative of Human Rights Watch, and in fact, releasing these pictures can only poison the air, prolong the mess, and be harmful, and above all, risky to Americans around the world because it will so inflame Muslim tensions and Muslim sensitivities that we could lose lives as people are re-energized if you will with hatred for the infidel Americans." So my personal opinion on that one is, I understand why the administration has appeared to have stepped back from that. I think on balance, that I would rather take another hit or a small hit on lack of total transparency and go the way they've gone. Let's face it. In our business, a lot of what we do in the military is classified and people don't get to see it. The rule of the road is though you can't classify things just to avoid political consequences or to avoid embarrassment. That said, I think this is a special case. I think the whole world knows what happened and knows enough about what

happened that we could just put it behind us. Thank you very much. Did I answer your questions?

Q: Jason Holder, sir. My question is really for you and for Doug next to you reference interrogation techniques, procedures, detention facilities. Speaking to a room of infantry guys, armor guys, MI, MP folks who are going to be actually detaining people and running these places and doing the interrogations and that such, how do we fix it now or is there a need? Is there a problem right now today in Iraq, Afghanistan? And if so, what do we do to fix it or to make progress away from making the problem worse?

A: (Major Douglas Pryer) Just real quick. One of the things I think Stu mentioned earlier in his discussion over lunch is, one of the things that's been fixed with doctrine is only school trained interrogators, of course, can conduct interrogations. So we need to make sure that that continues to be the case or else we'll continue to have, like we had a specialist who was inspired by Jack Bauer in the 24 hour show to use a pistol to threaten a course intelligence in my division. So only school trained interrogators can do that. But fundamentally, I think we need to fix training in the professional education of junior leaders, and this is especially important today, on today's decentralized battlefields where we have an India country, remote platforms manned by little local princes interacting with the population who are effectively outside of constant supervision. These guys need to understand basically right from wrong and what is American and what is not. And I personally believe fundamentally we need to undergo a cultural change. We need to, you know, as Colonel Herrington said with regard to AARs, we probably don't do that as effectively as we should. But as a person who now works with the British Army extensively, I can say one thing that I think we do fairly well, at least in the short term, is we do AAR the hell out of things. We may not retain those lessons in the long term, but in the short term we do that and we're immediately flexible as contrasted to other armies. We need to have that same sort of institutional approach to ethics. I mean, why do we have to wait for a Haditha or Abu Ghraib or Gitmo before we take a look at what we're doing? And take certain small steps to fix it? Why don't we have an institutional approach where we discuss vignettes and scenarios and we have teachers and counsel and, you know, we need to – I just completed CDSC and loved it and I actually didn't realize I loved it. But one of the things that kind of stunned me is I don't remember – I had great instructors – but I don't remember ever sitting down and talking about right and wrong and ethical instruction. In fact, I kind of kept my project to myself, but a couple of my fellow officers who I did talk to about what I was working on, when I told them what I was working on, enhanced interrogation techniques and where it happened and why it happened, and from the strategic level on down, the first question out of both of their mouths, the guys that I talked to, was, "Well, did it work?" And I think that's precisely the wrong question we should be asking. But unfortunately, we leaders, because we're stretched so thin operationally and have so much to do and so little resources are essentially conditioned to do what works and try to take shortcuts and I think the first question we should be conditioning ourselves and conditioning subordinate leaders to ask is, "Is it American? Is it right or is it wrong?" And of those courses that are American and potentially right, then we ask the next step – does it work or which course of action is best? But anyway, short answer, I think training and professional education is absolutely key.

A: (Colonel (Ret) Stuart Herrington) I'll add one thing. Specific to your question of what do you tell your soldiers. I don't think you can give them lessons in ethics and

the principle of double effect in St. Thomas Aquinas' *Summa Theologica*, although for you as commissioned officers, you should understand those things. And if you don't, and if what I just said is Greek, then you need to do your homework.

Someone said earlier you can go K-12 and four years is a bachelor's degree institution and not ever take a course in ethics. And I think as part of your preparation, you need that. But again, you can't teach it to soldiers. And the Field Manual, what's the one that [inaudible] mentioned, the one on dignity, I don't think most master's degree holders could follow that Field Manual compared to your soldiers. You can, however, understand that there's a very tricky transition that goes from the moment an armed adversary gives up his arms and comes under your control. And that's the fundamental thing. You know, they always say the first few minutes of captivity are the most dangerous. Hormones are up, tensions are up, adrenalin is flowing. But the fact that a guy has given up and is now in your hands, no matter what he did an hour earlier or even ten minutes earlier, troops have to be trained that this guy is no longer a threat, but rather an opportunity and that he is in fact, when disarmed, no different than you would be if you were disarmed by his force, and what would you expect from his force? I know that sounds simplistic, but to me, talking to troops, to people who are going to get their hands on prisoners is critical to get everybody on one sheet of music so that prisoners who are really in fact our responsibility under Geneva to protect and our responsibility as military intelligence officers and others in the chain of command to exploit, it's critical to get this across.

General, what's his name in Vietnam, General Lansdale. Lansdale, who was some of you may remember a very famous historical figure, I had lunch with him one day because he was a reader of my first book, *Silence was a Weapon*, and he was very helpful. And he told me an episode that happened to him in the Philippines when he was advising the Filipino government on combating the communist insurgency and he went out with a patrol and there was a little firefight up at the head of the patrol, up at the point, and by the time he got up there, the "guerrilla" that they had captured had been killed. His head had been whacked off. And Lansdale was horrified. Obviously, not only for the Geneva Convention aspects of it, but he had an intelligence officer's mindset. He picked up the severed head, held it in front of him and said, "Where is your base area? Who is your unit leader? Tell me now." And when the head didn't answer, he slapped it three times. The Filipinos thought he'd come unhinged and said, "Colonel, Colonel, he can't answer. He's dead." And Lansdale, "That's exactly the point. That's exactly the point."

The point of that little vignette is that these folks when they're disarmed are a valuable lifesaving asset potentially for our soldiers from what they might talk about. And I, therefore, that sounds magisterial – I don't mean it that way – it's reasonable to think that since these people are sources who can help us save American lives, that they should be treated in such a fashion as to make that more possible. There are a lot of arguments and reasoning you could use that aren't as complex as the dignity Field Manual or the principles of *Summa Theologica*.

Q: Colonel Herrington, your thesis both at lunch and here seems to be that the proximate cause of most of this was the conditions, was that small circle at the top, although I would argue that your last comment, the last question, argues against that where you said, "But if it worked for me, it wouldn't have happened." I would also suggest it's sort of a

dangerous thesis for us to accept because if we accept that that's it, it takes the onus off of us, which is really why we're here, of what are our actions. And I would also argue that it argues against Major Pryer's and Colonel McLamb's thesis which is different units have reacted differently depending on the leadership within that unit. And so I would say that actually yours is a condition, maybe a condition setter, but the proximate cause of these incidents is the leadership down where the action happens. The one little vignette of my own I'll ask, it leads to the question, is when I came out of the Brigade Command list in '04, if you look at the guys on the Brigade Command list in 2003 and 2004, which was 30 some combat brigades, almost all of us had been to the war college together. And we were almost universally very worried about two of those Brigade Commanders because of the stories they told us at the war college about what they did as Battalion Commanders. So much so that some of us actually went to the command structure and said, "You know, we're not sure how to do this, but we're really concerned about Person X." Person X did get – both of those two guys, by the way, one got relieved in theater and one got a letter of reprimand and it led to a lot of the incidents people know about. Which then drives the question, if you accept the thesis like I do that these two gentlemen put out, the real proximate cause is leadership at the unit level, and if we take the thesis that part of this trainable, there's another part of it which is how do you recognize what do you do with that information? Because it's nowhere, when we look at promotion boards, when we look at command boards, there's nothing there about ethical behavior. There really – I mean, you could say it's sort of embedded in some of the comments, but it generally isn't. So much so that two people were recognized by all their peers of having issues before they went in and it proved to be true. So it sort of gets to a roundabout question to say, how do we – is there a manner to identify it ahead of time and what do you do with it if you do identify it? I mean, you don't want to go on a witch hunt because of what somebody believes. It's got to be how they act. You know, I don't – you can't keep somebody out of command because they don't like Muslims. I mean, that's really – you've got to keep them out of command because you're fearful their actions in this scenario like Joe McLamb laid out.

A: (Colonel (Ret) Stuart Herrington) Those are very perceptive comments. With respect to the comments having to do with, you know, letting people off the hook or it's not just the cabal of senior leaders, it took that push from above to get the ball rolling. But as I think I said in my talk, you know, they dealt with lawyers who signed up to it, who should have known better. And then they went down the chain to officers who were willing and able to do it. And you know, I didn't say this earlier. I'll say it now. You know, the Colonel at [inaudible] is a guy named Mike, last name unknown, cover name, his boss who visited the site more than once was General McChrystal. What I see is that – and I'm not excusing what people did in other words. But the fact of the matter is that the Army is and has always been a hierarchical institution. And one of the core values has always been, or has often been, the idea of "can do." And it's very difficult for someone to sign up to certain things, but it's twice as difficult for them to say, "No, sir, I can't do that," or, "We shouldn't do that." And I think that's a problem. I think that if, for example, the Secretary of Defense can't find a lawyer who's going to sign up for his program, he just moves on to the next lawyer until he finds one. And so Mora, the Navy Deputy General Counsel, resigns in protest. But the program he resigned over continued anyway around him. Same thing happened to the TJAG of the Army who didn't resign, but who made a firm statement that we shouldn't do this. This is wrong. And thought that he'd quashed it and only found out weeks later that in fact it had been quietly put into effect. I do think that you're right that

moral failings and failings on the part of officers who implement it should not be ignored. It should tell us something troubling about our system.

Q: Yeah, but keep in mind, what Joe is talking about and what we've seen, your arguments against Cuba ...

A: Against what?

Q: Against, I can't say it.

A: Gitmo, Gitmo.

Q: Gitmo, sorry. Against Gitmo. That's a small subset of what we're talking about. And again, and I'm not trying to let that off the hook either. I just don't think it's the main point of – I don't think it's the proximate cause of what we're talking about which are those things that happen out on the battlefield that we're all related with, Mike Steele did not have – he wasn't waterboarding anybody. The whole argument over whether waterboarding is legal or not had nothing to do with Mike Steele's actions. Absolutely nothing to do with that. And you can go to some of the other guys. Their issues had to do with how do you treat prisoners when you capture them. You know, Steele's thing, which we knew he did ... I mean, nothing against Mike Steele. You know, like I said, I went to school with him, but he sat there and told us as a Battalion Commander how he rounded up all the animals in a town, killed them all in front of the population and said, "Hey, are you getting the message here?"

A: This could be an indicator, huh?

Q: It could be an indicator. But that has nothing to do – that would have happened regardless of who the Secretary of Defense. That had actually – and so now we're down to our ethical behavior as leaders.

A: I agree, yeah.

Q: Just like Roosevelt, if you really study Roosevelt. He had some terrible nicknames for people. I mean, you talk about some guy who had some – every ethical group but his own. But that didn't – yet, in World War II, we say that soldiers acted ethically basically with some cases that didn't. So we're still getting back to, as leaders of soldiers, how do we identify traits or identify personnel that won't have these issues that Joe talked about ahead of time? And I don't know how we do it? It's an interesting one.

A: Certainly. You're a special operator, right?

Q: No, I'm actually a tanker.

A: You know, the special operations community beginning in the 1980s went away from the Rambo, and there's probably a special operator who can talk to this better than me. But I was at INSCOM at the time and our INSCOM psychologist was a part of the vetting for people who wanted to be in special operations. And it took a couple of psychological interviews, a bunch of psychological testing, and they were specifically looking for the Rambo type who

might do these stupid, reckless things and get everybody in trouble gratuitously. And it seemed to me at the time – oh, and they liked to be known as the quiet professional approach as opposed to the Rambo image. I think you're right that we need to identify them. But from what you just said, seems to me that you and your fellow Brigade Commanders to be did a pretty good job in identifying people that you were antsy about. Then the question would be, did you have any device or mechanism to make that known? Or was it something where it was think of it all, we speak of it never. We can't tell anybody about this. We're going to ruin this guy's career. And I'm not trying to throw it back on you. Because I do agree with you, that weeding out, finding people and weeding people out like that is a major challenge.

Fort Hood is another example. Look at the indicators of our erstwhile 04 shooter and now it's coming together and people are connecting the dots. It was obvious to his peer group who had no knowledge of the fact that he was on the telephone trying to communicate with this Yemeni Al Qaeda guy. But this guy's views concerning religion, our war, our beef with Islam were disturbing at a minimum. But I would suggest to you that there were a lot of people who were probably inhibited and it will probably come out, they were probably inhibited by the fact that they felt like if they had spoken up, that A) no one would do anything about it, and B) they would just get tagged or tarred with a brush of being essentially not on board with diversity. I don't know the answer to what you said in terms of, you know, how do we identify and what do we do about it. But I think that you've hit on certainly one of the major issues out there, the challenges that face the Army.

I do stick to my guns though that the climate and the way they kicked the ball from up on high and the way they steamrolled over all resistance and put it in place, and oh by the way, protected it with a sap, thereby keeping people out of the loop of knowing about it who might not have agreed with it. I think it was an egregious, egregious mistake and next question please.

We agreed that we'd do this for an hour in order to get back on schedule. I'd like to thank everybody here for participating with the panel and thank Bob Ulin and Ted and everybody else who had anything to do with this great opportunity.

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Part 3: Ethical Issues at the Strategic Level of War

Strategic-Level Presentation

Gen. John M. Keane, U.S. Army, Ret.
Senior Managing Director, Keane Advisors, LLC

Transcript

Introduction of Guest Speaker ~ Lieutenant General (Ret.) John Miller

General Keane, everybody has received a copy of your bio, talking about your accomplishments in the corporate life and certainly in your military career. We're very honored to have you with us here today. And you've all had a chance to look at the official corporate bio, but let me just talk about this soldier that's sitting here to my left. Some of you, I know Joe McLamb has served under him, anybody else serve under or with General Keane? Well, you know, as do I, that this man is a leader of soldiers, not because of his rank or position, but because of his commitment. His personal commitment to invest himself in those whom he leads: To be present, to lead from the front, to teach, to mentor, to coach, and when things don't go well, to be accountable for what the team didn't quite get right, but then to be absolutely diligent in getting it fixed.

I had the privilege to follow Jack, if you will, General Keane. He was a Battalion Commander in the brigade that I took over. He had just changed command, I guess, days or a couple of weeks before I took command of the brigade. His spirit was so inculcated in the battalion that when he had left that it lived on for months after he was gone and it wasn't a spirit of fear, but it was a spirit of genuine love for their leader who had left. I had the privilege to serve with General Keane again when I was Division Commander of the 101st and he was my ADC. Always present in the field wherever training was going on. Always present with the soldiers, not just standing by looking from the side, but teaching, coaching and leading. A man of commitment to our institution, to our soldiers; a man of enormous personal integrity, and a man that I am privileged to call a fellow soldier and a friend – General Keane.

General (Ret.) John M. Keane

Thank you, General Miller, John. That was very kind and touched me quite a bit to be frank about it. We soldiered a lot together and I truly appreciate your leadership and what you've done for our Army and also what you continue to do and how you continue to serve and the commitment to the growth and development of our officers which is what this Foundation is about, Hyrum Smith and Bob Ulin have committed themselves to and that's a wonderful thing. It's not something to be taken lightly. Those of you who are passing through, I hope you appreciate what this Foundation is truly trying to accomplish for you and it's a great testimony, not only to our Army, but to the American people and the people, for whatever the reasons, are drawn to this institution and feel close to it and love it and want to take care of it, nurture it and support it. And that's a wonderful thing in and of itself.

We're talking about ethics today and certainly a serious subject. And, you know, our ethic is what helps to define our profession and it helps to anchor us as we have to adapt to an ever changing operating environment. That's the reality of what we deal with and this anchor is critical to this profession.

What I want to talk about is, some issues at the strategic level, if you will, given what you've already experienced at the tactical and operational level. Most of this is not going to be any theory.

This is going to be personal, as this really is. At the end of the day, it's always personal. And it involves certainly policy formulation and policy execution and it gets close to what we stand for as an institution as well. There are people involved in this and I'm not going to dwell on them. I'm going to try not to even use their names, but I can't tell the story without the people. They are good people, that's a fact. But they also made mistakes and that's also a fact and we have to talk about it, we have to understand it, we have to get our arms around it because this is our institution and we have to learn from others' mistakes as we move forward.

The Vietnam War was a seminal event for me. I was a platoon leader and company commander in it. During my participation in that war, we were using conventional tactics by and large to fight an irregular force. We did that for three years--1965 to 1968. We were losing the war. We used a single data point to provide evidence to us as to our progress and it was called body count. As the body counts were increasing of the enemy, we believed we were succeeding. We used that to convince ourselves of it and we used that to talk to the President of the United States and our national leaders and also to the media. The Tet Offensive occurred in 1968 and it was clear to everyone, although we killed most of the people who were fighting us on that incredible two or three days, the fact of the matter was it was a huge strategic victory for the enemy because they attacked us in multiple places all at the same time and it was an extraordinary event. They gained tremendous political and moral ascendancy as a result of it. Old general went out, new general came in, new general put in play a counterinsurgency strategy for the first time and in three years defeated that insurgency by 1971. Two years later, we began to lose the war because we had lost political will despite the victory over the insurgency.

So I was a young officer at that time and I was very confused and I came home and I didn't understand what was taking place. This was 1968. And over time, through introspection, talking to others, we kind of figured out what was happening to us at the strategic level. Our leaders fundamentally had it wrong. We didn't know that as young officers. We didn't have enough information to come to that conclusion. But what we were dealing with were guys with rifles, machine guns and grenades and bunkers and we were in a fight and we were trying to protect our guys and kill the enemy. That's what we were focused on. And then later, we started to collect this information. By the time we got to this institution as majors, we were angry. We were angry. And I was sitting right here in this place when we lost that war in 1975, a humiliating defeat. We gathered at times in Washington, D.C. as majors, on my first assignment to Washington (I only had one other after that strangely enough), but we would gather on a Sunday evening over beer, trying to figure out how, how did these guys do that to this great army of ours? And of course we were smarter than they were, to be sure. We were young Turks. We had this all figured out. But we had fought the war ourselves; we had bled on that battlefield and they did not because of the nature of that war and the nature of their position. So we thought we had made the sacrifice; we held our guys in our arms; we cried and bled for them and that was all vanquished. It was all down the toilet, all those lives. So for many of us, because of what happened to us, we had a narrative for years that we lost a war because of the politicians in Washington and we lost a war because of the media. We lost a war because we had the wrong military strategy to fight the war, designed by military leaders, which protracted the war unnecessarily and eventually we lost political will. Did we have weak political leaders at the time those events were occurring after seven years of war? You betcha. But the fact of the matter is, we had evaporated the patience and the forbearance of the American people and their political masters. We directly contributed to that defeat ourselves and we had a completely different narrative that we were telling ourselves about that. We've got to stop that.

So I'm going to talk to you about some of the issues that pertain to this war in Iraq with that as a backdrop. We conducted a brilliant invasion in 2003. It was brilliant and bold in many respects. We didn't use all the forces that people wanted us to do. We had the advantage of conducting joint

operations. Many people outside the military didn't realize how far we had advanced ourselves in the ability to integrate across service lines true combat power and capability. We were not intimidated by the fact that we were significantly outnumbered and we were not using the Leavenworth solution to attack a defending force, making sure we had four or five to one ratios. We were outnumbered by the defender and we were not the least bit intimidated by it because we knew this enemy for 12 years. We were confident about our capabilities and we also understood their vulnerabilities and we were going to take advantage of those vulnerabilities. I'm not going to get into details of it, but Gen. Franks deserves a lot of credit for what he did and others in fashioning what I thought was a brilliant plan for that part of the war.

I visited there as acting Chief of Staff of the Army in late June 2003 and by that time, we had moved from ousting the regime, to seeing looting and general lawlessness. Saddam Hussein had let out 60,000 prisoners on the streets, criminals to conduct targeted violence against Americans. And that targeted violence against Americans began to increase in frequency and in scale. They first started shooting at us with rifles, but we won most of those fights. They ambushed and we won most of those fights. And they realized they had to have a different strategy and that's how the IED was born because they did not want to be in a close combat fight with us. They had to get standoff from us. They figured "maybe we could kill these Americans by blowing them up in their vehicles; we'll stand off from them, only expose one or two people to them at best, and see if we can get some positive results." And results they began to get. I saw that insurgency in late June and I called it as such. There was only one general officer in Iraq who understood the war and what was happening and that was Petraeus. There was not another general officer there who understood it and I'm not suggesting that's their fault. I'll explain that in a minute.

I came back to the Pentagon and told them at a meeting of the Joint Chiefs that we had a low level insurgency on our hands. Some didn't know what that was. That's not intended to be judgemental, it's just that if you're flying airplanes and driving ships, things like "insurgency" aren't exactly on your mind. But the fact of the matter is, people didn't want to hear it because we had had a victory. We wanted to put a bow on it and wrap it up and say it's over. But it was, truth be known, just the beginning and we didn't know what we were in for.

It was a long ride home on an airplane for me and my guys knew it. They said, "Sir, what's bothering you?" And I said, "Do you guys have any idea how ill-prepared we are to fight this kind of war?" For 30 years, we have been focused on conventional operations against a monolithic enemy. We have organized the intellectual capital of the United States Army around that. It has been our training strategy. It has been our modernization strategy and it has been the major educational tool inside the Army and our doctrine is completely based on it. We purged ourselves of all of what we learned of ten years in Vietnam, mostly I believe the senior leaders at the time, because of how that war ended. We just wanted to get rid of it. It was a cancer eating inside of us. It was a huge mistake and we paid a bitter price for that. I knew we would eventually adapt because of who we are, but I knew we were ill-prepared. I knew the generals had not intellectualized this kind of a problem and that they would struggle with it. We had no doctrine for it that was current, but knew eventually it would catch up. The generals would understand it, we would get the doctrine, we would get the training in place, but that would take time and I was hoping there would be time.

I left the Army in the fall of that year. In 2003, Secretary Rumsfeld put me immediately on his defense policy board with a whole bunch of notables – Henry Kissinger, Newt Gingrich, two former Secretaries of Defense, Schlesinger and Hal Brown, Jim Woolsey from the CIA, Freddie Clay, some academics, a couple other guys like me and some business guys. We'd meet a few times a year. It took until the fall of 2003 before the Department of Defense internalized that we had an insurgency. It took the White House almost to December 2003 before they would admit that we really did have an insurgency on our hands. We had a different kind of war on our hands and

it wasn't going away. I visited Iraq in 2004 and 2005 to take a look at the situation and to provide any assistance that I could.

The policy board briefings we received from the Joint Staff were superficial at best. We were getting a bunch of pablum. I had considerably more fidelity because of my recent position, and I was very frustrated by it. I talked to Newt Gingrich about the frustration, and together we found an Army colonel who knew something about this war. His name was Derek Harvey and he had a task force inside the J2. I sat down and talked to him and it was a seminal event for me. We brought him into that policy board in the fall of 2004. Nobody's listening to Harvey, not even his J2 who is a Major General. He never gets exposed to any of the leadership in the Pentagon. The CIA and the DIA all in their typical group think believed this was low level stuff, it's not going to be a problem for the United States military and its coalition partners. This was going to be over before you know it sort of thing. That's the conventional wisdom at the time. Harvey walks into that room and I had to fight the dickens to get him in there frankly. And he starts out by saying, "The insurgents believe they are winning this war and I believe they are right. My briefing is going to prove that to you based on evidence." Now, Harvey is an intel analyst fundamentally. Army colonel intel type who did what I call homicide detective work. He did things that most of the analysts in Washington were not doing. What did he do? He read interrogation reports. He's an Arab linguist, an Arab FAO and he had a team to do this. He had about 50-60 guys working with him. They read battalion and brigade field reports. They did document exploitation and they read many of these, as I mentioned, interrogation reports. He was in Iraq in 2004 and he met with some of the insurgent leaders in safe houses. Typical of Harvey to bring them a bottle of booze and sit down and talk to them. He was trying to get inside their head the level of commitment that they had, how serious they were, what they were willing to expend to accomplish their political objectives.

So Harvey said to us that this was the most formidable insurgency the west – the west – has ever faced in its history. He said most insurgencies, typical Maoist type insurgencies, starve for human capital, money, weapons and ammunition and needs some kind of external support. This insurgency has unlimited amount of human capital, unlimited amount of money, literally billions of dollars, unlimited amount of ammunition and weapons. Truly extraordinary. And as such, they are winning, and then he went on to prove to us that they were. As a result of that, Henry Kissinger pounded the table, "We've got to get this briefing to Secretary Rumsfeld. We've got to get this briefing to the President of the United States." Secretary Rumsfeld gets briefed in November of that year, 2004. The President of the United States and his entire national security team gets briefed by Colonel Derek Harvey – can you imagine that, stepping in there doing that – in December of 2004 and he never, ever talks to either of those two men again. Ever. The intelligence community denigrated Harvey before he arrived and did so after, to include the NSC. So they discounted what he was saying and the leaders accepted the testimony of those they were used to working with.

2005 brought on political progress in Iraq. You know, major elections were held that year. Lots of purple fingers, as you know. The violence increases in 2005 over 2004, and 2004 had increased over 2003. 2006 unfolds. As a result of the general election that took place in December of 2005, a new government is coming into power in 2006. A strategic decision is made by the insurgency, its leadership, the mainstream Sunni insurgents and the Al Qaeda and it's a pivotal decision. They want to provoke the Shias. The Shias have been with their militias on the defense except for some incursions in 2004 in the south by and large the entire time. They wanted them on the offense and they were going to make Baghdad the center of gravity. Their catalyst for that was the Samarra mosque bombing in February of that year. They had tried other things to provoke the Shias; they all failed. That bombing provoked the Shias along with the death squads that they put on the street to kill Shias. Their objective was to undermine the new fledgeling government which they feared because it was elected by some of the people in Iraq, certainly not all – the Sunnis

did not participate. They feared that government. They wanted to undermine it before it had an opportunity to connect with the people. They wanted to completely fracture it. They were using chaos and a lack of stability to do that. Violence was the means. Shia militia on Sunni people and Sunni insurgents and Al Qaeda on Shia people and the U.S. That was the reality of it. As a result of that, hundreds of people were being killed in Baghdad a week. It literally turned into a bloodbath. All services shut down. Schools shut down. People weren't going to work. The markets were shut down except for survival needs. We conducted an operation in the spring called "Together Forward One" to try to stem this level of violence. That operation failed. The Iraqis didn't show up in the numbers that we wanted and the principal thing we were doing in that operation was clearing the enemy out of the neighborhoods it was in with no plan to occupy those neighborhoods after we cleared them. Which meant the enemy would just move around or move back and they did both. We did another operation in the late summer and fall of the year with the same results. I discussed it with General Chiarelli at the time and I said, "Do you have the means to be able to secure the neighborhoods after you clear them?" He said, "No Sir, I don't." I said, "The operation will fail." And it did.

In August of that year, back in the United States, the political environment as it pertains to Iraq had dramatically changed. The people in the country knew something was terribly wrong in Iraq. The Democrats would openly oppose continuing the war. Harry Reid was saying the war had been lost. Many of the Republicans were putting considerable pressure on the President to do something about it. Many of those Republicans were coming up for election in 2006 and were worried that their chances at reelection were in jeopardy. Our senior leaders provided testimony to the Congress in August of that year – Secretary of Defense, Generals responsible for the war – and they told the Senate that their strategy was working. The senators were pretty harsh about all of that because there was compelling evidence that it was not. And that is my first ethical issue for you.

All the evidence points to the fact that Iraq was being fractured. It was heading toward a failed state and eventual civil war, and we – I'm saying a collective "we" – our military leaders and defense leaders believed the strategy is still working. As a result of that, those leaders lost all credibility. That's the reality of it.

Now, how could this happen? We just had – three years ago, we had a successful invasion. We've got the most preeminent military on the battlefield and three years later we are being pushed off the edge with a country that's being fractured and heading towards a failed state. How could that be? How could something like that happen to us? Well, the fact of the matter is, it's understandable once you recognize that we had the wrong strategy. We fundamentally had the wrong strategy. Our strategy was simply this. I mean, it was codified in the Joint Campaign Plan. There were huge process reviews and assessments. You know how good we're all at processing stuff, guys. I mean, we're great at it. So we had reviews of all this in terms of how we were doing, but there were two major pillars to our strategy. One was to put in place a representative democracy, or a representative government – let's not say "democracy" – a representative government as quickly as possible even though Iraq did not have the political maturation to deal with that. Put that in place as quickly as possible. That began to unfold in late 2004. It took on real energy in 2005 and resulted in a constitution in the fall of 2005 and a general election in December of 2005 and then a new government around February and March of 2006. The second part of that strategy was to transition – key word, "transition" – this is the number one military strategy in Iraq for three years, is the transition to the Iraqi Security Forces as quickly as possible. That's not in the document, but that was in our energy and in our plans. Nowhere in our military strategy, nowhere is there a plan to defeat the insurgency. Nowhere. That's a fact.

So what's behind this strategy? What is the unstated? The unstated is that all the United States presence will do was aggravate and grow this insurgency, will create more targets – and you've

heard this now in reference to Afghanistan; so it's an interesting replay of an old theme – and what we need to do is before the war gets too protracted and we lose complete political support, turn this over to the Iraqis as quickly as possible. Stand up a representative government, get the Iraqi military stood up, and the Iraqi military will defeat the insurgency. Actually, that strategy could work. The problem was, it wouldn't work with this enemy. And the enemy has a vote. I don't actually have a lot of problems with the fact that we had the wrong strategy, because if you know our history, our history is replete with us starting off on the wrong foot. Revolutionary War, Civil War, World War II, Atlantic, Pacific, Korean War, Vietnam – all start off on the wrong foot. But as Churchill said about Americans, "These Americans are interesting. They exhaust all the alternatives, but then they get right to the solution before anybody else." So we adapt well and that's how we were able to turn those other wars around once we sort of figured it out. So I don't have a lot of problem with having the wrong strategy. I have a lot of problem with the fact that we were not adjusting the strategy to what the enemy was doing to us. The single most important data point that we had in Iraq is that the level of violence was increasing every year which meant the level of stability was decreasing every year. The level of chaos was rising every year. The people's frustration and aggravation and fear and intimidation was rising every year. '04 over '03, '05 over '04, '06 dramatically over '05. That single data point for some reason never came front and center. When we did the color code charts, you know, red, green - what do you call it? Stoplight charts. And we looked at all of those process systems, we were transferring AOs to the Iraqi Security Forces despite all of that. We were transferring AOs in 2006 when this bloodbath was occurring. So that is the first issue for me in terms of the challenge we have as military leaders in designing, in putting the strategy in play and then having the rigor and integrity to deal with the input data that helps to confirm whether your strategy is working or not. And everybody needs to understand that you really want that input data. Some of it will be objective data but a lot of it is going to be anecdotal, as we all know, because that's a fact in war.

After I witnessed that testimony before Congress, I got involved in this thing because I knew that we were going off the cliff and I at least had expected by then that, given all the events that had taken place in 2006 and the two failed military operations, that the leaders themselves would recognize the strategy wasn't working and we needed to change. The fact that they were not going to change meant in my mind that we were going to suffer a humiliating defeat which would further endanger the security of the American people. It was going to encourage Iranian hegemony, we would obviously give the Al Qaeda a platform they certainly didn't deserve with a bona fide sanctuary in Iraq from which to prey on the neighbors, and we already knew what that meant and where they were going first. That was the harsh reality of it. The likelihood of a civil war and a spillover into the region was a reality. So the region would be destabilized, Iraq would be destabilized, the security of the American people would be affected, the Iranian position would be enhanced rather dramatically, and the Al Qaeda would be dramatically enhanced. That was unacceptable. We could not do that.

So that night, I spent time trying to figure out what went wrong, why did it go wrong, why was the strategy wrong, what did we need to do to fix that, could we fix it, were we out of time or not. And I didn't think we were. I took the results of that to Henry Kissinger, Newt Gingrich and Paul Wolfowitz individually, just to sort of check my thinking. I also said that we would have to remove the leaders because we needed to bring new leaders in to execute a new strategy. It would be impossible to ask the old leaders to execute something that was so dramatically different. And what I was looking at was a fundamental change in strategy--getting away from the FOBs, obviously; stopping conduct of these mindless Humvee patrols; putting platoons down in neighborhoods with the people and have them living in those neighborhoods, patrolling those neighborhoods, doing mostly foot patrolling in those neighborhoods; having companies where they needed to be; and

fundamentally decentralizing the war dramatically and putting in play a counterinsurgency strategy designed to protect the population. The theory being, once we began to protect the population and they knew it, the security for those platoons would not really be the jersey bunkers and all the rest of the barricades. The security for our troops at such a low level would actually be the people themselves. They would not want to see us hurt, they would not want to see us killed, they would provide us the information we needed to sustain ourselves and more importantly to take advantage of the enemy.

I took that plan to the Secretary of Defense in 2006 – the testimony was in August – at a meeting that I had with him and laid it out for him. He did not agree, although we had a marvelous conversation. Secretary Rumsfeld and myself had a good relationship. It was borne out of respect for one another. We disagreed on a number of issues, but we always talked very frankly with one another and that was obviously a very frank and sobering conversation. I also took that message to the Chairman of the Joint Chiefs of Staff at the time and I thought he agreed, but he didn't say so. But by his body language, I thought he did, and I said, "If you think there's any veracity to this, put together a little task force to go check it out. See if our strategy has failed and see if there is some hope for something else." Which he did. And I gave him one guy to put on that task force, H.R. McMaster, who many of you know. And they did. But at the end of the day, while they defined the problem – I saw the briefing charts – while they defined the problem very well, and defined the consequences of failure very well, their recommendations were by and large the status quo. That's the reality of it. So nothing really came of it. And I frankly, I thought it was over. I wasn't going to the media with anything. That wasn't what I would do. But in November, I got a call from Chris DeMuth who runs the American Enterprise Institute and said Kagan, who I'd never met but read some of his stuff, he had asked Kagan to take a look at an alternative strategy in Iraq and he said that the word is that you have one and you've been trying to convince people of it, and we'd like you to come over and take a look at Kagan's work and see if it makes any sense to you, which I did over a weekend. It made a lot of sense to me and I learned some things from it. They had excellent resolution on the enemy which stunned me because I was getting top secret briefings and they were not, and they knew exactly – I recommended eight brigades we needed to do as part of an escalation of forces – and they knew there was only five available. I said, "How do you know that?" He said, "Well, the AFORGEN model, the Army's Force Generation Model is on the internet. You just go on the internet and you find out where it is, when they're getting their equipment, when they're getting their people." I said, "Really? On the internet?" And they said, yes, it's all on the internet. I said okay. So it was remarkable.

But in any event, Fred published a report that was being shopped around Washington towards the end of the month and I got a call to go to the White House for a meeting with the President to discuss alternative strategies. He was bringing a few people in there to do that, two other generals, and two think tank guys. He had his entire staff there from Communications Director through Chief of Staff, and the National Security team. Everybody who was anybody was in there for that presentation. I told the President this. I said, "What I'm going to tell you only makes sense if you are serious about winning. Because number one, what I'm about to tell you is going to increase casualties in the war because this is a counteroffensive which I'm recommending to you as Normandy was a counteroffensive and the Marine island hopping campaign in the Pacific was, Incheon and Korea was. And we had a number of them in Vietnam. All of them increased casualties, but if it works and there's no guarantee it will work, then the casualties will drop off dramatically." I said time is a variable here. "We are completely out of time. I suspect others here will tell you there's a lot of things we should do. We need more trainers, we need more Iraqi Security Forces, we need more pressure on the Maliki government – all of these things are noble things and they should be done. But none of those things will solve the problem. We're out of time.

We don't have time for all of that to succeed. The only thing that's remains for us is to put in play for the first time a counterinsurgency strategy which will shut down the violence in Baghdad and in the cities around it. That's the only thing that's left to us, and that means an escalation of forces to do that and we have to change leaders." There was consensus from all five people that we needed to change the leaders. The two generals did not agree with me. They were advocating more trainers and improving the Iraqi Security Forces, etc. The two think tank guys did, interesting enough. That night I got a phone call from the White House saying that the President was leaning in that direction. And the next night I got another phone call from a much higher person who asked me if I would go to Iraq and fight this war, put my uniform back on, which was an interesting question. And I told them I thought that was an act of desperation on their part and there was a person actually more qualified and better to do that than me. And I can't do it anyway, but that person was Dave Petraeus, and his name came up during the President's briefing. And then they asked me if I would come into the White House and take charge of both wars and I told them I couldn't do it for personal reasons and this person I'm talking to has asked me to do two things for them based on a recommendation I made to them, and now they're asking me to help them and I'm stiffing them. That's the truth of it. And I'm in pain doing it and I said, "Listen, sir, I feel terrible about this, but I can't do this full time. You just have to respect that, but I will do it more than part time and I am ready to come and do that." So I got into the White House and started helping them part time and then went to Iraq a lot during 2007 and 2008, every couple of months for a couple of weeks. I was there when Petraeus had his first Commander's Conference in February and continued to work with him and General Odierno for the next two years.

The POTUS made a decision in January based on some of what I just told you and also what I believe his staff had already been working on. What I think, the only thing I think I did for him, is I operationalized it for him from a military perspective so that he understood what this was and how it would look, which the staffers could not do. They knew they needed increased troops. They didn't know what to do with them. So I gave him a word picture of what this would look like on the ground and it sort of makes sense, even if you're not initiated in terms of counterinsurgency and its success in the past, etc. So I think that was the contribution and I don't want to make too much of it frankly. But the POTUS makes a decision in January to escalate the war. Before he does that, he goes to the Joint Chiefs of Staff and has a meeting with them. It's late December, just before the holidays I believe it was, about a week or two after we had our little session. And he tells them what he's thinking of doing and they push back. They push back. Two reasons. Stress and strain on the force and its consequential impact. Secondly, lack of a strategic reserve to deal with another conflict. This is my second issue.

The President of the United States is trying to make a decision to win a war and, in my mind, those arguments being advocated by those leaders are more about protecting their institution than protecting a nation. Does the Army come first or does the nation come first? In the past, George Marshall, our leaders in Korea, understood that the nation came first and not only were we willing to break the Army to accomplish its goal, but we were willing to expend it if necessary. That's the reality of it. I've had ... I don't talk about this with troops, but I've talked about it with generals when I was a senior general myself and would talk about this, who we serve in the country. We ultimately serve the American people. We draw that right from the Constitution of the United States in terms of who we answer to. And it's their security, their treasures, their way of life that we are fundamentally protecting as we try to stabilize different parts of the world on the behalf of the American people. And in doing that, you have to understand that we are expendable. And if you cannot do that, if you cannot look your troops in the eye and with all the love and affection that you have for them, put them into the jaws of the tiger, knowing how disastrous at times that outcome may be, then you don't deserve this rank. That's the reality of it. Because at the end of

the day, we are here to protect this, everything we stand for here, and we're expendable in doing it. And the American people would expect us to be quite frankly. So that's a serious issue – putting the institution before the nation. What was underpinning that is they felt it was hopeless, couldn't win anyway. I'm assuming so.

The second thing is strategic – hold on to that thought. We're not able to respond to another conflict because we're focused on this one. But if you know the history of our wars, we have a tendency to be “all in” in fighting a war, and we're willing to accept risk in other places because of that war or we wouldn't be going to that war to begin with. And that's the reality of it. For the life of me, the fact that you would be willing to lose a war so that you may fight another one in the future and somehow that would be better, losing a war so you may be able to fight another one makes no sense to me. Just doesn't pass the common sense test. So that's the second issue I think that's worthy of discussion.

In 2007, the POTUS makes a decision, the strategy is changed, the troops are increased, his fire brigade's going. It's all we have available. There's a new Secretary of Defense as a result of November. There's a new Ambassador, Ryan Crocker, there's a new CENTCOM Commander, Admiral Fallon, there's a new MNFI Commander, General Dave Petraeus, and an entire new leadership team to prosecute a new strategy. That makes a lot of sense, and Petraeus kicks off in February. One of the most alarming things then happens. Petraeus, I think, has got one of the toughest four star responsibilities that we've given to a senior general in a very, very long time. We are losing a war. The odds are, he has no political support whatsoever at home for what he's doing. He has the support of a President who made a very tough decision, who reached for something that he thought could still offer an opportunity to stabilize Iraq and stabilize the region, puts the best guy we have available to do it in the job. And almost from the outset, Petraeus doesn't get the support he should get from his chain of command. That's my third issue.

The President made a decision. The President makes a decision. Now we're going to execute the policy. He puts an Army General in charge of executing it, and almost from the beginning, from his chain of command, he's not being supported. They're pushing him to change, to look at alternatives. They're pushing him that he doesn't need all the troops he says he needs. They're fighting him over other requests that he's making. They're soaking up the time of his staff. And when you get inside what that really means on a personal level, it's pretty significant. To get to a Petraeus position, or a four star general, you have to have a very supportive chain of command above you. To be quite frank about it, when you have someone that talented who's working for you, and he worked for me a couple of times, you know, as a Battalion Commander and he was my G3 when I was Division Commander, and when I was a Corps Commander, he was one of the Brigade Commanders in the 82nd. When you have somebody that talented, he's actually helping the superiors above him do what they need to do because he's so successful at what he does. So it's rare that a guy like Petraeus would ever be without a supportive chain of command above him for obvious reasons.

So he gets a four star position for the first time in his life. He gets to do that in one of the most solitary positions in the military, running a campaign theater of war, where your head is on the pin for sure and you feel that isolation. And for the first time in his military career, he has an unsupportive chain of command. How outrageous is that? Can you imagine what that felt like for him? But that's the reality of it, and despite that, he presses on with Ryan Crocker and Ray Odierno, who is absolutely brilliant in what he did. Doesn't get anywhere near the kind of credit he should. He crafts the operational/tactical plan that gets executed. He designs the operation, the very kinetic operation in the belt and suburbs around Baghdad – something I didn't foresee, didn't have access to that information. But he was able to capture a document from the Al Qaeda that gave him, not specific locations, but in general that they were based all outside and conducting

operations inside. So he and Jim Hickey and a bunch of others designed a very aggressive plan to deal with this, and that is not well understood. Because everybody sees the counterinsurgency in Baghdad protecting the people. But there's a very aggressive kinetic campaign in the suburbs to take down the Al Qaeda at the same time. Both of those things together is what achieved such a remarkable success in such a short period of time.

The last issue surrounds me. In 2005, Henry Kissinger asked me, "Jack, what is the military strategy to defeat the insurgency?" And I told him, "We don't have one." I said, "Our strategy is to transition to the Iraqis and they'll defeat the insurgency." And Henry looks at me and he says, "We're going to lose the war, Jack." He said, "We had a similar problem in Vietnam. We're going to lose the war because that strategy will evaporate political will just as the wrong strategy in Vietnam evaporated political will and we will lose the war." I was still supporting. I knew that strategy. I was still hoping it would work in 2005 until what happened in 2006. So my last issue is, and it's for you to answer, not me. Is it right for a retired General Officer to impose himself on a system that he's no longer a part of in an attempt to fix it? Some have disagreed with that, that I did that, and others have generously supported it. But it is arguable and it's for you to decide. Thank you very much.

Biography

Gen. John M. Keane, U.S. Army, Ret.

General Jack Keane is Senior Partner at SCP Partners, a private equity firm. He is a Director of MetLife, General Dynamics, MacAndrews & Forbes and Cyalume Technologies Holdings, Inc. He is an advisor to the Chairman & CEO of URS Corporation. He is also a member of the Secretary of Defense's Policy Board, the George C. Marshall Foundation, the Council on Foreign Relations, a trustee of the Rand Corporation, chairman of the Knollwood Foundation, and an advisor to two foundations assisting our veterans: Welcome Back Veterans and American Corporate Partners.

General Keane, a four-star general, completed 37 years in public service in December 2003, culminating as acting Chief of Staff and Vice Chief of Staff of the US Army. As the chief operating officer of the Army for 4½ years, he directed one million, five hundred thousand soldiers and civilians in 120 countries, with an annual operating budget of 110 billion dollars. General Keane was in the Pentagon on 9/11 and provided oversight and support for the wars in Afghanistan and Iraq. He serves as a national security analyst for ABC News and speaks throughout the nation on national security and leadership. Since 2004, General Keane conducted frequent trips to Iraq for senior defense officials having completed multiple visits during the surge period. He played a key role in recommending the surge strategy in Iraq and is featured in many articles and a number of books to include Bob Woodward's The War Within and Tom Rick's The Gamble. Still active in national security, Gen. Keane continues to advise senior government officials on the war in Iraq and Afghanistan and on national security in general.

General Keane is a career paratrooper, a combat veteran of Vietnam, decorated for valor, who spent much of his military life in operational commands where his units were employed in Somalia, Haiti, Bosnia and Kosovo. He commanded the famed 101st Airborne Division (Air Assault) and the legendary 18th Airborne Corps, the Army's largest war fighting organization.

General Keane graduated from Fordham University with a Bachelor of Science degree in Accounting and a Master of Arts degree in Philosophy from Western Kentucky University. He is a graduate of the Army War College and the Command and General Staff College. General Keane

and his wife Theresa, who have been married for over 43 years, have two adult sons Matthew and Daniel.

General Keane has received numerous civilian and military honors, awards and decorations.

Among the civilian honors received:

- Fordham University Distinguished Alumni Award
- Western Kentucky University Distinguished Alumni Award
- Honorary PhD, Law, Fordham University
- Honorary PhD, Public Service, Eastern Kentucky University
- Army ROTC Hall of Fame, Fordham University
- The General John M. Keane, 4-year Army ROTC scholarship, Fordham University (awarded annually)
- USO, Man of the Year, 2002, New York City
- Man of the Year, 2001, Association United States Army, New York City
- The Keeper of The Flame Award, 2008 Center for National Security Policy

Among the military awards and decorations received:

- Two Defense Distinguished Service Medals
- Two Army Distinguished Service Medals
- Silver Star Medal
- Five Legions of Merit
- Bronze Star Medal
- Humanitarian Service Medal
- French Legion of Merit
- Combat Infantry Badge
- Master Parachutist Badge
- Air Assault Badge
- Joint Chiefs Service Badge
- U.S. Army Headquarters Service Badge

Strategic-Level Q&A with Gen. (Ret.) Keane

Transcript

Q: Captain Sowden. I had a question. You mentioned that when we transitioned from the conventional fight to the low level insurgency, we didn't anticipate that or we were slow to adapt to it. My question is, do you foresee what the next fight is going to be going forward? Like, where the next transition is going to be?

A: Yeah, one of the things that we didn't do very well as senior leaders in the Pentagon, when General Franks brought in his war plan, you know, obviously we were all trying to make it as good as it could be. And we were far too focused on the major combat phase of the operation and not enough focus on the stability and support operation to follow it. We call it the famous phase four. And I don't think, when I look back on it, myself and others that were there at the time, that we served our civilian masters very well because Saddam Hussein, the truth of the matter is, always had an option and that option was not to surrender to try to regain power again, which is what he did. We know now, because we had him in our prison and we had his leaders in our prisons, that they were two years into conceptualization of that plan and six months into execution. So we would not have stopped it, but we certainly would have been much better prepared for it if we had at least considered that as a viable alternative. And I think even the ground guys who were there, myself and others, know more about this than the other service leaders. And I just fundamentally believe that if we had considered that as an option, it would have forced Franks to have that as an annex to his plan, a branch and a sequel so to speak. It would have forced the tabletop exercise, it would have forced a consideration of, well, how do you do something like that again? We haven't done it in 30 years. It would have made us think about what the proper troop list would be. It would not have changed his operational/tactical plan for the prosecution of the invasion, but when we started to see the signs of it, then I think we would have been much better prepared to react to it because we would have at least intellectualized the problem as opposed to we were sort of deer in the headlights.

The major issues we're facing is we're going to be in this region of the world that we're in for the next 20 or 30 years. We're fighting an ideology that's there. Some of that ideology has clear regional objectives and some other have global objectives. The major, the major strategic component to all of that, in their minds, is the United States and what it stands for, its prosperity, its economy, its global reach, its influence in the world. Drive us out of the region and also force us to withdraw from the world. WMD would be the means to do that. That's the reality of it. They have not given up on any of those goals and objectives that I'm aware of. They have been set back quite a bit to be sure. But these problems are not going to go away and we've got to get our arms around that region strategically much, in my view, as we did post World War II Europe where we had an ideological struggle there with the Soviet Union. But people don't want to do this because that part of the world, the culture is foreign to us, the terrain is harsh, they're not major European capitals like they were post World War II. It's not a great place to bring families to obviously. And we have a certain reluctance to embrace this issue strategically in terms of what, how to

intellectualize the problem, what is our basing strategy, what's our training strategy, what's the doctrine going to be for the future. (cell phone ringing) Is that you or me? I apologize for that. I thought I had it turned off. But so I think that's the major issue that's facing us and certainly the Iranians are part of that. The extremist networks are all part of that. Nuclear proliferation and what that means to us, less of a problem with North Korea. It's more about their exporting that capability. I don't believe they're going to use it for any regional intention. But the Iranians are clearly a major problem for us with their acquiring nuclear weapons. And then the proliferation that would take place in the region. And when something like that happens, I think it's inevitable that those weapons will get used and that's the reality of it.

Q: Morning, sir. Major Ken Williford. I actually had a list of questions, but I'll just start with one. You spoke about, we lost Vietnam because we lost the will of the people and the political leaders. And you also spoke about when those military leaders testified on Iraq, they presented a false picture of winning the war when all evidence pointed to the contrary. My question is, so what would be the ethical decision knowing that if they paint the truth, lose the will of the people, lose the war, how could they have presented it in a way that they could have kept the military, or kept the will of the people to enable us to fight the fight that needed to be fought.

A: Well, I don't for a minute think that that testimony that was being provided were they intentionally deceiving anybody. I mean, I wasn't trying to say that. What I was trying to say is they believed in that strategy and they believed it was working. I know them personally and I trust that. And that's what we were wedded to. I mean, the issue is then, looking at it now, then how were we deceiving ourselves? I mean, I believe they're telling the truth. So that's not an issue for me. Then, what is wrong in the system that we could be so deceived by our own facts, our own reality that's surrounding us that there was plenty of evidence to demonstrate that that strategy was in fact not working. So I think that's the issue inside of that. The other thing is, in terms of the American people, I don't think in any way, shape or form do you ever contribute to the will of the American people by telling them anything less than 100 percent of what's going on. The American people can handle just about anything you tell them in the collective wisdom of the American people. And we should not worry about what the impact on them would be. I mean, I get frustrated and this previous administration did it at times, to insult the American people in terms of their intelligence and not take them through and explain it to them. We never fully ever explained the threat that we were up against post 9/11. And just laid that out so that the American people could internalize it and do it more than one time so that they could grasp that this was a significant ideological struggle that we were involved in. We just can't go back and watch the Yankees as much as I like to do that and go back to normal. That was the patter line, if you remember, post 9/11. They wanted us to get back to normal so the terrorists are not achieving a moral victory post 9/11 by taking away our will. I think what the American people deserved at that time was some pretty straight answers in terms of what this enemy is about, what are their global ambitions, what are the means for them to achieve that, and how central we were to those means. And that should have been a continuous dialogue with the people over time. And also, giving them an assessment of how we're doing, knowing full well at times, just tell them – "I'm going to come talk to you about every four months and I'll let you know how we're doing and sometimes we may not be doing that well because this is going to take some time and we have to also learn how

to do this ourselves.” The American people can handle all of that. I mean, as long as you have trust with them and the credibility is there, then I think they can handle the bad news and internalize it.

Q: Good morning, Sir. Joe Doty. Sir, I guess in some ways, your answer to him answered my initial question, which was for you to comment on Colonel Paul Yingling’s article that he wrote way back when. So more specifically in terms of that article, if you could comment on, one, some of his suggestions on how to improve, some of his recommendations to address what he called the “failure of generalship.”

A: Well, certainly, we did have some of that here. I mean, from my remarks, that should be pretty clear. The reality of all of that, I think, has a lot to do with who we want to be generals to begin with. You know, what is the manifestation of the kind of strength of character that we need to be in that, the competence that people have to have and their adaptability. And those are issues. They’ve been issues for me for some time. I think the crop of one star and two star generals that we have and some of the three’s that have grown up as a result of eight years of war and almost 20 years of deployments going back to just cause are nothing short of phenomenal. And I’m just so hopeful about the future. When I was a senior leader in the military, in our formative years after the Vietnam War, we essentially never deployed an army. We trained an army, but we didn’t deploy it. So if you’re a colonel today, you’ve been in an army that’s been deploying since 1989. That’s 20 years. If you’re a major today, and there are some in the room here, you’ve known nothing but an army at war. That’s very dramatically different from the army that John and I grew up in and so I think when you’re honing your skills and your own growth and development as an officer is taking place, in that kind of an environment, it has a tendency, as it always has in our history, to come through that system with people that have significantly high capacity levels to deal with the responsibilities. So I’m very encouraged by what’s out there and the future is bright in terms of the quality of leadership I think we’re going to have.

Q: General Keane, the question I have – I’ve been very unsettled by the reaction of the press to what happened in Fort Hood a couple of weeks ago. If you were asked to describe the enemy, who is the enemy? Is it Al Qaeda? Is it just extremists? Islamists? Is it Islam? Who is the enemy in your opinion?

A: Well, that’s great. I mean, the fact of the matter is, there is an ideology that radical Islamists subscribe to that deals with establishing a caliphate in their region of the world where there’s a fair amount of hegemony in terms of returning to seventh century Talibanism – something that we all saw a little bit of in Afghanistan before 9/11. And this is embedded in many of the teachings and writings of their theologians and philosophers going all the way back to the fourteenth century. And most of the quotes that they use to energize and provide inspiration for their movement come from those writers and not from the Koran. We learned a couple of things when we went into Afghanistan because we got our hands on so much material from the Al Qaeda in those safe houses and caves, etc. – CD ROMs and hard drives and documents. It took us awhile to get through it because we don’t have anywhere near the amount of Arab linguists that we should have. It’s still a problem to this day and John’s very much aware of this. But it took, months later, we did realize a couple of things. Two major ones. One is, how strongly they believed in what they were doing. You know, so to describe them as terrorists, criminals, thugs, killers,

fanatics – they’re all of that, but it’s an injustice just to describe them in those horrific terms because they’re more than that. They are truly committed to something and it gives purpose and meaning to their lives. And they’re certainly willing to give up their own life to achieve these ends. The means to achieve these ends is jihad which in their mind gives them entitlement to the land that they used to own, the land that they’ve ever paid tax or rent on, which is why they’re interested in certain elements in Europe – Spain, eastern Europe – not just the region of the world that they’re currently habituating in.

So this ideology is something that is very important to them. It is a political movement by definition because they have political goals and objectives and an ideology to support that. And their religion is very important to them. I used to think, early when I was studying this, that they took hostage of a great religion and was just using it. Not true. This religion is central to them. It is, in terms of what you said last night, part of their governing values. It provides them inspiration. It’s their belief system. It helps to provide them their motivation. It’s central. So Islam is very, very important to them. They’re not just thugs and killers who are using something. That’s a mistake and we initially, some thought that. Probably there were some people in this country who always understood it.

So that’s out there and they use the internet to help them and they radicalize people around the world with what they put out. And some are more susceptible to that radicalization than others. But it’s a powerful message. In that part of the world on a Friday afternoon, a bearded man will approach an unbearded man who’s a college student, and he’s talking to him about trying to achieve meaning and purpose in his life, to do something worthwhile to his life. “And to do that requires sacrifice and putting aside material gain, and at times even putting aside family to achieve a greater purpose in your life. And we are doing that. And we are committing ourselves to customs and behavior that provides us strength to achieve these goals and we bond together as a group to do this. And we would like to talk to you about this.” And actually, the people that are attracted to this, are not people who are drifting around with nothing to do and listening to great music or whatever. The people who are attracted to this are people who want to do something. That’s what’s interesting about this. And they’re people who want to make something out of their life. And that’s why many of them, they come from college or a college education or family members are college graduates. They want to do something and they radicalize these people. They indoctrinate them and they get them to be fighters or they get them to be suicide bombers. They go in two directions and the movement is out there. It’s serious. We’ve made significant impact on these guys. That’s the truth of it. But they are not going away. They are not going away and we’ve got to recognize that we have to keep our arms around this issue, focus on it. The United States will always be the target. What happened at Fort Hood is the most vulnerable thing that could happen to us. Somebody in uniform is radicalized by this movement. That’s – I don’t know how you defend against it at that point. If it gets to that point and we don’t detect the radicalization, it’s almost indefensible because we have somebody in our midst, who is among us, who takes out a gun on a particular day and starts shooting us because of what we stand for and as executors of a policy against their movement. And that’s what essentially took place.

Q: Why would our leaders be so reluctant to call that what it was?

A: Well, we’re dead wrong. We’re dead wrong about that. I mean, I think the loose language

that was used, that this was force protection, that we don't want to aggravate and get a backlash in the Muslim community, that diversity is going to be a casualty here. An FBI investigator is saying there's no plan, "We see no evidence of any terrorist activity and no plan to investigate that." That's all being said within the first 24 to 36 hours, when the facts, when the preliminary facts on the ground are completely different. We have a guy brandishing a weapon and shooting his fellow soldiers using a jihad slogan to do it. That alone is evidence enough for me that this is a huge issue here. We have a radicalized extremist soldier on our hands that's killing in the name of jihad. That alone is prima facie evidence that we have a huge problem here. And then the issue becomes, not the soldier – I mean, the criminal system will take care of the soldier. The real issue is how does that radicalization take place inside this great institution and we allow it to grow and fester to the point that we witnessed in that horrific tragedy. Who in the chain of command tolerated that? That is the issue and I think this institution will get to the bottom of it, frankly, and then what did the other government agencies know about this? What degree of cooperation did they have and how did it get to the point that it did without someone stopping it? That will be the central issue of that investigation.

Q: Good morning, General. Dr. Scott Borderud, Command and General Staff College. Sir, because you were present at creation in 2003, I would like to go upstream of the counterinsurgency and ask you to open up for us the ethical decision making process that began with the advice of the Joint Chiefs of Staff and the Secretary of Defense, National Security advisor, and the President's decision to commence an unprovoked attack on Iraq. Could you give us some insight as to the ethical dimensions and what ultimately was the long pole in the tent from an ethical perspective in that whole decision making process.

A: Yeah. Of course, we had 9/11 and I was in the Pentagon on 9/11 and that was an enormously painful event for all of us. We buried 85 soldiers and civilians from the Army and we've never ever taken that many casualties on any given day in the last eight years in the wars we'd been fighting. Attended 61 funerals in all of that. Decorated 77 people for heroism, by the way. And it reminded me again that you can never, ever put a face or a sex or a religion on courage. In that formation that day were civilians and soldiers. There were guardsmen and reservists and active duty. There were some who were fat and some who were in great shape. There were some who were old and some who were young. I have never in my life, ever participated in an awards ceremony that was like that and I'll never forget it and it was one of the most pleasurable things I've ever done given the horror of that tragedy. But it reminded me again about the human spirit and how great people are and what they're willing to do. We were very careful about those awards. You truly had to put your life at risk to get one.

But anyway, back to your question, which is a good one. We took down Afghanistan very quickly after 9/11, as you know. But prior to Thanksgiving, the Taliban had fallen to the Northern Alliance assisted by us, special operations forces and air power. And in the first week in December was the first time that I heard that the administration was considering going to war in Iraq. This is December of 2001. Sitting in for the Army that day, as a member of the Joint Chiefs, we were told by the Chairman that the people on the third deck were thinking about going to war in Iraq and that General Franks was being given planning guidance to start to put plans together to do that. We were surprised by that. I remember my own reaction was why are we doing that, and why now? We have to finish this Al Qaeda. We haven't even begun to deal with the Al Qaeda yet. So

what we argued for, and lost the argument, was to delay and finish the job with the Al Qaeda in Iraq [sic]. And we were not doing a very good job with the Al Qaeda in Iraq [sic], as it turned out to be. Tora Bora took place that month. You know, we depended on the Northern Alliance to go after them, which was a mistake on our part and it was then that General Franks requested the 101st, John and I's great division to come over given the mountainous terrain. But then they micromanaged the size of that force and the capacity of that force to a fault and we had a minimal strategy against going after the Al Qaeda. So our strategy in Afghanistan wasn't right after the invasion in any event.

But the reality is, is that we wanted to slow it down and we did slow it down until 2003. But it was not going to be slowed down any more than that, I think mostly unstated to us, because of the upcoming election. You know, wanted the war done, over with before the 2004 election, before the political election season started. I mean, I don't ... no one's ever said that. I'm just deducing that myself because at some point, we were not able to push any more delays in the system. There was a wall there. In terms of should we or should we not go to Iraq, look it. I was there taking a briefing from the CIA as the other generals were and there was – and we threw softball questions back at them because there was no doubt in our minds that they had WMD. That had already been verified before. If anything, in our minds, it had increased. And you've got to – just be straight out with you. I mean, the guys who were telling us are the same guys that have never been guilty of overestimating somebody's capability. All right? They were always underestimating somebody's capability, whether it be Libyans, Koreans, Russians, etc. That's been the pattern and we were very much aware of that pattern. But to be quite frank about it, just as there was a groupthink in the intelligence community, I think as senior military leaders and somewhat as policy advisors to the Secretary of Defense, we were not challenging that basic premise that WMD was there. And I personally believe that going to war in Iraq made sense given the fact that WMD was there. I agreed with the policy of containment prior to 9/11. Post 9/11, I agreed with the policy of confrontation and that you could not tolerate radical Islamists getting their hands on weapons of mass destruction, particularly given the evidence that was beginning to come to us as a result of the information we acquired in Afghanistan and what their serious intent was to use, to try to achieve two or three WMD events in multiple cities in the United States near simultaneous with the single purpose of primarily collapsing our economic system because it rides on the trust and confidence of the people participating in it, and therefore force the United States to pull back from the world. I mean, that was their objective. And we believe, I was not aware of any direct connection between Saddam Hussein and the Al Qaeda, I'm not trying to suggest that, but I am suggesting that he having WMD, having used it in the past, the United States is a major opponent of his, post 9/11, the Al Qaeda is clearly identified as a major strategic opponent. In our minds, it was inevitable that these events could come together and it was not in our interest or the stability of the region's interest to permit it to happen. So there was no push back on the go to war decision in Iraq. The only push back we gave them was over the timing of it and you can quarrel with us certainly as to whether we were right or wrong about that. But I don't think there was, for any of us, there was an issue that would have brought a resignation or something to that effect along those lines mainly because at the end of the day we believed you had to deal with Saddam Hussein at some point. Now, I would have, by delaying, I certainly also would have hoped that we could do something short of war in having to deal with them. Buy as much time as possible. Little did we know that he was giving up those weapons. I mean, we've been always wrong about Saddam

Hussein from the inception. You know, and we were wrong about him right up until the end that he would give those weapons – not that he would give the weapons up. But we know why he gave them up now, but he would – he gave them up the same reasons why the others in the region were. But the fact that when the invasion was imminent, what is astounding, looking at it through the prism of the west, that he wouldn't tell us to forestall the invasion and actually prove it to us. That he would accept the invasion, knowing what that invasion meant, having been through it before 12 years earlier. He knew what the outcome would be. So we've always been wrong about Saddam Hussein. I don't know if that answers your question.

Q: (LTG (Ret.) John Miller) Again, General Keane, we are deeply indebted to you for being present with us today, sharing your invaluable and insightful experiences and highlighting many, many issues for us to think about, especially our majors and SAM students who are on the way up are going to end up in positions of strategic influence and, God willing, strategic decision making. I guess, the bottom line is, it ain't easy and you've got to have the courage of your convictions and you've got to know where your north-seeking, moral compass is everyday on the way.

A: Well, thanks a lot. I enjoyed being with you.

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Era of Persistent Conflict and Beyond*

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*How do we Distinguish Rules for War Fighting from
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Law of War threatens National Security and Constitutional Rights*

Michael H. Hoffmanxxx

Ethical Issues in Counterterrorism “War”

by Dr. Martin L. Cook

*Admiral James Bond Stockdale Professor of Professional Military Ethics
United States Naval War College*

Current uses of US and coalition military forces depart significantly from the ethical and legal paradigm that has structured strategic level thinking about military force for several centuries. The nature of the adversary, the religio-political goals of that adversary, and its geographical dispersion all challenge the model of just war as interstate conflict that has defined our strategic thinking.

The traditions of just war are, however, much older and deeper than that paradigm alone. This paper will argue that we will need to reach back to those deeper ethical principles and model as we begin to think about the ethically acceptable patterns for the use of force for the future. Naturally, since the processes of formation of international law are slow and always lag behind events, it will take some time for the legal frameworks to adjust so that we have a widely shared legal framework in which to assess these challenges. But in the meantime, lest we are to simply work without principles at all, we will need the guidance that helped launch the Western just war paradigm at its very point of origin. This paper is a modest contribution to that effort.

The Origins of the Just War Idea

The earliest Christian Church had a strong bias against use of force and participation in the military function of the government. Grounded both in the teachings of Jesus regarding nonviolence and the practical reality that participation in Roman government would require participation in pagan religious ceremonies, the early Christian Church maintained a “hands-off” attitude toward the government. But with the conversion of the Emperor Constantine, the possibilities of a Christian Roman Empire, and an increasing military threat to the stability the Empire itself, the Christian Church progressively made its peace with the necessity of government and use of force.

The major transition occurred, of course, with St. Augustine’s careful distinction between the City of God and the City of Man. From Augustine’s foundation, the church over a long period of time developed an increasingly complex and nuanced just war tradition which allowed it to articulate an intermediate position between pacifism on the one hand and realism’s untroubled acceptance of the use of military force on the other.

With the Enlightenment in Western Europe, this initially religious tradition is increasingly secularized. Profound thinkers such as Hugo Grotius felt the need to free the tradition from its religious moorings and to create a moral tradition of just war that would be valid, as he said, “even if God did not exist.”

It is the secular version of the tradition that becomes the foundation of secular international law as we have it today, and which forms the moral and legal framework within which acts of military force are justified and judged.

For our purposes, it is not my intent to rehearse the history of the development of just war tradition. Rather, I wish to take it in its developed form, and look at the particular moral and legal challenges raised by the unusual character of the current “war against terrorism.”

As we will see, the nature of this conflict raises issues and challenges that have not been faced by the just war tradition in a number of centuries. As such, the existing black letter of international law may prove to be less relevant to guiding our thinking about this challenge than the older and deeper philosophical and religious roots of the more ancient just war tradition.

The existing just war framework

The just war framework divides judgments about war into two essential elements. On one hand, there are those judgments that a particular political circumstance justifies recourse to military force for its redress. The tradition inherits from its Christian roots a strong bias against the use of force, and a presumption that means short of use of force are in general preferable to military solutions to political problems. But it balances that bias with another: the presumption that evil should be punished and that stability and order must be maintained, by force if necessary. These aspects of just war theory attempt to establish some standards of judgment and some categories to be applied to determine that in a particular set of political circumstances use of force is justified.

Collectively, these judgments are referred to by their Latin term *jus ad bellum*. The main provisions of this requirement are that there be a just cause for the war, that the war be authorized by a right authority, that there be a reasonable hope of success, there be a proportionality between the gravity of the cause of the war and the foreseeable destruction redressing that cause will bring about, and that use of force is indeed the last resort.

The just cause aspect of *jus ad bellum* is meant to establish a threshold of gravity of offense sufficient to justify use of military force. As this tradition is developed throughout history, various things are counted as just causes. For example, in the Middle Ages “offended honor” was considered a just cause. Because the intent of the tradition is to restrict the use of force, there has been a tendency, as the tradition has developed, to narrow the range of just causes. In its contemporary form, just cause is largely restricted to “aggression received.” In its simplest form, aggression is manifest when one country’s tanks are on the wrong side of the border.

The requirement of right authority was initially meant to put a limit on private war or wars not authorized by a legitimate government. This was, of course, a real problem in the Middle Ages, where local aristocracy had private armies at their disposal; and it is increasingly becoming a real problem again as non-state actors such as al Qaeda also possess military power uncoupled from responsible governance structures.

In the modern context, except for absolutely and unambiguously defensive wars, in theory the creation of the UN restricts right authority to the Security Council of the United Nations. The intent of the creation of the United Nations was to restrict warfare as a normal means of international resolution of dispute. In theory it ceded to the Security Council the authority to make determinations that conditions were threats to international peace and stability worthy of redress by military means. Naturally, member states of United Nations retain the right of self-defense, but once again this was restricted to unambiguous circumstances.

Within the United States, there is an ambiguity about right authority. As we all know, the Constitution provides that the President be the commander-in-chief of the armed forces of the United States, while reserving the power to declare war to the Congress of United States. For much of our history, this division actually made sense, since the presumption would be that there would be no large standing military force, and that the Congress would have to authorize money to raise an army to fight any significant war.

But the historical abnormality of the Cold War left us with a different situation. In this circumstance, due to the urgency of the Cold War threat and the need to have standing military forces ready to respond promptly, the President was left with a standing military force that could be deployed on presidential authorization alone.

Since the Vietnam War, Congress has attempted to restrain this unilateral authority of the President through the War Powers Act, but all Presidents have held that the War Powers Act is unconstitutional, and neither the executive nor the Congress has chosen to force the issue to the Supreme Court.

Justification of the recourse to military force also involves a global proportionality assessment.

This is a judgment that the issue to be resolved is in some reasonable proportion to the amount of damage anticipated by the use of military means.

The reasonable hope of success criterion is essentially a commonsense test. Since the use of military force will inevitably involve destruction of property and probably deaths of human individuals, any morally serious defense of use of force must be able to convince itself that the issue being redressed by that use is likely to be effective. Otherwise, the destruction is purely gratuitous.

The requirement that use of force be the last resort is the final criterion of *jus ad bellum*. The essential idea here is that if there are non-military means of redressing the fundamental issue, they should be tried if possible. This is not, of course, a wooden requirement that everything conceivable be tried. Instead, it is a commonsense test that things that show any promise of being successful be tried. You will recall that this was the central debate in anticipation of the Gulf War: would another trip by the Russians be effective in getting Iraq to withdraw from Kuwait? Was further UN negotiation likely to be effective?

The other wing of just war theory is *jus in bello*. Here we are invited to make judgments about how war is conducted. The central moral principles here are discrimination and proportionality. Discrimination concerns the accuracy of weapons and targeting. The idea here is that some individuals and targets are legitimate military targets, while others present in the battle space are civilians and civilian objects, immune from deliberate attack.

Military planners are morally obligated to choose weapons and tactics that as far as possible allow attack of the former while avoiding damage and destruction to the latter.

Proportionality captures the commonsense test that the amount of destruction visited on a particular object or site is proportional to the military value of the object.

Application of Just War Criteria to the War against Terrorism

While the criteria I have articulated have been the mainstays of just war thinking for many centuries now, there are some distinct conceptual problems applying this tradition to the current engagement against terrorist organizations worldwide.

The first and most obvious difficulty is that the just war tradition since the Peace of Westphalia in 1648 has been organized around the principle of sovereign states. You will recall that, prior to the Reformation, Europe notionally was a unified Christian civilization. Nationality was in principle, and often in practice, subordinated to a common loyalty to the Pope and the ideal of Christendom.

After the Reformation, and after the wars of religion that followed, it became obvious that the idea of a unified Europe was no longer possible. After a couple centuries of religious war attempting to restore that unity in the name of one form of Christianity or another, the states of Europe accepted at Westphalia that there would be a new international order, dominated by sovereign states. These new sovereign states would have the twin rights of territorial integrity and political sovereignty. In other words, peace would be gained in Europe by allowing each state to control its own internal affairs. In practice, this meant that Catholic states would persecute Protestants, and Protestant states would persecute Catholics. But international stability was to be bought, as we would say in modern parlance, at the price of human rights.

This means that only states can truly wage war against one another. Therefore, when we use the term “war against terrorism,” we are not using language precisely. Of course, in the case of Afghanistan, the fact that the Taliban government of Afghanistan was unwilling to produce the *al Qaeda* representatives within its territory made it possible to conduct war against the *de facto* government of Afghanistan, as well as against the terrorist groups whom they harbored.

But as our engagements with *al Qaeda* extend globally, the character of that engagement will change dramatically with reference to the various states in whose territory they may be found.

Some states, such as the Philippines and Georgia, may invite American forces to operate with their own forces to suppress terrorist organizations they have internal reasons for wanting to suppress. Some states, such as Pakistan, may have governments willing to act to suppress and locate *al Qaeda* representatives, but at considerable domestic political risk to their own government's stability. Some states may be too weak, even if willing, to act against *al Qaeda*; some may indeed actively support or covertly be willing to tolerate terrorist presence in their territories.

Given that complex picture, how do we begin to think about our relationship to these various situations? The modern theory of state sovereignty would counsel that every state is free to do within its own territory whatever it chooses. Presumably, that freedom includes harboring individuals and groups that are unpalatable to other states. But clearly, it is our intent to pursue *al Qaeda* wherever we may find it, if necessary in the face of resistance or noncooperation from the government in whose territory they may reside. What justification in terms of just war can there be for such interventions?

Obviously, there is no great ethical or legal question involved with states that choose to cooperate in our efforts. They are clearly acting within the scope of their sovereignty to invite us to assist them to locate and defeat terrorist groups internal to their territory.

But what about those states that do not cooperate, either from inability or from unwillingness? The standard of Westphalian respect for territorial integrity and sovereignty would argue strongly against granting the US or even a coalition to intervene in such circumstances – at least in the absence of an authorizing resolution from the UN.

But it may be that the era of Westphalian sovereignty is fading. Recall that the *moral* tradition of just war (as distinct from the specific *legal* tradition) is much older and more robust than its particular instantiation in formal international law in its post-Westphalian form.

In his “Letter to Count Boniface,” (Letter 189) Augustine urges Roman military commander Boniface to see his military service in resistance to barbarian invasion as a mournful but necessary duty. The necessity of fighting has been imposed by those who have disrupted the relative peace and order of the Roman Empire, and not by Boniface's will.

Writing from his home in North Africa to this senior military officer after Rome itself has already fallen, Augustine invokes Jesus' saying, “Blessed are the peacemakers” and applies it to the conscientious soldier who, by using arms against the barbarian, is attempting to restore the peace that has been broken by invasion.

The temporal peace Augustine urges Boniface to restore is not, by any stretch of the imagination, the perfect peace of the City of God. It is the lesser temporal order of the Human City – a “tranquility of order” in which there are still many who are miserable, but within an overall framework of order. Individuals in that order may be wretched, Augustine grants, but “they would ... be far more wretched if they had not that peace which arises from being in harmony with the natural order of things.”¹ Augustine realizes that, in the conflict between the barbarians and the Roman army in his lifetime, the stakes are literally the collapse of civilization as his world had known it for centuries. He realizes that what follows, if Rome is defeated (and what did follow, since it was!), was not just a rearrangement of the individual miseries of his world. What follows is the Dark Ages, from which centuries will be required before even a flicker of civilization reappears in the Western Roman Empire.

What is the relevance of this ancient discussion to the current Global War Against Terrorism? Like Augustine, we are now dealing with threats and challenges that do not fit the model of state sovereignty that has defined the Westphalian world for the past four centuries. What is threatened by *al Qaeda* is not captured in a conceptual model which thinks of wars as conflicts between states, or in which what is at stake is the prospering or survival of a particular state's political order or territory.

If *al Qaeda's* fondest hopes were realized, what would fall is not the United States of America, but rather the entire world order created over centuries by the forces of capitalism, Enlightenment rationality, modern science, and political democracy.

It is fashionable, of course, to criticize the miseries created for many groups and nations by that civilization. There are, indeed, many valid and important questions to be raised about the effects of globalized trade, the World Trade Organization, or the spread of American culture across the planet. But it is no more of the essence of the argument to idealize our civilization than it was for Augustine to pretend that Rome ruled a world of sweetness and light. Moral seriousness requires, instead, asking “if this civilization falls, what comes next?”

There is always room for reform and change under an umbrella provided by Augustine’s “tranquility of order.” The sober assessment of the situation asks not about the perfection of order, but about the cost of its collapse. One intellectual disease of much of modern liberalism and many a modern university is a kind of moral utopianism which one-sidedly dwells on the deficiencies and injustices of existing civilization.

Such a perspective neglects entirely to balance moral criticism of imperfections with an equivalent recognition of the value of order. Such thinking is then squeamish about the reality that such order is always maintained by power, often in ways which are less than perfect or ideal.

Such moral utopianism fails entirely to provide a moral and conceptual framework within which real-world political decisions can be made. One finds such views, for example, in perspectives that attribute responsibility for the attacks of September 11 exclusively or primarily to elements of American policy and conduct – while not recognizing the absolutely essential role of America and her power in maintaining what passes for “tranquility of order” in the modern world.

When one contemplates an absence of that order, few can improve on Thomas Hobbes’ description:

Whatsoever therefore is consequent to a time of Warre, where every man is Enemy to every man; the same is consequent to the time, wherein men live without other security, than what their own strength, and their own invention shall furnish them withal. In such condition, there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short.²

What I am suggesting is that we may well be at one of those historical moments when a real shift in our thinking is required. It is not the just war framework of the post-Reformation Westphalian order that provides the deepest insight to our circumstance – although the fact that black letter international law presupposes that order makes harmonizing our challenges with that form of the just war tradition necessary and important. But the terrorist challenges are not fundamentally challenges to particular states, but rather to civilization itself as we know it.

For all the brutality of its foundations and conduct, the *Pax Romana* was, for Augustine, clearly an order worth defending; no less, the *Pax Americana* in our time and place. Indeed, a striking fact about the early Christian church is, for all its ambivalence about serving in the Roman government, there was never the hint of a doubt that the stability, safety, and ease of travel made possible by Roman power was a gift of God. Similarly, it does not require much imagination to imagine the human consequences of a collapse of the complex and interlocking structures of the modern international system. Of course, there’s plenty of misery in our world, but it pales to insignificance

in comparison to an abrupt break or collapse in the structures that keep it intact.

The most fundamental point of the evolution of a just war perspective in the Christian church was a resolute embrace of the realm of practical politics as a locus of moral seriousness. The temptation to flee the world of moral ambiguity and shades of gray is, of course, a powerful one – a tug no morally serious person can avoid feeling. But it is, from the core of the just war perspective, a temptation to be resisted in favor of the hard, messy, and (as Augustine put it) “mournful” work of sustaining relative goods in the face of greater evils.

Moral Cosmopolitanism

The core of my argument so far has been that the particular form of just war embodied in most international law of the modern period is conceptually ill-equipped to guide us in thinking about the war against terrorism. So far, I have stressed the older core concern of just war: the need to maintain global order and stability as a precondition for any other improvements in the lot of global humanity.

That, of course, was Augustine’s argument in support of the moral importance of the Roman Empire. But his was an argument that, morally speaking, began and ended with order itself. In the modern context, after centuries of development of traditions of the rights of human individuals and groups, with talk of self-determination of peoples, we would be remiss if we ended the argument there. Clearly, these traditions provide conceptual means of “reaching through” even the most stable of orders in the name of principles that transcend the state and the empire. How are those principles to be given sufficient weight, without lapsing back into the kind of moral utopianism I have so roundly criticized?

Here, it is important to remember what questions we were debating before September 11. For many years, since the end of the Cold War, the debate had been about the diminishing character of national sovereignty. The possibility that, now that all questions were not run through the filter of Cold War politics, the world would really evolve toward more cooperative international relations and genuine guarantees of human rights dominated the discourse.

The conflict in Kosovo, whatever one thinks of its wisdom, was (morally speaking) a genuinely new thing: use of military force in defense of human rights, where the national interests of the interveners were minimal. To Secretary of State Madeline Albright, this represented moral progress: finally the US and the world would put some teeth into the Genocide Convention and other human rights treaties. No longer would state sovereignty provide cover for states that fall below an acceptable international standard of conduct.

Of course, harmonizing such an internationalist perspective with state sovereignty was complex – witness the unwillingness of China and Russia to authorize such action in the UN Security Council. Honest advocates of the Kosovo intervention grant that, in terms of existing international law, the intervention was at best “necessary and desirable, if illegal.” Witness also the deep ambivalence of the United States to commit its military forces to “nation building” or to subordinate them to United Nations or Coalition command.

But ironically, the war on terrorism raises the same question of internationalism in a way that is superficially different, but at a deeper level much the same. It is the debate that is swirling around all questions of where that war goes next – most clearly, but hardly only, regarding Iraq. Unlike the Roman Empire, the US has the reality of world opinion, of international institutions and non-governmental agencies, and of the world press to contend with.

The Bush administration often talked as if the realities of American power made absolute unilateralism about how to proceed next a real possibility. But as a practical – never mind moral – matter, that is very difficult. Military operations on any large scale will be impossible without

international cooperation in granting of basing rights, overflight privileges, intelligence sharing, etc.

But just as the pre-September 11 issues raised the question whether, in the words of George Bush the elder, a “new world order” might arise from the end of the Cold War, so does the war against terrorism. In the long run, a global or coalition effort against terrorism will only be possible if we as a world community can come together on shared definitions of conduct that will not be acceptable. If thresholds of what constitutes unacceptable terrorism, just like thresholds of what constitutes genocide, can emerge as a global consensus, a new understanding of the meaning of sovereignty will emerge.

If that is possible – and it is a complex and subtle diplomatic task, to be sure, to sustain that consensus – then unlike Rome, which faced its barbarian invasions alone, the US can lead a united civilized world against the new barbarians. If that consensus can be built and maintained, the tranquility of order will be built on more than power – although the importance of power should never be neglected. It will be a new world order based on shared values, sustained and defended by power wielded in the name of, and with the support of, a united world defending its common civilization. Clearly, recent moves by the Obama administration to reenergize the UN system are efforts in that direction. But if not the UN, clearly other forms of less formal internationalism will be required if the objective challenges posed by the global threat are to be countered effectively.

The views expressed in this article are those of the author and do not necessarily reflect the official policy or position of the Navy, the Department of Defense, or the U.S. Government

Endnotes

- 1 City of God, 19.
- 2 Leviathan, 13.62

Building Moral Resources for an Era of Persistent Conflict and Beyond

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In the multidimensional, highly complex, and morally ambiguous realm of combat—and counter insurgency operations (COIN) in particular—Soldiers and leaders must be tactically and technically proficient, and imbued with leadership and teamwork skills. More importantly however, they must be imbued with strong character to use these abilities to positively and ethically influence their followers and organizations and execute the conduct of war in an ethical manner. After their first reenlistment—and often before—every Soldier becomes a leader, and it is leaders who are responsible for the moral development of followers as well as the moral culture and climate in their unit. Simply, moral leaders decide and do what is ‘right’, reinforce and role model ‘right’ for others, and develop followers to have similar capability for moral thought and action¹. We will later discuss, however, that ‘right’ is often an abstract and complex phenomenon.

Based on the nature and strategic importance of our current conflicts, it can be argued that there is a need to accelerate the moral development of leaders in our Army. Historically, our Nation has suffered strategic level consequences when character based leadership was found lacking in leaders and units. My Lai, Abu Ghraib, and Mahmudiya stand out as three of the most obvious examples. However, even the Pat Tillman case serves as an example that leaders at all levels are not immune from the absolute necessity to exhibit character based leadership. Our current decentralized tactics further push decision-making down to lower levels, demanding more strength of character from our junior leaders as they must bear the weight of an increased load of ethical decisions.

We note clearly our position that the vast majority of Soldiers and leaders do the right thing, time and again, and are able to do so under the most challenging of situations. Thus we take a positive perspective and ask not how can we fix leadership in the Army, as it is not broken, but how can we harness the best practices from across the Army, as well as draw from best practices from academia and other DoD, public and private organizations; and target those practices to accelerate the moral development of Army leaders and their units? How can we build moral “resources” in leaders and units to withstand the moral demands of combat?

While moral development is central to leadership, as are leaders to the moral development of their units—as noted by Snider and colleagues²—the Army lacks an explicit model or framework to guide such development. There is no doctrine outlining the developmental framework for Soldier or leader character development. Field Manual 6-22 outlines Army Values and defines ethos, ethical orders and other terms—essentially informing us of what a leader must be and do—but doesn’t inform us of how we build such leaders. Further, from an institutional perspective, what moral and ethical development that does occur has too often been thought of as the domain of lawyers, chaplains, and policy implementation offices (e.g., sexual harassment or equal opportunity). Such efforts often manifest in required training, briefings, policy letters, or other codifications which serve to train or inform, but not to adequately *educate and develop* leaders. While the Army legal, chaplaincy, and other professions surely play a large role in the character developmental process, foremost in being a resource to commanders, we argue that moral and ethical development is at the end of the day the purview of leaders and is a responsibility that cannot be delegated or abdicated. Lacking a purposive framework to inform and guide leaders in this duty, however, most Army

moral development occurs through “on the job training”, tacit learning, or through observing exemplar role models. While these processes do in fact aid in development³, research shows that they do not accelerate development as well as more deliberate and intentional processes.⁴ We as an Army intensely train for areas of competence. *Thus, should we not equally focus on domains of character?*

We reinforce that moral development is a life-long journey; thus, entry into the Army should only be looked at as a waypoint and not as a start point or end state. In fact, a study conducted by West Point researchers found that officers in the rank of major, averaging in excess of ten years of service, were still developing morally, and that on average had not yet achieved the higher levels of moral development attainable.⁵ What are the implications if these findings are correct and the second ranking officer in a multi-hundred Soldier battalion is still morally developing? We thus must take a holistic view of the force and target development throughout leaders’ Army careers. Such development is critical because when determining a leader’s credibility, followers assess both their character and their competence⁶.

Leader competence entails technical and tactical knowledge, intelligence, decision-making skills, and interpersonal social skills. A leader’s character, conversely, is the combination of values and attributes that define who the leader is as a person. Thus, leaders’ character will influence what their core values are, how they establish a command climate, how they interpret situations, think about their leadership duties and style, what they demand and inspire in followers, the decisions they make, and most importantly, how they behave as leaders⁷. Subordinates will willingly follow the directives of leaders they trust and will put forth extra effort and assume a greater degree of risk to accomplish the mission. On the other hand, subordinates who do not trust their leaders may question orders and perhaps take measures to minimize risks to their personal safety against orders. The bottom line is that in order to lead effectively, especially in extreme situations such as combat, leaders must earn their subordinates’ trust and respect⁸. The latitude that allows the leader to be directive in combat and still gain the commitment of their followers must be built over time and prior to ‘game day,’ through the exercise of consistent and trust-evoking moral leadership. And importantly, in this era of persistent conflict, the time between ‘game day’ and a young private or lieutenant’s ‘start day’, is often very short—emphasizing needed acceleration of moral development processes.

In this paper we make a call to arms for leaders across the Army to start an intense and frank dialog to answer critical questions to guide the force through the current and future conflicts. We are at a critical time in our Army’s history and one that may have transformational effects on the future of the force. We encourage the Army to create and get involved in a vibrant ‘conversation space’ to advance how we might accelerate the education and development of character based leaders. We offer the below set of eight questions as a starting point and hope they capture the imagination of the Army and generate many more questions. We then present select concepts that might begin to stimulate as well as provide frameworks for parts of the ensuing dialog:

1. What do we believe in as an Army (i.e., Professional Military Ethic); what of these beliefs are explicit and which are less tangible or implicit parts of our culture; and how do those beliefs influence our thoughts and behaviors in both peacetime and war?
2. Why do we have these beliefs and are they applicable and proper for the future of the force?
3. Are there topics in our Army that are explicitly or implicitly “off-limits” to discussion? Why is that? Will we be better off discussing these topics?

4. How do we recruit and select members that have the proclivity to inculcate what we as an Army believe in?
5. By what processes, systems, and methods do we educate and develop members across all ranks and components to inculcate the professional ethic?
6. What methods do we use/should we use to develop ethical decision-making capacity as well as moral identity, moral courage and a sense of moral ownership in Soldiers and leaders.
7. How do we educate and develop members to become authentic leaders who can self-author their behavior and operate in contexts where professional ethics cannot provide clear answers?
8. How do we build unit climates and cultures nested at all levels of the Army that promote the moral development of unit members and provide the moral resources to sustain ethical behavior during protracted conflict?

Toward Advancing an Army Framework for Moral-Ethical Development

We start with a multilevel approach to building moral resources for the Army and display this theoretical, yet practical, framework in Figure 1. As shown by the arrow moving from outside circle to the center, as individuals join the force they are socialized through various formal and informal processes with the aim of inculcating and internalizing the values, beliefs, and ideals of the profession. These individuals are then embedded in a unit culture and climate established by the unit's leaders. This culture and climate then influences their moral thoughts and behaviors, which is in turn, embedded in a larger strategic level Army culture and climate, which is continually faced by various external pressures (e.g., technology, societal changes, political). As shown by the inner circle, individual members are then held responsible to continually build and reinforce that culture—the responsibility for which increases with rank. Leaders at all levels should intentionally focus on developing and nurturing this climate and culture; and this enormous responsibility serves as the focus of this paper.

Through this dynamic process of members entering and being socialized into the profession, then over time becoming the leaders of the profession, changes can occur in the Army culture and associated values, beliefs, and ideals over time (e.g., generation differences). An organization's culture and command climate is critical as it consists of a shared collection of implicit and explicit values and assumptions regarding the appropriate way members should perceive, think, feel, and behave in relation to dealing with each other and their environment to accomplish unit missions and reach unit goals. Thus, the organization's culture has a significant influence on the values, attitudes, beliefs, and behavior of its members. At the center of the profession is the Professional Military Ethic, which we define here broadly as the canon of (implicit and explicit) values, beliefs, ideals, codes, and principles that define our moral character as a martial profession. *(continued)*

Multi-Level Approach to Building Moral-Ethical Resources

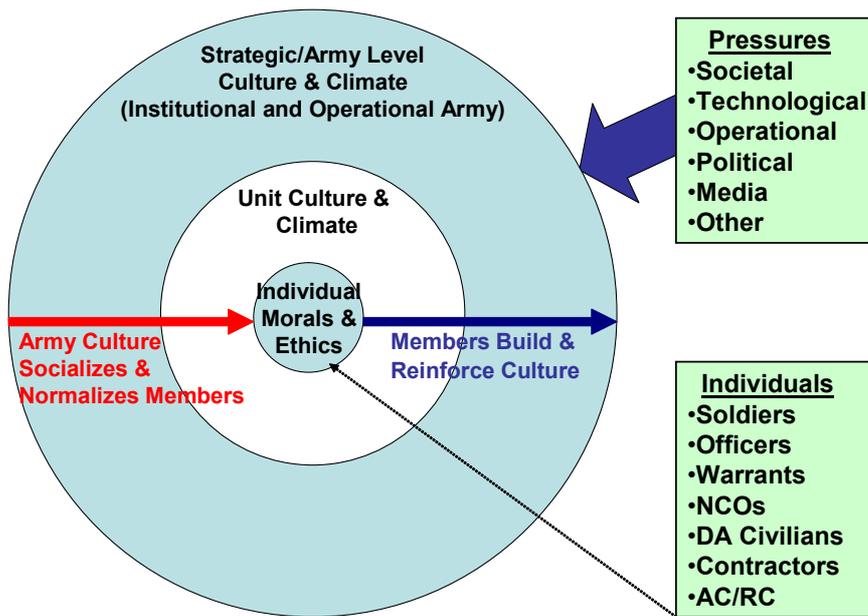


Figure 1.

We currently lack, yet greatly need, a framework to better understand and improve this multilevel process and its effects on the development of individuals and units. Such a framework should account for actions and responsibilities for both the institutional Army (e.g., schoolhouses, training centers), as well as the operational Army. We hold that the development of a framework for developing a moral climate and culture in military units requires, 1) highly-developed moral Soldiers and leaders at the individual level, that 2) intentionally and thoughtfully interact to further promote moral thoughts and behaviors in their groups and social networks, and that 3) through these positive, moral social interactions a culture and climate will emerge that further strengthens and reinforces the “moral fiber” of the unit, and ultimately, the Army.

Our view is that true moral culture and climates cannot be mandated (or taught by stacks of power-point slides) but emerge and are sustained through processes of social interaction, education, and development. Progress along these lines might be made if the Army’s culture adapted such that moral development was conducted as part of the “hidden-curriculum” in everything we do. Further, character based leadership education and development can be more purposively integrated into the fabric of our school houses, training centers, and unit installations. Through such holistic and seamless approaches, we as an Army might never again spend an hour looking at power-point slides for “ethics training”. Why, for example, is there not a “Ethical considerations” paragraph to the OPORD, and seamless integration into war gaming and AAR processes?

Leaders may intentionally impact this development process by 1) morally developing Soldiers and subordinate leaders through education, role modeling and other methods, as well as integrate those *character development* experiences *seamlessly* with *competency training*, 2) setting the conditions for high quality social exchanges between these individuals as well as the psychological safety (e.g., non-attribution) for all unit members to discuss and challenge moral decisions; and at

the organizational level, 3) establishing systems, rules, and norms that promote, reward, and sustain moral engagement and behavior.

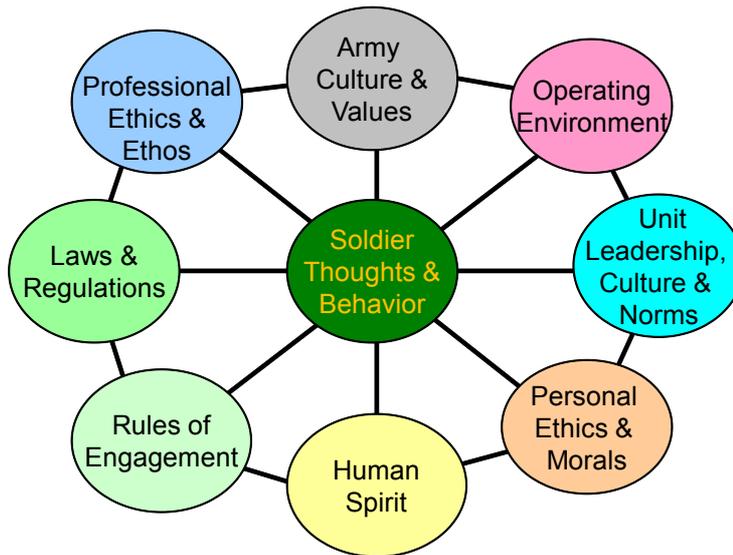
Ethical Development is a Multidimensional Problem

As we begin to advance a multilevel framework for building ethical Soldiers, leaders, units and organizations, we must also address the complexity of the developmental process. As an Army, we often speak of the “Professional Military Ethic,” or PME. Strictly defined, the PME includes those things that as a profession we believe in and hold dear to our culture and institutional identity. Snider et al, suggest that the values and norms of the profession can be thought of as distinct from the values and norms of the individual professional.⁹ We agree and hold that this is because:

1. There is an extensive process of internalizing the PME that may take a matter of years depending upon how effectively that process is accelerated for any individual Soldier or leader. Thus at any point in time the individual values, beliefs, ethics and other attributes of any individual will likely not perfectly match that of the profession;
2. Individuals come to the profession with distinct morals, values, beliefs and aspects of the human spirit that they will always hold onto to reinforce those of (or perhaps despite those of) the profession, and;
3. The PME can never envision nor address the full breadth of complex moral dilemmas that individuals will face nor the varying extenuating factors that will be present during any dilemma.

Here we expand upon the thoughts of Snider et al., and encourage an even more refined discussion of those factors, including yet extending beyond the PME, that influence the moral thoughts and behaviors of individuals. Figure 2 displays examples of the dynamic influences that may bear on a Soldier or leader at any one time and influence their thoughts and behaviors. These factors range from strict codifications such as laws and regulations, through the more adaptable yet still codified rules of engagement (ROE), the ethics of the profession (PME), unit culture and norms, and extend through to personal ethics, morals and beliefs, values, and aspects of the human spirit. We hold that if we are to accelerate the development of Army Soldiers and leaders that any framework for that development must address and serve to build on these varying factors in individuals and units. Further, we suggest that such a multidimensional framework should explicitly address and seek to mitigate potential divergences between the PME of the institution and those of the individual. *(continued)*

Dynamic Influences on Conduct



- Different soldiers may “weight” the influence of each component differently
- The same soldier may weight influences differently in different contexts

Figure 2

As an institution we understandably focus most on professional ethics. If the Army is to conduct a useful discussion of the PME, and how the PME fits with the other factors shown in Figure 2, however, we must first define and develop *what the profession is*. Further, does the Army have a *profession* or *professions*? The answer to that question then further leads to the question of whether in practice we have an *Army ethic* or *Army ethics*? Or perhaps *should* we have an *Army ethic* or *Army ethics*? The Army, like all large institutions organizes itself largely by expertise specialization. Some example institutional Army specializations include science and technology, acquisition, legal, medical, chaplaincy, financial management, education, public works, and public affairs. In the operational Army, skill stratification is based on maneuver, fires and effects (e.g., infantry, armor, or artillery), operations support (e.g., military intelligence and signal), and select force sustainment specialties (e.g., logistician). Further, the total Army force includes active and reserve components, Army career civilian workforce, and a political appointee workforce.

The Army does not require all members of the total force to have the same professional expertise (e.g., Army Dentists are not trained in Infantry techniques nor vice versa). It is professional expertise, however, that is one of the primary factors defining what a profession is.¹⁰ We are not at this point suggesting that the Army be stratified between professionals and non-professionals, but that if we are to advance a PME that it may be useful to identify professional (or sub-professional) boundaries and determine what ethic might best serve the missions and functions of each grouping and which might apply to all. For example, only a portion (e.g., doctors, nurses and physician assistants) of the medical community are considered medical professionals, yet other workers, some of which may be considered professionals (e.g., medical lawyers, medical equipment engineers, or insurance processors) operate within the sector and are not held to all of the medical profession’s

ethics. It may be useful as an Army to ask questions such as whether the creed to “never leave a fallen comrade” is central to all portions of the total force, or whether, for example, a more useful creed to an Army depot professional might be to “never send a Soldier to war without the best possible equipment”?

The factor shown in Figure 2 that we as an Army tend to shy most from discussing—and much less engaging in development—is the domain of the human spirit, perhaps because it is often wrongly equated with religiosity. Yet all Soldiers and leaders hold spirit whether they seek to address that spirit through religion or not. The human spirit has often been cited as a critical factor in combat.¹¹ It is in seeking an understanding of their evolving spirituality that Soldiers and leaders will form and reinforce their self-identity, find their sense of purpose and meaning in life, form their own philosophy for viewing the world, and develop the standards that define for them what it means to live a good life. Regardless of one’s approach to addressing spirituality, whether it is through religion, the study of philosophy or ethics, the arts, or other means, all leaders must establish clear core beliefs and values and uphold those beliefs with conviction to be a moral leader—a leader of character—a leader who brings meaning to his or her missions, Soldiers, and organization.¹²

Further, as noted on the bottom of the figure, different Soldiers may weight the influence of each of these factors separately. Some Soldiers may tend to be guided more by the rules of engagement and laws, while others draw their guidance more from personal values and morals. Others may draw from internal sources of their human spirit, while yet others seek to comply with the norms and expectations of their leaders or unit members. Regardless of such weightings, it is clear that any framework the Army develops for moral development might best take a holistic approach and target a wide set of factors.

Moral Situational Complexity and Adaptability

In Figure 2 we suggested that a variety of factors will influence Soldiers’ and leaders’ thoughts and behaviors in any given situation and/or moral dilemma. Adding further need to take a more refined approach to moral development, we now propose that the same Soldier may weight each factor differently in their ethical decision-making across different contexts and situations. For example, one situation may prompt a Soldier to base their actions strictly on the ROE while in another he or she may draw more from his or her personal ethics. This differential weighting may be influenced by factors such as, 1) what factors are most present and salient in the context, 2) the level of development of the individual (such that less developed individuals often tend to look for outside guidance and clear rules), or 3) the complexity and dynamics of the situation. Therefore, beyond addressing the multiple factors influencing ethical thoughts and behaviors, it is important that in advancing a framework for development that these three and similar parameters are also considered.

The third parameter, the complexity and dynamics of the situation is readily apparent in the current conflict where Soldiers are often faced with morally-ambiguous situations and must make immediate decisions, often without the ability to consult with their leaders. We propose that in these situations, the codifications (i.e., ROE, laws, and regulations) are often insufficient or inapplicable. For example, in a recent interview a young leader who refrained in an engagement from using deadly force due to unnecessary risks to non-combatants stated that “we could have killed a hundred of them and still been within the ROE” (speaking of being faced with a crowd of civilians with enemy forces intermingled engaging this leaders troops with small arms fire). This highlights the need for Soldiers that are educated and developed along all dimensions displayed in Figure 2.

Defining the Moral-Ethical “Battlespace”

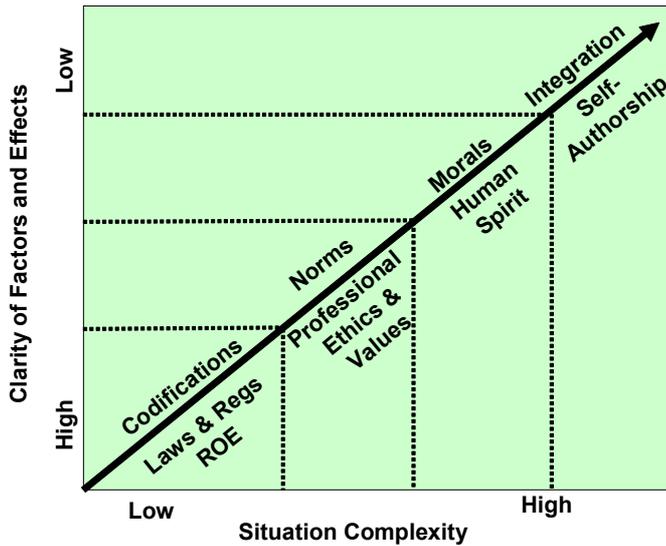


Figure 3.

Figure 3 attempts to portray a simplified example of the effects of situational complexity on those factors influencing Soldiers. Labels along the arrow suggest factors that may be sufficient to guide moral decision making and behavior. As shown, in conditions where complexity is high, coupled with a low level of clarity over the various situational factors available for use in decision making, as well as low levels of clarity over the potential effects or outcomes of behaviors, Soldiers and leaders must be able to integrate various sources of information and factors and ultimately “self-author” their solution. Conversely, in less complex situations where the factors and effects are clear, codifications may be sufficient to guide decision making and behavior.

In sum, what we attempt to make clear is that nowhere are moral development and ethical enlightenment more critical than in our Nation’s Army. To lead in combat, young men and women must have developed a highly accurate “moral compass” in order to manage the constant tension between personal morality and their role as a member of the profession of arms—a profession that must manage violence on behalf of the greater good. The dilemmas faced by Soldiers and leaders are like those always faced in battle – morally ambiguous situations where they have to choose between imperfect solutions, all of which may have questionable moral overtones and many of which will have strategic implications. Does a leader expose his Soldiers to enemy fire to save an innocent young child? Does the leader order her Soldiers to fire on a car filled with a civilian family that does not appear to be slowing for a traffic control checkpoint? Extended to garrison situations, does a leader punish a Soldier by reduction of pay knowing that his family already has financial problems? These examples should make clear that it is more important for the Army to focus on educating and developing *how* to think about and resolve such dilemmas than it is to focus on *what* the specific outcome should be. It is more critical to enable leaders to process such ambiguous dilemmas autonomously, without supervision, and to come up with the best moral and ethical solutions. Appropriately, as the philosopher John Stuart Mill stated, “Over himself, over his own body and mind, the individual is sovereign.” This leaves two important questions, however: Are we

as an Army willing to openly recognize and endorse such self-authorship? Are we willing to invest the time and resources in development required to develop such capable, character-based leaders?

Given tenets of the discussion thus far, in personal conversations LTC Pete Kilner has inquired whether the Army should focus on “principles of conduct” versus strict codifications or ethics.¹³ Much like the doctrinal Army principles of the offense or defense allow leaders to adapt implementation to meet the commander’s intent and situational variables, might moral principles be developed that serve as similar guideposts, yet offering room for thoughtful adaptation? Consistent with our Figure 3, Pete suggests that when rules are black and white they no longer serve to guide behavior in the grey. Further, even in a rules-based system often the various factors shown in Figure 2 are in conflict with one another. For example, duty to one’s Soldiers or peers (i.e. unit culture and norms) may conflict with the ROE or a regulation. Leaders must be able to sort through and adjudicate such conflicts through the weighting process mentioned earlier.

It would be useful to educate leaders specifically on how to deal with such competing values, yet still stay within certain principles. Specifically, education and development across our Army may focus on moral reasoning, ethical decision making, and behavior processes. It may be useful for example, to prompt Soldiers to examine moral issues through three lenses or perspectives: (1) what is right by the laws, rules, norms, or duties (*deontological processing*), (2) what produces the best consequences (*teleological processing*), and (3) what is the most overall virtuous action regardless of norms or outcomes (*areteological processing*).¹⁴ Each one of these three processing “lenses” may in fact produce a separate and distinct moral solution if viewed in isolation. Thus Soldiers and leaders must learn to simultaneously view moral dilemmas through all three lenses to understand all the dynamics of an issue and determine the overall best course of action. Such holistic processing has also been shown in research to be very effective in moral development, particularly if conducted in a group setting where ideas are exchanged.¹⁵ A culture promoting non-attributional dialogue (not one way conversations) is required for this growth and development to occur. Rigidly employing only one lens is problematic when trying to resolve a moral dilemma and may result in an insufficient solution. More importantly however, a dogmatic technique will often not result in any learning or growth.¹⁶

For instance, simply stating to a room full of Soldiers that “we do not harm non-combatants” is not sufficient as situations may very well pose the very dilemma to leaders where they have to choose between mission accomplishment and/or force protection and non-combatant casualties. A more holistic and pedagogically sound technique would be to *discuss and dialogue* on this subject, *as part of a situational training exercise*, with a focus on the three lenses listed above and across various permutations of situations. Then leaders will begin to understand the complexities of such moral decision-making. Again, moral education and development is best integrated into the fabric of our school houses, training centers, and operational units, versus conducting stand-alone “ethics classes.” By doing so are we sending a message that “now we are focusing on ethics training, and later we will be training on house-clearing operations -- and there is no overlap between the two”.¹⁷ Along these lines, we can think of no training exercise where ethical dilemmas could not be introduced and included in AARs.

In sum, just as the Army has started to focus on growing adaptive and flexible Soldiers and leaders for this new COIN and stability and support environment, so too must we increase the intentionality with which we focus on growing Soldiers and leaders to self-author their behavior with a strong moral compass – authentic leaders. The ability for such self-authorship, however, is a developed capacity and is at the heart of what is termed authentic leadership. Authentic leaders are those that are highly developed and self-aware and have the ability and willpower to act in accordance with their core values and beliefs. Thus, it is a tall order to develop Soldiers and leaders

to the extent that they are in fact able to integrate various factors and grapple with how those factors relate to who they are and their identity. Ultimately, however, such capacity is required at all levels of leadership, and certainly in our most senior leaders; highlighting the need for purposive accelerated development. Most importantly, such level of development will not occur through role modeling and observation alone—no more than we can expect to develop an effective Infantryman without deliberate training, education, and development; and then provide them with Doctrine, TTPs and other sources to support their operation.

Language for the Dialog

Our final point is that to engage in a robust dialog as an Army about our Army ethic, our culture, and the moral development of our members, we need a common language so that we may effectively communicate and ultimately create a “common moral operating picture.” We have attempted to offer here some terminology and frameworks that we hope will serve as a starting point for that clarification.

Conclusion

Our goal for this paper was to serve as a “think piece” for our Army. In it we offer few solutions yet pose many problems and dilemmas to consider as we pursue advancing the PME of the Army and the moral-ethical development of our Soldiers and leaders. We hope that some of the concepts and frameworks discussed here will prompt heated dialog, debates, and ultimately refinement. What is clear is that the Army and its leaders must take a more active and programmatic approach to accelerating the education and development of Soldiers and leaders of character. To accomplish this must develop a framework for and focus more attention and resources toward character development vice competence development. This would require a mental-model and cultural shift across our force.

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How Do We Distinguish Rules for War Fighting from Rules for Law Enforcement? :

Why Demilitarizing the Law of War Threatens National Security *and* Constitutional Rights

by Michael H. Hoffman

Introduction

Were the 9-11 attacks felonies, military raids, or acts of terrorism? This question has never been fully addressed; and strategic decisions have been taken on terrorism and war without a clear, supporting legal foundation put in place to support them. And so, we end the decade with deteriorating legal constructs for the rules of war on one side and law enforcement (broadly envisioned to include judicial due process as well) on the other. The quick erosion of legal distinctions between them threatens to undermine national security, a point that hasn't escaped frequent debate. Another issue is less obvious.

If we don't maintain clarity on the separation between rules of war and law enforcement, we risk losing the distinction between them. The emergence of large, private organizations waging international warfare for their own political ends-sometimes known as terrorist organizations-has forced novel legal issues onto states. The law of war isn't structured to address challenges posed by such groups. Peacetime rules for law enforcement don't address them either.

This creates a legal vacuum. So far, rules of law enforcement and due process have been migrating in to fill the void, in the process blocking out rules for war fighting- rules that states historically apply during military operations against hostile armed forces. (In this paper, rules for law enforcement and due process refer to legislative, judicial, and administrative law, both substantive and procedural, governing law enforcement activities conducted by civilian law enforcement agencies, the status and treatment of prisoners held pre and post-trial in connection with civilian criminal proceedings, and criminal trials conducted in civilian courts.) In effect, we are seeing the demilitarization of the law of war. The once clear distinction between standards for military operations and trials by military commission, and counterpart rules for civil society are fading away.

Civil liberties and human rights advocates doubtless welcome this trend. What they, and others, don't take into account is that this trend may be short lived. Someday, the trend may reverse, and the law of war rush in to push out rules for civilian law enforcement and due process as upheld in civilian courts. To date, the focus of debate has been whether legal adaptations to terrorism limit military operations in a manner that will threaten national security.

Not considered, to date, is that the threat to Constitutional rights could be substantial if we continue to ignore the long standing difference between laws that govern military operations and military commissions, and the law that governs police conduct and judicial proceedings in civilian courts. It's an overlooked consequence potentially flowing from demilitarization of the laws of war, and it requires careful thought.

What Constitutes War

After almost a decade at war, debate on application of rules of war to modern security threats has not advanced from where it was on 9-11. We still need to step back, and review the basic

structure and reach of the law of war before we can make any progress. In this paper, the law of war refers to treaties, state practice, and customary rules that regulate the means and methods of war, and control treatment of military wounded and sick, prisoners of war, and civilians caught up in war zones or under enemy detention or occupation.

Our concept of war derives from international law. There is growing imprecision in international law regarding the question of what constitutes a state of war. Traditionally, war was conceived as a state of armed hostilities between states that was formally announced by declaration of war. The practice of declaring war has faded.¹ Law of war treaties also adopt a lenient approach to identifying military hostilities that doesn't require a formal declaration of war.

There is no requirement for formal declaration of war, for instance, in the Geneva Conventions of 1949. There is little in the Geneva or other treaties to provide indicators of what constitutes armed hostilities (referred to as armed conflict in the Geneva Conventions) that trigger application of the laws of war.² By their express terms, the Geneva Conventions and most other treaties apply during interstate conflict. Sometimes, these treaties also adopt some rules from the laws of interstate war to be applied during internal armed conflict-sometimes referred to as civil wars, insurgencies or non-international armed conflict.³ The modern law of war therefore applies in full during armed conflict between states, and a more limited set of rules apply during internal conflict. This construct was strained in the 1990s by growing numbers of interventions sponsored by the United Nations.

Sometimes referred to as "humanitarian intervention" these operations committed UN sponsored blue helmet forces in situations where they employed military force, but were not considered parties to the conflict (e.g. Somalia, Bosnia). Also, the blue helmet forces were drawn from the armed forces of states, but represented an international organization that couldn't ratify and bind itself to treaties of any sort. Therefore, law of war treaties in general and the Geneva Conventions in particular didn't apply. The Secretary General addressed this legal anomaly by adopting a selected set of rules from the law of war to be applied by UN forces, but did not commit them to apply the law of war in its entirety,⁴ as state actors would be required to do when their forces deploy on behalf of the state during international armed conflict.

The modern construct, then, requires full application of the laws of war in military conflict between states, a subset of the rules in internal armed conflicts, and selected elements of the laws of war when UN forces not considered parties to either interstate conflict or internal armed conflict take action to intervene in them. The latter adaptation marked a departure from the legal division between internal and international armed conflicts, as UN forces didn't fall into either of these categories. The growth of terrorist organizations adds yet another complicating twist.

International law does not account for private political organizations conducting international military operations to advance their own goals. The demarcation between rules for interstate and internal military conflict was adopted in the Geneva Conventions of 1949. At the time, that step marked a notable change in international law. Before that, states never recognized any obligation to apply rules of war during a civil conflict. After the Geneva Conventions were adopted in 1949, states became accustomed to thinking about war in terms of both interstate armed conflict and internal civil war. Global terrorism doesn't fit the existing legal paradigm, thereby presenting a challenge to the very structure of the modern law of war.

There is precedent for states taking on the challenge of private, foreign organizations waging war against states but historically it's not a commonplace event. In U.S. history, pirates posed a threat of such magnitude that the Navy conducted full scale maritime operations in the Caribbean to quell them. In the 1860s the Fenians, a private movement centered in Europe and dedicated to achieving Irish independence launched an invasion of Canada from U.S. soil in 1866. The attack was on a scale requiring intervention by British regulars and Canadian militia before it could be repelled.⁵

In 1916 Pancho Villa led a raid on Columbus, New Mexico that was thwarted by rapid intervention of the 13th U.S. Cavalry in a battle that left 9 U.S. civilians, 8 U.S. soldiers, and possibly over 100 of Villa's force dead.⁶ Whatever status Villa and his unit had in the ongoing Mexican Civil War, they were neither insurgents nor a unit in the armed forces of Mexico when they crossed the U.S.-Mexican border. The laws of war did not apply in any of these cases.

This leaves open a vital question regarding al Qaida and other terrorist organizations now threatening the U.S. and other states. They aren't insurgents unless operating in their own country and against their own government. Unless those conditions apply, they are not covered by the law of war governing internal conflicts. When they act on their own, independent of states, they also have no status as lawful combatants when they cross boundaries and conduct attacks in other nations. Therefore, the laws of war governing interstate armed conflict don't apply either. Calling them terrorists also doesn't offer help from a legal perspective.

There is no existing treaty that's useful to determining the status of terrorist organizations that wage war. The attacks on September 11, 2001 demanded that states solve the legal problem of identifying where such organizations fell within the existing construct of international law, and what means, military or civil, can be used to defeat them. The answer isn't easy.

To restate the legal situation, if terrorist organizations are not conducting a domestic insurgency, then they are not covered by the law of non-international armed conflict. If they are not part of the armed forces of a state, they are not covered by the law of war governing international armed conflict. In theory this would suggest that they are covered by domestic and international rules for law enforcement. However, this approach is problematic.

Organizations capable of conducting military operations, and inflicting damage on a scale historically associated with warfare, can't be quelled by law enforcement means alone. Military methods are required as well as those of law enforcement. Unfortunately, though, the trend has move inexorably towards giving such groups the most advantageous impact of both legal worlds and leaving states with the worst. Rules more suitable for law enforcement are gradually working their way into counter-terrorist military operations and limiting measures necessary and appropriate to their successful execution. Terrorist organizations, operating in disregard for the rules of war, benefit from restraints that are gradually narrowing the range of options available to armed forces opposing them.

Demilitarizing the Laws of War

Post 9-11 the law of war was applied to counter-terrorist operations. On November 13, 2001, President Bush issued a military order on "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism." The attacks were recognized to constitute war. "International terrorists, including members of al Qaida, have carried out attacks on United States diplomatic and military personnel and facilities abroad and on citizens and property within the United States on a scale that has created a state of armed conflict that requires the use of the United States Armed Forces."⁷

That finding was followed by the conclusion that the United States would apply the laws of war in this situation. "To protect the United States and its citizens, and for effective conduct of military operations, and prevention of terrorist attacks, it is necessary for individuals subject to this order pursuant to section 2 hereof to be detained, and, when tried, to be tried for violations of the laws of war and other applicable laws by military tribunals."⁸ Eight years later, the law of war is vanishing from the equation.

This trend in part follows from the fact that organizations such as al Qaida are not already accounted for within the laws of war. For example, combatants captured during international armed

conflict are entitled to protection as prisoners of war, and must be released immediately at cessation of active hostilities.⁹ There is no legal or practical way to determine cessation in circumstances lacking established practice or standards to identify termination points. If the combatants haven't take up arms on behalf of a state, there may be no recognized authority responsible to ensure future good (peaceful) behavior as would be the case when prisoners of war are returned home at the end of interstate military conflict.

The case of Jose Padilla underscores the uncertainty spurring continuing litigation and debate. Arrested by the FBI when he flew back to the U.S. after traveling to Pakistan to join al Qaida, Padilla was transferred to military custody as a combatant, then removed from military custody and returned to civil custody for trial in Federal District Court.¹⁰ Such action leaves wide open the question of whether members of terrorist organizations are subject to targeting, capture, and detention under the laws of war, or whether rules for law enforcement apply instead.

Confusion also abounds on the legitimacy of military commissions. Military commissions have been employed by the U.S. Army since the Mexican War¹¹, until recently with limited judicial oversight. The new intensity of post 9-11 judicial oversight, notably in the case of Hamdan V. Rumsfeld, where the Supreme Court intervened to a dramatic extent by invalidating military commissions that it found unauthorized by Congress and in contravention of U.S. and international law, led Congress to enact detailed legislation governing the composition and work of military commissions, which now have express jurisdiction over "any offense made punishable by this chapter or the law of war when committed by an alien unlawful enemy combatant before, on, or after September 11, 2001."¹² The subtle problem remains that under the law of war, enemy combatants can usually be held until the end of active hostilities for the simple purpose of keeping them from returning to war.

There is no obligation to try them as a prerequisite to detention. Much of the continuing debate over detention operations in Guantanamo centers on the purported injustice of holding combatants there without trial. If the law of war applies, then there is no obligation to try any of the detainees in the absence of intent to punish them (separately from detention for security purposes) for criminal conduct. Along with debate over the rules that apply to enemy combatants detained by the U.S., the rules on means and methods employed in military operations are also under stress, adding yet another burden on state efforts to defeat terrorist organizations.

States-particularly democratic states-have come under considerable scrutiny for their use of military force over the past twenty years. Military operations are subject to the same close inspection, critique (and sometimes second guessing) applied to civilian law enforcement agencies.¹³ Consider recent comments by Moreno-Ocampo, the chief prosecutor for the International Criminal Court. He announced that he is inquiring into alleged war crimes by NATO forces in Afghanistan, by Israel in the Gaza Strip, and by military forces during the military conflict between Russia and Georgia, and in Columbia as well.¹⁴

We end the decade with less certainty on application of the law of war than we had in the days following 9-11. On August 24, 2009 the Department of Justice issued a release on the Special Task Force on Interrogations and Transfer Policies. Among its recommendations, the Task Force concluded "that the United States could improve its ability to interrogate the most dangerous terrorists by forming a specialized interrogation group, or High-Value Detainee Interrogation Group (HIG), that would bring together the most effective and experienced interrogators and support personnel from across the Intelligence Community, the Department of Defense and law enforcement."¹⁵ Further, it "recommended that the specialized interrogation group be administratively housed within the Federal Bureau of Investigation, with its principal function being intelligence gathering, rather than law enforcement."¹⁶

This leaves as open as ever the question of whether counter-terrorist operations and post-capture procedures are subject to the rules of war, or the rules of civilian law enforcement.

Two Fundamental Questions that Must be Resolved

We won't get control over the challenge of distinguishing rules for war fighting from rules for law enforcement until we decide on basic legal premises. There are two fundamental questions that have been calling for answers for almost a decade. First, can we adapt the law of war for changing forms of armed conflict that aren't covered by the existing, state centered paradigm? Second, how do we draw an effective, functional demarcation line between military and law enforcement operations in situations where they are addressing common threats? War fighting and law enforcement operations take place in time tested but distinctive and separate legal categories that may defy easy application in the face of emerging national security threats.

The law of war existed in customary form long before it was formalized in treaties. Customary rules of war derive from informal practices among states that are eventually recognized as binding legal norms. Some rules of war still exist in uncodified, customary form.¹⁷ There is no impediment to states adopting customary laws of war to cope with new forms of warfare not covered by existing, treaty-based rules for international and internal armed conflict.

This option is available to cope with military threats posed by terrorist organizations. President Bush's Military Order of November 13, 2001 furnishes a striking example of how the customary law of war develops in practice. The president identified the threat as military in character, and determined that the law of war applied to this new threat even absent a treaty telling us so.

In the absence of deliberate national policy to adapt the law of war to meet terrorist threats, the challenge presented by terrorist organizations remains open to solution within national laws regulating law enforcement-though such means might not be sufficient to meet the threat. If the threat is military in scope, then a decision to meet it with military means and consequent application of the laws of war should be articulated more consistently and forcefully than has been the case until now.

Where the threat is met by the interagency community, such as in application of anti-terrorist as well as counter-terrorist methods, we need to decide when we are engaged in war fighting and when we are conducting law enforcement operations. The laws of war clearly provide more room for lethal force and require less in terms of due process, but their application in settings where the military threat is not obvious carries serious political and legal risk.

Where the threat of catastrophic WMD or other coordinated terrorist attacks may not be obvious to the public, if prospective consequences equal those following conventional acts of war, do they warrant military or military-equivalent use of force? For example, if faced with potential detonation of a "dirty bomb", should a civilian police force be empowered to act analogously to a levee en masse under the laws of war, using lethal force in a manner similar to that employed by armed forces on the battlefield?

Official acts continue to subtract rather than add clarity. On November 13, 2009 Attorney General Eric Holder announced "that the Department of Justice will pursue prosecution in federal court of the five individuals accused of conspiring to commit the 9/11 attacks. Further, I have decided to refer back to the Department of Defense five defendants to face military commission trials, including the detainee who was previously charged in the USS Cole bombing."¹⁸ His announcement doesn't articulate why some are going to face trial in civilian court, others before military commissions.

Until the questions and scenarios raised here are systematically addressed, our interagency response to terrorist threats will continue lacking coherence. We are draining political and

institutional energy as the nation deals endlessly with criticism over handling of detainees and the proper application of military force in the field. The debate leaves uncertainty about the role of the armed forces and their scope to act against new security threats. These issues may be the subject of long standing debate, but we've hardly moved from our starting point. Meanwhile, another potential consequence goes unnoticed.

The Ultimate Threat

The controlling assumption seems to be this; in the face of novel military challenges, the rules of law enforcement and civilian judicial process prevail. What proponents of this approach haven't taken into account is the prospect that another especially traumatic terrorist or WMD attack could shift the paradigm; when in doubt, the rules of war will apply. We haven't the experience to determine what threshold could push us in that direction. As conceptual distinctions between the law of war and rules of law enforcement break down-an event unprecedented in legal history-we lose a conceptual buffer that would otherwise form a break against rash, crisis induced decision-making.

The Attorney-General's November 13, 2009 explanation of the decision-making process that led him to direct some cases to civilian trial and others to military commissions is troubling. "In each case, my decision as to whether to proceed in federal courts or military commissions was based on a protocol that the Departments of Justice and Defense developed and that was announced in July. Because many cases could be prosecuted in either federal courts or military commissions, that protocol sets forth a number of factors-including the nature of the offense, the location in which the offense occurred, the identity of the victims, and the manner in which the case was investigated-that must be considered. In consultation with the Secretary of Defense, I looked at all the relevant factors and made case by case decisions for each detainee."¹⁹ In other words, these cases are now interchangeable between military commissions and federal district courts per discretion of the Attorney-General of the United States.

Someday our nation may lament this process, one without precedent in American legal or military history. Blurring of distinctions between rules of war and rules of civilian law enforcement just might open the way for application of military rules of war, and institution of military tribunals, on a scale that hasn't been seen in the U.S. since the end of the Civil War. Rather than assuming continued civilianization of military operations and military tribunals, we should consider that the trend may someday reverse, producing militarization of law enforcement and judicial processes now considered exclusively civilian in character.

U.S. citizen civilians may find themselves facing trial before U.S. military commissions, and military force and methods used at home all too readily in substitution for civilian law enforcement agencies and methods. That is not the inevitable next step, but seeds have been planted. We will probably not get there in one step, but a crisis-triggered rush in that direction can best be avoided by thinking through, now, the question of how we separate military and civilian operations and legal functions where threats simultaneously present grave civil and military dimensions. (E.g. How do these rules apply in situations where domestically based terrorist organizations might secure WMD?)

Historically, there was no wall between rules of war and rules of law enforcement. They simply applied in different domains. This is no longer the case. Now we do need a wall. Policy makers and legislators need to provide clear legal guidance empowering the armed forces to address military threats, and civilian agencies to meet lower intensity security challenges. Clear lines of demarcation will also empower public and media scrutiny, further insuring the nation against any

future move towards authoritarianism, while empowering action against national security threats likely to challenge us for generations to come.

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Endnotes

- 1 E.g., the United States last issued a declaration of war on June 5, 1942, by a Joint Resolution of Congress issued against Bulgaria, Hungary, and Romania. See Barbara Salazar Torreon, CRS Report for Congress, *Periods of War* (updated May 1, 2006), [www.http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-9216:1](http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-9216:1), last accessed September 14, 2009.
- 2 E.g., the United States last issued a declaration of war on June 5, 1942, by a Joint Resolution of Congress issued against Bulgaria, Hungary, and Romania. See Barbara Salazar Torreon, *CRS Report for Congress, Periods of War* (updated May 1, 2006), [www.http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-9216:1](http://digital.library.unt.edu/govdocs/crs/permalink/meta-crs-9216:1), last accessed September 14, 2009.
- 3 E.g., Consider this limited guidance found in article 2 of each of the four Geneva Conventions of 1949. “In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.” For easily accessible copies of the Geneva Conventions of 1949, see <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/genevaconventions>, last accessed September 14, 2009.
- 4 Ibid, for the basic rules applied to internal armed conflict, see article 3 of each of the four Geneva Conventions of 1949 (famously known as “common article 3”).
- 5 UN Secretary-General’s Bulletin, ST/SGB/1999/13, 6 August 1999.
- 6 Michael H. Hoffman, “Rescuing the Law of War: A Way Forward in an Era of Global Terrorism”, *Parameters* (Summer 2005): 29-31.
- 7 Ibid.
- 8 Military Order of November 13, 2001, section 1(a), “Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.” <http://www.fas.org/jrp/offdocs/eo/mo-111301.htm>, last accessed September 14, 2009.
- 9 Ibid, section 1(e).
- 10 Id, ii, see Geneva Convention (III) Relative To The Treatment Of Prisoners of War, article 118. “Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities.”

11 For a summary of events in the Padilla case showing the intersection of military and law enforcement challenges presented by terrorist operations, see Jeffrey T. Richelson, *Defusing Armageddon: Inside NEST, America's Secret Nuclear Bomb Squad* (New York: W.W. Norton & Company, 2009), 184-187.

12 For the origins and development of military commissions, see William Winthrop, *Military Law and Precedents* (Washington: Government Printing Office, 1920), 803-804.

13 10 U.S. Code section 948d.

14 See, e.g., the scope of reports on military conduct and operations issued by Human Rights Watch. <http://www.hrw.org/en/by-issue/publications/667>.

15 "ICC prosecutor eyes possible Afghanistan war crimes," <http://alertnet.org/thenews/newsdesk/N09347569htm>

16 Department of Justice, "Special Task Force on Interrogations and Transfer Policies Issues Its Recommendations to the President," August 24, 2009, <http://www.usdoj.gov/opa/pr/2009/August/09-ag-835.html>

17 Ibid.

18 The modern customary law of war is the subject of an extensive and controversial study by the International Committee of the Red Cross entitled Customary International Humanitarian Law. For an official critique of this study, see "Letter dated November 3, 2006, to Dr. Jacob Kellenberger, President of the ICRC, from John B. Bellinger, III, Legal Advisor, U.S. Department of State, and William J. Haynes, General Counsel, U.S. Department of Defense," *Israel Yearbook on Human Rights*, volume 37, (Martinus Nijhoff Publishers: Leiden/Boston, 2007), 271.

19 Department of Justice, "Attorney General Announces Forum Decisions for Guantanamo Detainees," November 13, 2009, <http://www.justice.gov/ag/speeches/2009/ag-speech-091113.html>

20 Ibid

Strategic-Level Q&A

Transcript

Q: ... on the idea that globalization is very much a double edged sword. If we're on the verge of a third wave, so to speak, of international organization that overlooks, that represents an evolution from the nation state to some other system, what do you see as the role of multinational corporations and private, among them, private and military companies in that next generation of international organization? And what do you anticipate or what do you see as the response of the stakeholders in the status quo, particularly the leading economic powers of the early twenty-first century?

A: (Dr. Martin Cook) Well, my crystal ball is on the fritz, but I'll give it my best. You know, it seems to me – what's the old Sherlock Holmes line, "When you've considered everything that's impossible, whatever remains, no matter how improbable, must be right." And what you're seeing is so many problems the world is facing which are not being very effectively addressed through existing structures of national and international cooperation. The globalization, many of the issues, the economic ones, the control of multinational corporations, climate issues, pollution issues, and then of course the obvious military and security challenges of the sort that I focused on in my talk, right? So if we agree that all of those are challenges and they're not being very effectively addressed and the clock is running out on many of them in a timely manner, you would expect, those that have a stake in the existing order, to hang on like grim death to the existing structure. And that's pretty much what you're seeing. Right? I mean, let's assume for the sake of argument that global warming is the problem that most scientists think it is. Let's assume that. I realize that it can be debated. But if we take that as a given, what you see is the constant push back from all the existing states, right, that don't want to agree on any effective and committed caps that would address the problem. Right? We just saw the most recent round of this with President Obama in China trying to have that conversation, right? So I'm not sure we will go there. The point of my earthquake metaphor is at some point the stresses become so great that the major plates have to shift. It is however only a metaphor. So perhaps the metaphor really doesn't work and we just make do with lots of little quakes and in one way or another the system falls apart.

Now, as the General said, what would be the effect of several major nuclear explosions in major cities of the US or the US and Europe and so forth. I mean, we've already seen our economy tank, but we did that to ourselves. Right? But add to that, suppose we got a major shock to the system of that sort now with the economy in the state that it's in now? Is it realistic to think that maybe you could bring down the system? I think yeah, it's not totally crazy to think that you might be able to pull it off. So if that's the threat, how are we going to cooperate about this? I mean, we're off to a good start after 9/11, right? We had NATO invoking Article 5. We had NATO aircraft flying combat air patrol over American cities. We had – if you go back and look at the UN Security Council Resolutions about Afghanistan right in the wake of that, you'd be stunned to see the degree of international cooperation that was clearly reflected in the existing international system at that point.

So if you want to play alternative what if histories, had we not gone essentially unilateral beyond that point and taken the other route of trying to work the international system, we might be in a very different place today.

Q: Gentlemen, Major Coyle, Staff Group 24 Bravo. I don't know if that applies here, but that's where I'm from. My question is probably a question on everybody's mind. How do you measure the success of this great program that you're wanting to start? So we're talking about this military ethic. And in the military, we seem to focus 99 percent of our time, energy and resources on one percent of the problem. And, is this no different in the sense that we have just like Anderson 360 reports a very small fraction of our military that makes poor ethical decisions based on a situation, perspective or point of view or their leadership or the strategic environment that makes them or allows them a construct to make a mistake or make a decision that can be potentially tactically, operationally or strategically significant? How do you measure success of this Army Center for Professional Military Ethic? In other words, when you go out of the day and you go home to your kids and they say, "Dad, what did you do today? How did you affect the world?," I mean, what do you say?

A: (Colonel Sean Hannah) Well, I'll tackle that in a few different ways. First of all, I mentioned earlier about some of these more egregious issues – again, the ones that hit the national media stage. You know, in many cases, these are people that are fairly pathological or just, you know, there are some larger serious issues. Then there's the more common immorality that may happen across any organization to include the United States Army. The base rates of those more egregious things are so low – those aren't the type of things that we're going to measure. You know? The people that are going to commit rape are probably going to continue to commit rape regardless of the efforts of this Center. I would hope that that is not the case, but it could be the case. You know, those type of moving metrics are not what we focus on. What we focus on are those things that are going to make on the day to day average operations of the Army a more moral and ethical place and grow more ethical leaders.

Now, how do you measure that? How you measure that is not easy. How you measure any social phenomenon is not easy. Often, it's through survey technology that we ask soldiers what they think about their leaders. But I'm going to tell you something. Beyond the pathological, the rates of some of the immorality or at least the values and beliefs are larger than we all thought. And a matter of fact, our Center is largely a reaction to what is called the MHAT report, if you have seen that. If you have not, Google it. It's open source on the internet. Mental Health Advisory Team. There was two different – well, actually, there's been five of them so far. MHAT IV and V conducted in Iraq, for instance, shows that a very large percentage of the United States Army thinks torture is okay. A very large percentage of the United States Army would not report a peer for conducting various crimes as listed in this report. So I invite you to look at that if you haven't seen it yet. Now, whether those ideals and values and beliefs would manifest into actual behavior, we don't know. But we do know that there's a vast – I don't want to say majority – but there is, some of these were up to the 30, 40, 50 percentile of soldiers that were willing to report they have those values and beliefs.

So given that, part of what we're focusing on is to get the Army talking. I'll tell you one thing. You can measure input, you can measure process or you can measure output. When you're talking social science and psychological science, it's hard to measure output in

some cases, particularly again because the low base rates of the more egregious issues. But we can certainly measure input. We can measure how much the Army is talking about this. We can measure the focus that we're putting on the topic and we can measure the validity of the process driven by science. Now, like I say, we're also doing neuroscience work. We can actually watch a brain develop. We can watch moral complexity form in a brain. You know, some of this may be the wave of the future. Probably didn't adequately answer your question, but it's a very insightful question. It's one of the toughest things that we grapple with. But I'll tell you what, if we have soldiers in ten years that are reporting that their leaders are moral ethical exemplars and are positively influencing them in the culture and climates in very powerful ways, that will be a measure of success. Right now, they're not doing that. We just conducted a study in Iraq for General Petraeus. We're in the middle of analyzing the data now, but some of the initial concerns are that those reports are not quite as powerful as we would have expected them to be. And so this will all be open source within the next four months. You'll see a report on moral ethical leadership in culture and climate that will be distributed to the Army with these findings.

A: (Dr. Martin Cook) I'll just try a little bit from the philosophy point of view. The oldest argument in philosophy is about the nature of moral mistakes. Plato believed that all moral mistakes are a kind of intellectual mistake, that people, as he puts it, nobody knowingly does wrong. So if people are doing wrong, it's because they have a cognitive failure. They don't understand the problem. His student begins his book saying, "You know, you've got to respect truth more than your friends and I think the old guy's wrong about this." That was Aristotle. Aristotle said it's a matter of formation of habit through actually engaging in activity that character is formed and no amount of talking to people about ethics will likely do much good. And he says, in fact, he sarcastically says at one point, "We're not trying to just talk about justice. We're trying to make people actually good." And he says, "If that's what you're trying to do, then it's about their ongoing formation of habit and the ordinary practice of things."

Now, what are the implications of that? It means that a lot of what we do in the name of character – I was at the Air Force Academy for five years – is probably futile. For example, having an ethics conference in which people talk at people, in particular just of the sort of hortatory sort, saying, 'Be good because I'm telling you to,' probably doesn't have much effect. It certainly means that Colonel Hannah's challenge is difficult, but I think it's also well focused to say it's not mostly going to happen in events like this or other classroom settings. It's going to have to be embedded in the routines of training and AR and briefing and so forth. And what little social science exists, and there is very little on how you find out whether you've improved anybody's moral development is an actual test called "The Defining Issues Test." It's a valid social scientific instrument. We could give it to all of you. And it scores people in six levels of moral thinking. The downside of it is all it measures is thinking, so it's subject to Plato's problem. Right? That thinking may not correlate with behavior. But the research on that does show that if you put people in environments where they're talking about ethics questions together on a regular basis, and they're not too far apart on the scale – you know, a one talking to a six is ships in the night, but three's, four's and five's have having this conversation – in a sustained way, people will improve. And that data has been validated for 50 years. So we do know that works. So it may sound silly to say, "Well, if people are talking about it more, then probably we're going to have some good effect." But actually the data suggests that's true.

- A: (Colonel Sean Hannah) That's a good example of what I meant by process. We have scientifically validated processes that we know lead to moral ethical development, and so we can make some logical assumptions. If we put people through certain processes, the outcomes will follow.
- Q: A recommendation, not a question. In the Colonel's presentation, he demonstrates that we don't have a definition for ethics and that we tend to use words like "virtue, values, morals and ethics" to mean the same thing. Let me recommend a book, *Ethics Education in the Military*. Very well written, it takes a look at ethics education from various nations' perspectives and then uses some subject matter experts to examine those programs. Very easy to read. There is a section in here written by a member from West Point, particularly about how the cadets are introduced to ethics education, but also discusses some of the problems at the Air Force Academy and as well as some other ethics decisions that were made by countries such as the Netherlands, Japan. So I recommend that book.
- A: (Dr. Martin Cook) Actually, I have a chapter in that book too. Let me just say a little more about it. It's actually part of a larger project called *The Military Ethics Education Network*, which was started by some Brits at the University of Hull who thought it would be interesting to look at how ethics education happens in the militaries around the world. So far, mostly European, US and Canada, Israel. But there's a second volume to that that's just come out, and the project is ongoing. They got a large grant from somebody called the Leverhulme Trust in the UK, a large grant, sort of like the Ford Foundation for us or something like that. And so that is an ongoing consortium of scholars from around the world working on that question. We have a meeting coming up at the Joint Staff College in December, actually. The other is Don Carrick and I believe that one is Paul Robinson, right? That first volume? The first volume and Carrick would be the – he's the staff assistant. So his name will be on all of them. Robinson has now moved on. So if you Google Carrick, you will find that volume and all subsequent volumes.
- A: (Colonel Sean Hannah) Let me make a clarification though also because I did not attempt to say that those are the same. As a matter of fact, my position is that they are quite different and what we need to do as an Army is to decide which one we want, or which ones we want, and how we will apply them. But I'll tell you, the book that you're speaking of and many others, we as an Army need to be very careful. The relationship between moral decision making and moral action is about 30 percent. Think about that. Knowing what's right and making a moral ethical decision only about 30 percent of the time does that manifest into behaviors. So it's much more than just the thinking or these cognitive processes. There's a lot that has to do with moral ownership, moral confidence, moral courage and these other aspects that I would argue what research shows obviously take up the other 70 percent and are therefore the largest piece of the problem.
- Q: (LTG (Ret.) John Miller) Well, gentlemen, thank you very much for your contributions on the panel and for the discussion that you facilitated. Bob Ulin has got some admin. Announcements. You want to make those now and then I will conclude with a few closing remarks and we'll go have lunch.

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Part 4: Keynote Speaker and Conclusion

Keynote Speaker

Hyrum W. Smith
President, CGSC Foundation Inc.

November 17, 2009
Dinner Banquet

Transcript

Thank you. Are you full? Am I on? Can you hear me? Okay, well I'm delighted to be with you tonight. Ladies and gentlemen, there isn't anything I wouldn't do for a free meal. I do ... I guess I have to tell the story. General Powell maybe tells the story, so Jack I'm going to have to tell the story.

I was a Pershing officer. I went through the Artillery School and found myself in Germany commanding a Pershing Missile Unit. I hold the distinction of being the only officer in the Pershing system to have dropped a nuclear war head. It's a very interesting story. You know, it wasn't funny then actually.

One night we were out on status, and we went for 30 days out of 90 we were on status. I had four missiles. I'm 23. The smallest missile was 32 times bigger than the Hiroshima bomb; pretty heady stuff for a 23 year old lieutenant. We were on status. I don't know if you're familiar with the Pershing System. It's now museum piece in Fort Sill, but we're in the horizontal position. The warhead is connected to the guidance control section with an azimuth ring. One night about 12:30, one of my NCO's went out to check the torque on the azimuth ring, only he made the mistake of switching it the wrong way. You know torque wrenches have to be switched a certain way. Instead of tightening the azimuth ring, he was loosening the azimuth ring. The more he went the more panicked he got, so the faster he went. All of a sudden, pow. The nine foot nuclear warhead dropped six feet to the ground.

Up until that point in my career, I had never met a General Officer. That night I met a lot of General Officers. I mean they came out of the sky, but I will tell you it's kind of a career limiting event actually. I'll tell you what was interesting about that. This is part of the story I don't usually tell, but the most sobering part of that experience for me, since we're talking about the whole ethics thing, is a career was destroyed that night. I was actually the firing platoon commander, so I had all the missiles. My battery commander was the Captain. I was the First Lieutenant. I was standing at attention. I don't remember. There could have been 30 Generals. It seemed like 30, but there may have only been five or six but there were a lot of them. They were interrogating me about this event. I said ... I told them exactly what happened. We went out. I said "we" went out, and we checked the azimuth ring. We made the mistake; an accident happened. It dropped.

"Who did that?" I said, "It's not important who did that." I said, "It's my responsibility." I learned from a Sergeant in a NCO school I went to at Fort Orr that you're responsible for everything that happened, good or bad, in the unit. You're responsible. So I said, you know, we made the mistake. So, I really related to your story today, Colonel, about, you know, the SAWs that you busted.

My Battery Commander made it very clear to these General Officers that I was the one who was to blame. He was Lieutenant Smith and blah, blah, blah, you know. I wouldn't tell them who the NCO was that did this. Whose career, do you think, got screwed that night? Yeah. Three weeks later he disappeared, and I never heard of him again. It was right after that I was called to be the Headquarters Battery Commander under Pat Powers. Did you remember a General Powers, Jack?

Anyway, it was interesting for me how that all came down because I didn't tell them who the NCO was. I didn't think it was any of their business who that guy was. He's a good friend today.

So anyway, I did not stay in the Army long. But I will tell you my experience in the military ... I have to attribute any success I've achieved since as a result of what happened to me in the military. It changed my life for the better, so to be back involved now with the Commanding General Staff College has been a great thrill for me. I will tell you in the last six weeks I've had the opportunity ... well actually in March, I spoke with Lieutenant General Ben Freakley's, all of his commanders over the training command, the basic training units, sessions command. Three weeks ago I was with Don Campbell down in Florida with USAREC and all the USAREC reports. Two weeks ago I was in Reno with General Bartell and half of his command, the Cadet Command, the ROTC. I'll be with the second half in December.

The reason I share that with you, and I've spoken to the last four classes here at Fort Leavenworth. Bill Caldwell has asked me to speak at I don't know how ... have you heard my "Belief Window" speech? How many have heard my "Belief Window" speech? Yes anyway, the reason I share that with you is I sat there today trying to decide what I would share with you tonight. I've had this overwhelming impression that what I share with you tonight is probably more important than all of the speeches I've given to the military in the last year. I want you to know I take this responsibility very seriously because we're talking about a subject I have some strong feelings about. I'm going to ask you for a commitment tonight that may have, I'm confident can have a significant impact on your personal and professional life if you do what I ask you to do.

Let me introduce with two things. Because I've been involved in time management for a lot of years, I've had, over the last 27 years, I've had over a thousand people approach me before or after a speech. I'm not exaggerating folks. I've had over a thousand people come up to me. They always lower their voice. They look around and make sure nobody is listening, and then they say, "You know, Hyrum, I wish I lived a hundred years ago when they had more time." I say, "Really? How much more time did they have a hundred" ... "Oh, they had a lot more time." You know what the only difference is between today and a hundred years ago? We have more options than they had. Why do we have more options? Because we do stuff faster. We are into speed.

If my grandfather missed a train, no big deal. Twenty-four hours catch another train. If my father missed an airplane, no big deal. Five hours catch another airplane. If I miss one section of a revolving door, I go nuts and so do you. Why do we do that? Because we're into speed, that's why. Would you tolerate the speed of a PC 15 years ago today? Do you remember the old dot matrix printers? You know go brrr, brrr, brrr. We'd stand there, and watch those suckers spin. Remember that? You wouldn't tolerate that today.

I'm going to make a statement tonight. If you remember anything I say tonight, you remember this. The basic principles that help a human being become more productive and effective have not changed for six thousand years. Every generation has to rediscover these principles. We give new names to them. We write books about them. A good friend of mine wrote a book. I bought his company, "7 Habits of Stuff." I wrote a book, *What Matters Most?* Read either book. There's not a new idea in either book. It's criminal really. We make money at that stuff. How many of you ever heard of the book, *7 Habits of Highly Effective People?* You know, one of the *7 Habits of Highly Effective People* is – this is a little heavy after dinner on a night. Here comes one of the *7 Habits of Highly Effective People*. This will give you goose bumps. Be proactive.

It's got to be new, right? Six thousand year old idea. Want to hear another one? Two on the same night; we'll hear circuits. Here comes another one of the *7 Habits*: First things first. Oh, raises the hair on your head. Six thousand year old idea, and a guy named Covey comes along puts seven of them together and says these are *7 Habits of Highly Effective People* and the world goes nuts. Now what's the magic? There's the magic. What's the genius? Covey's a genius. They

hook him up to a computer at night; little things on his head. Next morning there's a new book on the bed. It's almost true. The genius of putting the seven together ... the genius was how they are taught for the twenty-first century, but the basic principles go back a very long way.

Now, I make a big issue of that because what I'm going to share with you tonight happens to be really old. It happens to work today. It's relevant today. As I sat there today and listened to the presentations, which I thought were excellent by the way, I heard the word "values" over a hundred times. I stopped counting about 80. I heard the word "principles" over 35. I stopped at 35, but those words were used a lot today, were they not? As I thought about that, I went back to the early days of my company and why we started what became Franklin Quest. We started in my basement 27 years ago with my wife and a friend of mine. We had no idea what it would become, and it kind of exploded around us. But our idea was that if we can teach the individual to be more productive and effective, whatever the individual chooses to do will be done better. If we can teach the individual to be more productive and effective then organizational effectiveness and productivity will take care of itself. So, let's focus on the individual.

We developed a time management seminar that was really a trojan horse. It was really a life management seminar, but we called it "Time Management" because if we called it "Life Management" nobody would come. So, we called it "Time Management," and the whole idea was around acquiring and maintaining inner peace in your life. That's what our seminar was about. It's kind of ... it was fun. You know, we teach this in New York City. I'd be an hour into the seminar. Somebody would raise their hand. "Are you going to teach us how to make a list?" "Would you know how to make a list?" "Yeah." "Well, I'll teach you how to make a list, but that's not why you're here." "It's not?" "No." "Why am I here?" "You're here to get inner peace." "Oh." "Are you going to give me a planner?" "Would you like a planner?" "Oh yeah." "I'll give you a planner, but that's not why you're here." "It's not?" "No." "Why am I here?" "You're here to get inner peace." "Oh." By the time we finished, they got it. I'll tell you why they got it here in just a minute when I ask you to do this thing.

Now, there's a base concept I'd like to get in your brains, and then I'm going to introduce to you a model. We have called it in the past a "productivity model." We're going to call it tonight a "productivity and ethics model" because they are identical as I thought about today. As I sat there today, I had this massive 'aha.' Do you know what an 'aha' is? It's the highest form of a 'bufo'. Do you know what a 'bufo' is? It's a blinding flash of the obvious that comes to you on the bus.

My father made a statement to me when I was 12. It took me 20 years to understand how profound this was, but here's the statement. He said, "You cannot think any deeper than your vocabulary will allow you to." Let me say that again. "You cannot think any deeper than your vocabulary will allow you to." My father was a professor of speech. He ran the speech department at the University of Hawaii for 30 years. I grew up in Honolulu. He was a consultant to the "Webster Dictionary" on pronunciation. Playing scrabble with my father was not a good experience.

But I thought about that, and you know, several years ago I had the opportunity of going through over 140 high schools in the west putting on an assembly to try and talk kids out of drugs and alcohol. Because we'd arrive at the school when the bell rang, releasing everybody to go to into the auditorium for this assembly. I was with the U.S. Attorney, and the Utah Jazz basketball team sent a couple players. We did this for three years. We would walk through the hallways with the high school students on the way to the assembly. I found myself listening to the vocabulary that I heard in the high schools of our nation. What do you think I heard? [*Speaking in background*] Yeah, it was pretty awful.

There are approximately 340,000 words in the English dictionary, in the English language. Winston Churchill had the largest working vocabulary, we think, of any English speaking person. He had a working vocabulary of just over 25,000 words. The average business person in America

has a working vocabulary of about 12-13,000 words. The average teenager in our culture has a working vocabulary of just under three thousand words. Do the math folks. In every study that they have done, and when they find out who they are, they do some great studies by the way. In every study that they have done on successful people in any walk of life, military, professional, whatever, the one common denominator they found in all of them was a large vocabulary. People who could understand their language; they knew the words of their language. Now, I share that with you before I put this model into your brain because I think that's important as we listen, as we talk today and the words that came up.

I'd like you to go back to when you were in basic training. Has your vocabulary improved since you were in basic training? I hope so. What's the only way to build a good vocabulary? You read, okay? We don't have to read. Our kids don't have to read today. Why? They have these mind numbing little machines. They call them DS's or BS's or stuff. They play with them. The average television diet for teenagers today is eight and a half hours. That same television diet between three and graduating high school ... they witness 38,000 killings. I mean we don't have to read. Newspapers are going out of business at a big clip. Why? Because you have to read a newspaper except *USA Today*. *USA Today* is popular. Why? Don't have to read it. You can see it from 30 feet. Half the words are misspelled. It's pictures. So we don't read, okay? So, one of the things I'm going to be asking you tonight, what are you doing about your vocabulary?

Now, let me introduce this model to you because I think this can be ... I'm excited about this. I want you to get in your mind ... as you know when I do my thing over at the school, I'm big on taking notes. We don't have anything to take notes with today, so I'm going to ask you to just remember this. I want you to put on this wall right here a big pyramid, a triangle. I want you to put above it the words "Productivity/Ethics Pyramid." I want you to break that pyramid into four equal levels, four levels. At the base of that pyramid I want you to write the words "Governing Values," "Governing Values." Now understand this point. As you sit here tonight, you have a set of what I like to call "Governing Values." These "Governing Values" are the answer to the question, "What are the highest priorities in my life?"

"Governing Values" – Ben Franklin my mentor, I named my company after Mr. Franklin. When he was 27 years old, he was living in Philadelphia. He was born in New York; didn't like that. Came to New York; didn't like New York; moved to Philadelphia. Age 27, he sat down with himself feeling like a failure. I will tell you at 27, Franklin was no failure, but he felt like one. He found himself ... he's saying, "What are the highest priorities in my life?" In this period of introspection, he discovered that he had twelve "governing values." So there would be no question in his mind what those values meant to him, he clarified every one of them with a written statement. He then took these twelve statements to a Quaker friend of his. He said, "I've decided to dedicate my life to these twelve values. Tell me what you think." The Quaker friend looked at him and said, "Ben those are great, but you forgot one." "What do you mean I forgot one?" "Yeah, you really ought to add humility." Reluctantly he added a thirteenth, humility. Wrote a paragraph describing what it meant. He then organized his life into a thirteen weekly cycle. For one week out of thirteen, he would mentally focus upon one of those values in an effort to bring what he did in line with the value. Are you with me?

If you want an eight hour "Time Management Seminar" in 30 seconds or nine seconds, find out what matters to you. Bring the events of your life in line, what matters most to you, and you have a right to inner peace. You owe me 400 bucks. That's all we teach. It takes eight hours. Give them a planner; 400 bucks. It's immoral. Six thousand year old idea.

So, he built the base of his pyramid "Governing Values." Now, I'm going to ask to share with you what we like to call the "Franklin Process." I'm going to ask you to consider this process. There are three steps into identifying and building the base of this pyramid. The top of the pyramid

we'll spend four minutes on at the end because it's important, but the base is by far the most important. Step number one in the "Franklin Process," ladies and gentlemen, is to identify your "governing values." Find out what they are and write them down. Now to help you with this first one, I'd like to take you through a quick scenario that will help you reach inside and discover what these values are. Now, I need one of you in the room to help me with this that has a child under the age of two. Anyone qualify?

You old guy; first name? Chris ... Chris. Child's name – Madelyn. Madelyn – a girl. All right Chris, I'm going to ask you a series of questions. You respond as you feel appropriate. We're going to discover one of your 'governing values,' okay? Here's the situation, Chris. We have lying on the street out here in the parking lot on the ground an I-beam that is 300 feet long. This is some I-beam. Anyone not know what an I-beam is? Okay, cut it in half. It's shaped like a capital I. Turn it on its side, it becomes an H-beam. I did this in Germany once. You know what they call an I-beam in Germany? A double T-beam. It's not got nothing to do with this, but it's interesting, okay. Chris, I'm going to put you at one end of the I-beam. I'm going to get at the other end. We're going to let everybody in the room line up on both sides just to see what you do. I'm going to shout at you. Now, you're at one end, and I'm at the other end. I say, "Okay, Chris, if you'll come across this I-beam without stepping off either side; get here in two minutes; I will give \$100." Would you come, Chris? This is where you talk by the way. [Inaudible]. No? No, it's on the ground. Would you come?

All right, now we're going to change the scenario a little bit, Chris. We're going to take the same I-beam, put it on the back of a long flatbed truck. This is some truck. We're going to drive it to the north rim of the Grand Canyon. There is a place there 300 feet across, 1163 feet down. We're going to bolt that I-beam into both walls. It is perfectly safe. It will not fall. Because of the expanse now, this I-beam is bowed just a little, and it's raining. But, it's not raining very hard. It's kind of thick mist. There's a wind about 30 miles an hour. How many of you have ever been to the north rim of the Grand Canyon? Okay, there's always a wind, all right. You're on one wall; I'm on the other wall. I shout through the mist and the wind, and I say, "Chris , [recording cuts out for a few seconds.] ... side, I'll give you \$100." Would you come now, Chris? No?

All right, now let's change the scenario. Now I have \$10,000 dollars, Chris, unmarked bills. Would you risk that for \$10,000? No? All right, now I have \$50,000. Talk to IRS; no taxes will be taken out of it. The minute you get on my side, money's yours. Fifty grand – would you risk it? Now I have one million dollars, Chris. Now, the winds up to about 60 because we're screwing around here. The rains up; I have one million dollars on my side. Would you risk that for one million dollars? No.

All right, we'll change the scenario one more time. I'm not a nice guy anymore, Chris. I have ... Mildred is it ... Madelyn ... I have Madelyn by the hair over the edge of my side. I say, "Chris if you don't get across that I-beam right now, I'll drop your daughter." Would you come now?

All right, we just discovered one of Chris's "governing values." That "governing value" is "I love my child." Money has value. Safety has value. The greater value is the love of the child. He would probably risk the I-beam for the child. That is what "governing values" are really all about. I did this once with a woman that had a teenager. They will not come across for a teenager. It's a true story man. I had the kid over the edge. She said drop it. Ruined my whole story.

Now, the reason I take you through this is very important. When you sit down to identify really your "governing values," the highest priorities in your life, will you ask yourself this question? What would I cross the I-beam for? Will you burn that question into your brains? What would I cross the I-beam for? In other words, what value, principle, idea, person has such great value to me that I would risk, maybe even dedicate my life to the value? Am I making sense? Once he had

completed step one of the Franklin Process, this is exactly what Franklin took himself through.

Step two of this process was to prioritize the values. Why would I ask you to prioritize a list like this? 1925 – Indianapolis, Indiana – guy by the name of Herman Krannert, Senior Executive with the Sefton Container Company. He was summoned to Chicago to have lunch with the President. He got pretty excited about that. He'd never met the President. He came to Chicago Athletic Club having lunch. The President said, "Herman, we're going to make an announcement of this company this afternoon that greatly impacts your life. We're going to promote you to a Senior Executive Vice President, and you're to be the newest member of the Board of Directors."

Krannert was blown away. He said, "Mr. President, I had no idea I was even being considered for this." And then he said, "Mr. President, I want you to know I'll be the most loyal employee this company has ever had. I will dedicate my life to making this the finest corporation in America." The President was very gratified by that. He said, "Herman, I'm glad you mentioned that because there's one thing I'd like you to remember. As a member of the Board of Directors, you will vote exactly the way I tell you to." That kind of took the wind out of his sails. "I'm not sure I can do that." "Herman, that's the way it is in the business world. I put you on the board. You do what I say, right?" The more he thought about that the angrier he became. At the end of lunch, he stood up and said, "Mr. President, I cannot accept this promotion. I will not be a puppet for anybody on a Board of Directors." And then he said, "Not only that, I don't think I want to work for a company where that takes place. I quit."

He came back to Indianapolis that night; approached his wife. He said, "You know you'll be excited. Today I was promoted to Senior Vice President, made a member of the Board of Directors, and I quit." "You quit? Have you lost your ...?" Told her what happened. She was very supportive. She said, "Well, we'll have to find something else." Four nights later knock came at his front door.

Six senior executives from Sefton burst through the front door, "Herman, we heard about what happened the other day. We think that's the neatest thing we've ever heard. Not only that, we quit too." "What do you mean you quit?" "Yeah, we quit too. Do you want to hear the good news? We're going to go to work for you." "How are you going to go to work for me? I don't even have a job?" "Well, we figured you'll find something. When you do, we're going to work for you." That night, those seven guys sat down around the dining room table and created the Inland Container Corporation. Anybody ever heard of the Inland Container Corporation. That multi-billion dollar empire exists today because in 1925 a guy in Indianapolis not only knew what his "governing values" were, one of them was loyalty. Another was integrity, how had he prioritized them? Suppose he had changed the order of those two values. Would it have affected his decision? This, folks, is the most important list you will ever prioritize. All right, that's step two.

Third and final step of creating this thing, write a clarifying statement for each value. Now, he wrote a statement describing what those values meant to him. Then, he had it complete. I'm going to ask you tonight to build your "Productivity/Ethics" pyramid starting with the base of the pyramid. Let me ask you this question. What do you suppose the Constitution of the United States is to the people of the United States? Isn't that a set of values as a people? In 1787 six years after the end of the revolution, they sat down in a meeting in Philadelphia, lasted four months; yelling and screaming at each other. You know what they were saying to each other? What would we cross an I-beam for? Hadn't they just crossed a hellacious I-beam? The Revolution?

Principles, values, ideas started to surface in that meeting; the freedom of speech and all the rest of them. So there would be no question in anyone's mind what those values meant to those people, they clarified every one of them with a written statement. Those written statements today are the Constitution of the United States. No law in this country is ever ratified until it's measured against our set of values for consistency.

What old white haired tottering gentlemen had a lot to do with writing the Constitution? You

know how old he was when that meeting took place? He was 82. They had to carry him in a chair he had the gout so bad, but you know what? He lived this thing his entire life, so he imposed the idea on the Constitutional Convention. What I am really asking you to do tonight, ladies and gentlemen, I'm asking you to sit down with yourself and write your own constitution. It will be re-written. It will be ... the priorities will change, but I will tell you the minute you have that in writing it will have impact on every decision you make.

Let me show you how significant that can be. Let's just finish the top of the pyramid. The next two blocks of this pyramid. You've got "Governing Values" at the base, and then we have "Long Range Goals/Intermediate Goals." The top is "Today." It's your daily task list. "Governing Values," getting to a daily task list in the form of intermediate goals. This is not rocket science folks. This is a six thousand year old idea that still works.

Here's an example. Suppose one of my "Governing Values" is to be physically fit. I value being fit. That's not a goal, but I weigh 300 pounds. So, what I'm doing doesn't line up with what I value, right? Now whenever there is a gap between what you're doing and what you value, there is pain. Do you buy that? The only way you can experience peace on that value is to do what? Close the gap. Remember the statement tonight "Run on the Gap." Cut down to three meals a day; no more beer, French fries. Then you can have peace. If you value being financially okay, and you're \$400,000 dollars in debt, you're in pain. How do I get rid of the pain? I've got to get rid of the debt? Are you with me?

I've been trying to get in to see Mr. Obama for weeks, but he won't see me. There is such a thing as national peace, corporate peace, divisional peace. It's when everybody lines up behind the values of the organization. Here's why I had this 'aha' today. Just suppose ... what I'd like to ask for ... I'm going to ask you to do this. I want you to write your own constitution; just see what it does.

I would hope ... the Army has identified some values, okay? Never leave a fallen comrade stuff; good stuff. That, perhaps, ought to be in your personal constitution, but that's not all. What are the other values that you really feel strongly about? Write them into your constitution because the minute you do, one of the things that happens is you discover an amazing ability to say no. Why? Because all of a sudden you have very clear vision of what matters to you, and all the other stuff people are trying to get you to do in the reactive mode, it's not important anymore. You can say no. It's a very empowering kind of a thing.

I'll share this experience with you. I was teaching this on a Time Management site in Atlanta, Georgia a lot of years ago. I had a man in the room. It was a two day seminar then. We'd [inaudible] the day, and I would do it in four hours if you were doing it in a half an hour. At the end of the first day, I had taught the "Productivity Pyramid," given everybody a planner. This guy came up to me. He was ashen faced he was so mad. He got up in my face, and he said, "Mr. Smith, I did not spend 360 bucks to come to a time management seminar and have religion thrown at me." I knew it was bugging this guy. I said, "Hold it." I said, "Before you say something you'll regret, you go home tonight, find out if there's anything you'd cross that I-beam for. If there's not, don't come back tomorrow, and I'll refund your money." I couldn't believe what I said to this guy. He backs up and he says, "Okay, okay." Sniff and he storms out.

This was not a great experience. I didn't sleep that night. Next morning I was there early. I was standing in the front of the room. My back was to the door. This guy came in an hour early. He didn't say a thing. He walks up; he sits down. The chair made a noise. I turned around. Here sits this guy like this. I stepped back, and I said, "Good morning." Do you know what he said? "Damn you." I said, "What's your problem?" "There are some things I'd cross that crummy I-beam for." I said, "Yeah, I don't care who you are. Everybody has "governing values." And then he relaxed and he said, "You know what?" He's a senior executive of the Coca Cola Company in Atlanta. He

said, “You know what? I’m not doing a thing in my life as a result of my “governing values.” I had no idea what they were until last night.” We talked for an hour, an hour at the end of the day.

He left the seminar; identified his “governing values.” He wrote his own constitution. He is just going through an ugly divorce. He made an appointment with his estranged wife. He showed her his constitution. She was stunned. Attorneys were sitting in the next room. She was stunned. She left that meeting. Wrote her own constitution. They got back together; compared them. They were almost identical. They are never identical. They were close. Fired the attorneys; best part of this whole story. Put his marriage back together. Now come on. Put his marriage back ... got all the JAG people sitting around. Put his marriage back together, and for the first time in his corporate life, he started managing his life, the events of his life, around what really mattered to him.

Now, we’ve got some 80 people here. I don’t care what your background is. There’s not a person in this room breathing that doesn’t already have the values. They’re already there. Unfortunately, there are gaps because you haven’t put the best disinfectant in the world on those values which is light. The minute you take ... go through those three steps, identify what they are, prioritize them, write a statement describing what they mean to you. The minute you have that in writing the clarity that gives your life is unbelievable.

I got a letter from a guy from Merrell Lynch. We trained probably 20,000 people at Merrell Lynch back when Merrell Lynch was a great company. This was back in the 90s. A year after the senior guy at Merrell Lynch went to the seminar, he writes me a letter. It was on this very posh executive stationary; six pages hand written. He said, “Hyrum, last year I went through your seminar. It never occurred to me that what I do each day ought to be based on what matters most to me. What a great idea.” Then he said, “You know I discovered as a result of discovering my ‘governing values’ that one of my ‘governing values’ was a great life for my son. When I admitted that to myself, I had to come face to face with the gap. I wasn’t doing anything for my son. This last year I have dedicated my life to making my son’s life wonderful.” He described about three pages the neat stuff he did with his kid. On the second to last page he says, “You know, my son, nine years old, last week was killed in an automobile wreck.” He said, “Hyrum, I have experienced some real pain at the loss of my son, but,” he said, “I have not had to experience any guilt.” And then he said, “For the first time I understood what you meant when you talked about inner peace” because he was congruent with what mattered most to him. Are you with me?

Here’s the idea that came to mind. I’m sitting there today. We’re talking about ethics. Suppose it was a requirement for every young man and woman that comes out of basic training to have written their own personal constitution. Identify their “governing values.” Yeah, the Army values ought to be part of it, and we ought to encourage that. But, all the others ... I’ll share a couple of mine here just before I close. Suppose it was a requirement in the first year at West Point, at the end of the first year, they have their personal constitution in writing. You know what? You revisit it every year. They get reprioritized. The paragraphs grow as you grow. Your understanding of the principle grows. You add principles. Rarely do you drop them, but you add them. It grows. Suppose if every ROTC officer had to write his own constitution and came into uniform knowing exactly what mattered most to him or her. Would that have any impact on the level of maturity of our young people that came into the military? I’ve got to tell you. I can tell you hundreds of stories how writing a personal constitution changed lives; changed corporation lives; changed organizational lives, but you’ve got to experience it yourself.

That’s why I think ... you know I was feeling it today. This is the most important thing I think I’ve done with the Army yet. I want you to try this. I want you to write that constitution. I want you to know what it is in writing all the values that are yours. I’ll just share one of mine with you, and then I’ll be still because then you’ll know the power that this is from. I’ve taught this to thousands of people in the corporate world. It never occurred to me what the impact it might have

here in the military. It could be huge because it gives vision and clarity to what matters most to me. I'll end with this idea.

One of my "governing values" and I've written my "governing" ... I have 16 of them. If you're interested, I'll send you my "governing values" if you want. I'll email a copy of mine if you want to look at them. Some books you ought to read if you get serious about this. Read Viktor Frankl's *Man's Search for Meaning*. He survived the Auschwitz death camp; discovered the difference between freedom and liberty while he was there. Read Scott Peck's book, *The Road Less Traveled*; read Ben Franklin's autobiography and discover what he did and the impact it had on his life. I will tell you Ben Franklin ... probably the most productive American ever. It's because he focused on what mattered most to him. He had his own constitution and then he imposed that on a nation. The impact it has on our nation is unbelievable.

One of my "governing values," ladies and gentlemen, is to learn to forgive. A lot of my "governing values" have to deal with ethics. One is integrity. One of them deals with my relationship with my God. I come from a very Christian background, and I happen to believe in God. And so my values have a lot to do with that relationship. That all needs to be in there, but the interesting one for me was I've discovered something about forgiveness. Here's what I discovered. We perpetuate a myth in our culture that suggests that in order to forgive completely you have to forget what somebody did to you, or an organization did, or whatever. That is the biggest bunch of crap I've ever heard. I've ever heard. In my opinion, forgiveness requires remembering, and in remembering, deciding it doesn't matter any more. Am I making sense here?

I'll tell you the most magnificent example of this I have ever seen. I witnessed this. In fact, Jack, I've got to tell you in February I'm going to Iwo Jima. I've had this obsession. I don't know why, but I'm going. I'm taking my wife; we're going. Twenty-five years out ... you remember the Battle of Iwo Jima? You probably studied the Iwo Jima. Four day battle; took 36 days to win, eight thousand marines, twenty-two thousand wounded marines, twenty-two thousand dead Japanese. The last Japanese soldier did not surrender on Iwo Jima until 1949. Horrible experience; the only way we got them out of the caves at the end was with blow torches.

Twenty-five years later, some guy had it in his brain, you know, we ought to have a reunion on Iwo Jima. And so he sent a letter out to the surviving Japanese and the surviving Marines. Most of the surviving Marines reacted the way you think they probably would. What do you think they said? You've got to be smoking something man. Ain't no way I'm going back to Iwo Jima and see those guys. No way. A lot of the Japanese were the same way, but, you know, almost 150 or something Japanese soldiers, you know, said "I think I'd like to go." About 200 Marines decided, "I think I want to go." This was a PBS, it was on PBS. You can actually watch it. I watched this in a hotel room and I'm just bawling.

These planes arrive on the air field. That's why we had to have Iwo Jima. It had an air field, and so they arrived in the air field. These Marines got out. They're all 25 years older now. The Japanese guys got out. They just stood on the two sides of the runway for a long time. Finally, without anybody saying anything, this was on film. All of a sudden these two groups ran across the runway, and they embraced and they wept. It was over for those guys. Forgiveness occurred. I watched that, and I thought, "Oh." You think the guys that fought on Iwo Jima will ever forget what happened on Iwo Jima? I don't think so, but these guys decided in a blinding flash of magic, in my opinion, that it didn't matter any more. They were able to hug their adversary; unbelievable.

So, I discovered that, you know, as one of my values, I've got to learn how to do that because that helps in this peace process. Another one of my values is to use refined speech. Another one is about integrity. Anyway, I plead with you tonight, ladies and gentlemen, will you go home and put a note in your Franklin Planner; build my "Productivity Pyramid" seriously, and just see what it does for you. I will tell you that the magic it brings into the clarity of your life is unbelievable.

And then, think about the idea, what that would do, because I believe just like if a more productive person will do things more productively, a basically ethical person will do things more ethically. Are you with me? Do you buy that? I believe that's true, and so if we've got a foundation going in, these young people at a young age understanding what "Governing Values" are, "Governing Values" govern. They govern what? Me. They get those values in there, mentored by good people like yourself, by an NCO that's done the same things. Everybody is discovering what matters most to them. They're starting to focus on this. I think it could have an impact on my Army and your Army that could be electric. I hope you do that. I'm done. Thank you very much. We'll see you in the morning. [Applause]

Biography

Hyrum W. Smith President, CGSC Foundation, Inc.

Hyrum W. Smith is the President of the Board of Directors of the Command and General Staff College Foundation, Inc. Co-founder of The Galileo Initiative, Smith is a highly sought after keynote speaker and author. For nearly two decades he has been motivating people to see reality more clearly and to gain better control of their personal and professional lives. Hyrum's speeches and presentations have been acclaimed by American and international audiences.

From 1965 to 1969 Hyrum served in the United States Army. After being named as honor graduate in basic training (Fort Polk, LA), AIT and NCO Academy (Fort Ord, CA), and OCS Artillery (Fort Sill, OK), he served as Firing Platoon Commander and Headquarters Battery Commander of the 56th Artillery Group, leading a Pershing missile battery in Germany.

Following his military service, Hyrum graduated from Brigham Young University in 1971. He went to work with ADP, a pioneering data processing firm, where he rose to become senior vice president for sales. In 1981, he formed his own training company, Golden Eagle Motivation, focusing on sales management. Later Hyrum worked as a consultant for a time management training company.

In 1984, he helped create the widely used Franklin Day Planner, and formed Franklin Quest Co. to produce the Planner and train individuals and organizations in the time management principles on which the Planner was based. Hyrum later was a founder of Franklin-Covey, the successor company to Franklin-Quest, and until September 2004 he served as vice-chairman of the board. He helped found The Galileo Initiative in 2001 to focus on teaching and training some of the core concepts he has come to feel the most deeply about in his years of training and motivating people.

Over the years, Hyrum has received numerous honors and community service awards, including the Silver Beaver Award from the Boy Scouts of America and the 1992 SRI Gallup Hall of Fame and Man of the Year Award. Hyrum was honored as the International Entrepreneur of the Year by Brigham Young University's Marriott School of management in 1993. He serves on several boards of directors and national advisory councils, and has been the recipient of three honorary doctorate degrees. In 1994 he was inducted into the U. S. Army's Artillery OCS Hall of Fame, and in 2005 was inducted into the Order of St. Barbara.

Hyrum is the author of several nationally published and acclaimed books, including *The 10 Natural Laws of Successful Time and Life Management*, *What Matters Most*, *The Advanced Day Planner User's Guide*, *The Modern Gladiator*, and is co-author of *Excellence Through Time Management*. He and his wife, Gail, enjoy life at their ranch in Gunlock, Utah, close to their children and grandchildren.

Conclusion

Lt. Gen. (Ret.) John E. Miller
Vice President, Corporate Affairs
Command and General Staff College Foundation, Inc.

Where do we go from here?

Transcript

Well, your presence here, your scholarship, your ideas, your dialogue have fulfilled one of my dreams and that was a hope that we could, through the Foundation, together with the college, begin a dialogue, a very active and important and, hopefully eventually, influential dialogue in our Army and in our armed forces on this vital and important topic.

In 1973, probably some of you weren't even born then. I was a student in the Command and General Staff College, and the Chief of Staff of the Army at that time was Creighton Abrams who had just come out of being COMUSMACV, the Commander of the military forces in Vietnam. And he was leading an army that was in a terrible malaise serving a nation which was in a national malaise. And he said, "Try as I might as Chief of Staff of your Army, I can only change the vector of our great ship, this institution of the Army, by one or two degrees on my watch, maybe not even that," he said, "but each of you," talking to our student body, "can go out when you graduate from this institution and take charge of whatever piece of the Army is yours – a command, a staff, whatever it might be – and you can make it better. You can make a difference." So that is my commission to each of you.

Well, I don't have all the answers to all these ethical questions. We raised more issues and questions than we gave answers in this process. That's okay. You do have values. Hyrum has given you a very good tool for refining and solidifying and crystalizing those life values and thinking about how you are going to live them and articulate them. Take what you have into your professional environment and be bold enough and brave enough because we want you to, and the Army needs for you to ask the question when you're in a planning session, in a professional discussion or even in a personal situation, "Are there any ethical implications to what we're doing here, and what might they be?" You won't unravel that whole ball of string, but you will begin to develop the habit that is so essential to good, ethical behavior in yourself and among those around you.

So that is your commission. That is your license from all of us that have participated here together. Please go forward and change our Army. Thank you.

*The next Fort Leavenworth Ethics Symposium is scheduled for
November 2010, in Kansas City, Mo.*

Part 5: Other Papers Submitted

Character-Based Leadership in Dualist, Extreme Situations: Where the Twain Shall Meet

by
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*Neither a borrower, nor a lender be;
For loan oft loses both itself and friend,
And borrowing dulls the edge of husbandry.
This above all: to thine own self be true,
And it must follow, as the night the day,
Thou canst not then be false to any man.*

Shakespeare, *Hamlet*, I, iii, 75.

Disguise, deceit, and deception are hallmark elements of “success” in many social exchange relationships including those found in the military. One question that arises is how this set of duplicitous skills squares with the ethical standards of transparency, authenticity, consistency of intentions and actions, and personal integrity. In almost any social exchange scenario, social agents are put in positions that often require different response sets predicated on potentially conflicting sets of expectations or goal(s). For example, in the criminal justice system, the goals of punishment versus rehabilitation come readily to mind. This attempt to faithfully serve two (or more) “masters” can be highly stressful (Nelson, Quick, & Quick, 1989) and lead to attempts to reduce cognitive dissonance.

More specifically, in the military, a number of conflicting goals or dualities are also readily apparent. For example, the role of being a warrior does not require the same skill set to that of being a statesperson, negotiator or human relief worker. Dualities within this role of warrior exist as well. There is a duality between what is expected as a warrior (e.g., killing) and the morality evidenced in the Judeo-Christian ethic (among others) of “Thou Shall Not Murder.”

These dualities give rise to a number of important questions that bear discourse. At a general level, to what extent do these dualities create moral dilemmas which military commanders face in their contemporary operating environment? At what point or points does the duality of conflicting goal expectations create emotional stress, pain and suffering for military commanders? Can strength of character mitigate the dilemmas of dualism? How does one adhere to the adage “to thine own self be true”? We initiate a preliminary discussion that a character-based leadership approach can be highly instrumental in fostering potential resolutions to these dilemmas (Wright & Goodstein, 2007; Wright & Huang, 2008).

Integrating relevant works from both the organizational sciences and character-based leadership, we propose an initial discussion of character strength mechanisms to “strengthen the host.” Effective strategies to strengthen the host can be designed to if not optimize, at least to better or improve the level of person-environment fit for today’s military leaders. These strategies are especially relevant for those military leaders facing a wide range of dualist, extreme situations in a highly turbulent world. But first, we must define what we mean when we discuss character.

CHARACTER DEFINED

Defining what character is remains a challenge that has perplexed generation upon generation of scholars (Hunter, 2000; Wright & Goodstein, 2007; Wright & Huang, 2008). The long-term nature of this dilemma is evidenced by Filter (1921: 297) who plaintively noted that, “The looseness of meanings attached to names of character traits demands first consideration. A trait must be defined in order to be studied intelligently.” Unfortunately, Filter failed to even

nominally heed his own advice and failed to provide an even rudimentary definition of character. Filter's failure was not an isolated case; this conceptual ambiguity was evident in the work of a number of scholars (Wright & Goodstein, 2007). Fortunately, well-articulated views of what constitutes character, along with how to best assess it, can be found in a number of philosophical and religious sources (Peterson & Seligman, 2004; Wright & Goodstein, 2007).

The traditional views of character were influenced by a wide range of sources. These sources include Aristotelian thought as evidenced in the *Nicomachean Ethics*, Judeo-Christian beliefs (Saint Paul's faith, hope, and charity come readily to mind), such Eastern philosophies as Confucianism, as well as by the more modern, secular approaches proposed by utilitarian, justice and social contract models (for further discussion, see Hunter, 2000; Peterson & Seligman, 2004; Wright & Huang, 2008). Certainly, Franklin's (1790/1961) widely heralded classification of strengths of character and virtue extolling the merits of leading well-ordered, humble, industrious, sincere, clean, and just lives has been highly influential on those interested in traditional approaches to the study of character. More to the point, these traditional definitions of character contained both moral and social dimensions.

The Moral Sentiments

Adam Smith (1759) may have been the first moral philosopher to posit the existence of an individual conscience. Previously, the sovereign determined right from wrong under the divine right of kings. The common man (i.e., commoner) was simply a pawn in the hands of the sovereign within that framework. Smith (1759) broke this paradigm by theorizing that the individual, regardless of station in life, possessed a moral sense. He went on to discuss the importance of sympathy and propriety of action; here he distinguishes unsocial, social, and selfish passions. The dual interests of selfish and social passions within the individual gave rise to his concept of conscience, and now character, which place the locus of moral judgment within the individual rather than the sovereign. Hence, the moral sentiments lie within, not without. In the present context, character is best assessed as a multidimensional construct (Peterson & Park, 2006; Wright & Huang, 2008). Here we employ the "moral" definition.

The "Moral" Definition of Character

The first, and most basic, component of this traditional approach to character is moral discipline (for a further discussion of the components of character see Hunter, 2000; Wright & Goodstein, 2007). In particular, a core component of any traditional definition of character is one which specifies an individual's ability to constrain their personal appetites on behalf of the supposed needs of a greater societal good (Wright & Huang, 2008). Consistent with this communitarian idea of a greater societal good is the second element of character, moral attachment. Moral attachment clearly reflects the affirmation of our commitments to someone or something greater than us (Wright & Goodstein, 2007). Hunter (2000, p. 16) refers to this as "the embrace of an ideal that attracts us, draws us, animates us, and inspires us." The third component in traditional definitions of character is an element composed of the moral autonomy of the individual in his or her capacity to freely make ethical decisions (Hunter, 2000; Wright & Huang, 2008). Autonomy means that a person has not only the necessary discretion at their disposal but also the skills of judgment to freely act morally. More to the point, moral autonomy suggests the dual notions of individual responsibility and free will (c.f., Hunter, 2000; Wright & Goodstein, 2007).

Incorporating aspects of each of these three components, Wright and his colleagues (Wright

& Goodstein, 2007; Wright & Huang, 2008), defined character as those interpenetrable and habitual qualities within individuals, and applicable to organizations that both constrain and lead them to desire and pursue personal and societal good. Now that we know how character is defined, we next discuss how character is currently assessed.

ASSESSMENT OF CHARACTER

Unfortunately, the assessment of character is presently quite limited in society in general, and in the military in particular. One potentially promising avenue to assess character may be found in the framework proposed by Peterson and his colleagues (Dahlsgaard, Peterson, & Seligman, 2005; Peterson & Seligman, 2004). Typically, past research on character and the formation of character has concentrated on one component of character at a time, leaving unaddressed issues about the underlying structure of character within an individual. For example, while some individuals may be modest and grateful, they might lack in perspective and self-control. Likewise, while other individuals may be cautious and demonstrate citizenship, they may be challenged in their love of critical thinking and social intelligence (Park, 2004; Wright, 2009). In addition, assessing a full range of strengths of character may help alleviate concerns about participants responding with what they perceive to be socially desirable answers by allowing individual respondents the opportunity to report something positive about themselves (Peterson & Seligman, 2004).

In a systematic attempt to address these longstanding conceptual and empirical ambiguities in the assessment of character, Dahlsgaard et al. (2005) conducted a comprehensive literature review of the world's influential religions and philosophical traditions. In the case of Judaism, the books of Exodus and Proverbs were reviewed, as regards Confucianism, the Analects, for the Taoist tradition, the Tao Te Ching, among other sources. The virtues mentioned in these classic works were systematically identified by Peterson and Seligman (2004) and a core set of virtues common to all works was identified. Some of the criteria used (for a further discussion, see Peterson & Seligman, 2004; Peterson, Park & Seligman, 2005; Peterson & Park, 2006) to identify whether a potential strength of character belonged in the classification framework include:

- ubiquity - the strength is widely recognized across time and culture
- morally valued - is valued in its own right and not only as a means to an end
- measurable - the strength has been successfully measured
- distinctiveness - the strength is not redundant
- trait-like - is an individual difference with measurable temporal stability

More specifically, Peterson and Seligman (2004) identified six core virtues (with the strengths of character common to each virtue listed in parentheses): wisdom and knowledge (creativity, curiosity, open-mindedness, love of learning, perspective); courage (bravery, honesty, perseverance, vitality); humanity (kindness, love, social intelligence); justice (fairness, leadership, citizenship); temperance (forgiveness, modesty, prudence, self-control); and transcendence (appreciation of beauty, gratitude, hope, humor, spirituality). This classification framework provides an excellent starting point for a rigorous investigation of character assessment.

Peterson and Seligman's classification is measured by the Values in Action Inventory of Strengths (VIA-IS) (Peterson, Park, & Seligman, 2005). The VIA-IS is a 240-item self-report questionnaire that uses 5-point Likert-scales to measure the degree to which respondents endorse strength-relevant statements about themselves (1 = very much unlike me through 5 = very much

like me). Each of the 24 strengths of character assessed by the VIA-IS is measured with 10 items. For example, sample items of the character strength valor include “I have taken frequent stands in the face of opposition” and “I have overcome an emotional problem by facing it head on”; sample items for the character strength self-regulation include “I am a highly disciplined person” and “I control my emotions”; sample items for the character strength industry include “I always finish what I start” and “I finish things despite obstacles in the way”. Responses are averaged within scales, with higher numbers reflecting more of the strength. While beyond the scope of this discussion, the VIA-IS suffers from a number of psychometric challenges (Wright & Huang, 2008). Notwithstanding these possible limitations, preliminary results indicate that the scales may demonstrate satisfactory internal consistency (Cronbach alpha coefficients > .70), along with substantial test-retest correlations over a four month period (Peterson, Park, Hall, & Seligman, 2009). As discussed next, several strengths of character would appear to be extremely important for military personnel operating in potentially extreme, dualist situations.

Profiles in Character Strength

Based upon personal experience and discussions with a number of military personnel, several strengths of character appear to be especially important or “signature strengths” for individuals working in extreme, dualist situations. The first strength of character is valor or bravery. According to Peterson and Seligman (2004) valor involves not shrinking from threat, challenge, difficulty, or pain; speaking up for what is right even if one has the minority opinion. Furthermore, the definition of valor includes both moral and physical components. The second strength of character is industry or perseverance. Simply put, an industrious person is a finisher. That is, an industrious individual is one who persists in a course of action despite setbacks; she is one who takes pride in completing tasks.

The third necessary strength of character is self-control. One who has the strength of self-control is one who is able to regulate or control what he feels and does. A self-regulator is a disciplined individual; one who is able to exert control over one’s visceral appetites and emotions. Our fourth strength of character is honesty or authenticity. An honest individual is one who has the courage of their convictions to speak the truth and is able and willing to take responsibility for their one action’s. Our final necessary signature strength is critical thinking or judgment. A critical thinker is one who is both willing and able to examine topics from all sides; he does not jump to hasty conclusions. By definition, a critical thinker is one who is able and willing to change one’s opinion in light of new evidence. A critical thinker is one who maintains impartiality and is willing to consider all evidence before making a final decision. Considered together, we suggest that personnel working in extreme, dualist situations should be high on the following strengths of character: valor, industry, self-control, honesty, and critical thinking. Given these five strengths of character, what can the military do to maximize the possibility of individuals obtaining this profile of signature strengths of character?

Strength of Character: Exceptional Leadership in a Crisis

Character may be assessed by way of its consequences. Cannon (1929) affirms the previous discussion of profiles in character strength in his post-World War I assessment of the martial virtues. Before the affirmation, he addresses the case for war.

“Without war nations become effete, their ideals become tarnished, the people sink into self-indulgence, their wills weaken and soften in luxury. War, on the contrary, disciplines character, it sobers men, it teaches them to be brave and patient, it renews a true order of values, and its

demand for the supreme sacrifice of life brings forth in thousands an eager response that is the crowning glory of the human spirit” (Cannon, 1929: 379).

Having served in the Harvard Medical Group in Europe during World War I, he was well attuned to the ravages of war. He concludes his argument with an emphasis on the desirability of preserving the martial virtues and he might concur that war is only one crucible in which character may be forged. Industrial and economic crises provide alternative tests. Crises in the Texas banking industry during the 1980s and the global oil industry of the same period provided tests for banking leader Joseph Grant and oil industry leader Purvis Thrash. Each of these leaders displayed exceptional leadership in these crises for their actions were based on social passions and the common good more than on selfish passions (Cooper, Quick, Quick, & Gavin, 2006; Smith, 1759).

Positive Outcomes from Moral Actions: Goolsby Leadership

Virtuous intentions and character strengths may foreshadow, yet not guarantee, positive actions and outcomes. Examining individual and organizational cases can offer insight into the processes whereby moral actions may lead to positive outcomes (Goolsby, Mack, & Quick, 2010). Positive examples and good outcomes even when born of struggle and suffering, can be both instructive and inspirational. In addition, positive case examples can serve as the basis for scientific testing of what works best in practice to reduce or prevent the appalling spectacles that lead to moral outrage.

Character in the Context of Decision Making

Gavin (2002) focused attention on the consequences of character in the decision making context. Her thesis was that men and women of good character made better decisions for the long-term; that is, they transcend the moment in thinking through the many possible courses of action and their consequences, to include the impact on others. She defined and then empirically tested with over 100 businessmen and women her concept of character as a three-dimensional construct based on: moral approbation, self-transcendent values, and emotional intelligence. While her concept of character is different than the current direction we are taking, her empirical testing in a decision making context is an important early framework for current consideration.

PRACTICAL IMPLICATIONS

Assuming that our speculations about strengths of character are confirmed through empirical research, they could have important implications for military practice. In particular, the military may want to pay closer attention to the actual strengths of character profiles of their workforce. Then, and if warranted, intervention strategies designed to improve or enhance the strengths of character of personnel can be developed. Generally speaking, character strength-based work interventions can take three general forms: composition, training, and situational engineering (Ilgen, 1999; Wright, Cropanzano, & Bonett, 2007). Composition focuses on selecting and placing individuals into appropriate positions, while training emphasizes assisting employees so that they better “fit” their jobs. Finally, situational engineering focuses on changing the work environment to make it more closely fit the needs and abilities of one’s employees. While character strength has implications for each of these approaches, we focus our attention on composition (selection) and training.

Strength of Character

It would appear that the strength of character of military recruits is consistent with their later strength of character as longer-term personnel, as preliminary research has consistently established the stability of character strength (in the .60 to .70 range) over time (Peterson & Seligman, 2004). These findings support the premise that military personnel who report a certain profile of strengths of character at one point in time are likely to report similar strengths of character at a subsequent point in time. Given these considerations, a military interested in having men and women of character might well benefit through the selection of individuals exhibiting certain profiles of character strength. For example, in extreme, dualistic situations, the military might well benefit from the selection of individuals exhibiting certain character strength profiles, such as the ones described earlier. The military has another potential human resource arsenal at its disposal for enhanced strength of character: employee training.

While strengths of character potentially exhibit significant test-retest consistency over time (as noted, in the .60 to .70 range), these results also indicate that individuals have the opportunity to learn ways to enhance their strengths of character through any number of training-based interventions (for general reviews of the topic, see Cooper, Dewe, & O'Driscoll, 2001; Quick, Quick, Nelson, & Hurrell, 1997). For example, a number of strategies exist where individuals can be trained to proactively self-monitor or manage their personal perceptions to enhance various strengths of character, and discourage “characterless” and negative displays of emotion or behavior. For example, constructive self-talk is a learned technique that can be adapted to reinforce the use of a number of strengths of character, such as critical thinking, perseverance and honesty.

Self-Reliance

Previous research on basic Air Force recruits led to findings that may echo in the present considerations of character. Specifically, successful basic military trainees were characterized as more self-reliant than their less successful, or unsuccessful, counterparts (Quick, Joplin, Nelson, Mangelsdorff, & Fiedler, 1996). The paradoxical nature of self-reliance in this research is the capacity to form and maintain secure interpersonal relations while contemporaneously acting autonomously when circumstances arise and warrant. Our previous definition of character included both moral attachment and moral autonomy. This is the paradox of interdependence that at first blush appears to be independence. We suggest that character affords the individual an endoskeleton for strength of action coupled with a sense of security in the midst of a crisis.

Leader Health and Ethical Leadership

Quick, Cooper, Gavin, and Quick (2008) propose that health is an enabling force, even a force multiplier, for sustained performance and success. While convention embraces physical strength and psychological well being as accepted dimensions of health, the authors advance spiritual vitality and character as two additional dimensions of complete health. Within this framework, leaders must be of sound moral character to be truly healthy. Character has consequences as John Goolsby experienced in facing ethical dilemmas such as bribery, political coercion, and conflicts of interest (Quick, Cooper, Gavin, & Quick, 2008: 182). His ethical leadership enabled positive resolutions to the host of ethical dilemmas. Since U.S. military forces are not immune to such risks, especially so in the current conflict-laden international environment, the need for accurate leader assessment and development is of paramount importance.

Leader Assessment and Development

The three dimensions of the Leadership Worth Following (LWF) executive performance model are:

- The capacity to lead
- The commitment to lead
- The character to lead

The character dimension may be the cornerstone dimension of the model. Character within the model is conceptualized as personal integrity and ethics, organizational integrity and ethics, and humility, gratitude, and forgiveness. Thompson, Grahek, Phillips, and Fay (2008) explore each of these three dimensions in depth and examine their importance in the processes of leader assessment and leader development. There are a range of practical consequences of character as we have just considered.

SOME CLOSING THOUGHTS

We have provided an overview of the character concept by tracing some of its history before arriving at a moral definition of the concept using Hunter's (2000) framework. In addition, we consider several ways in which character may be assessed before examining a number of practical applications or consequences of strength of character. Working from a larger context than an exclusively military one, we then aim to bring the focus to a military decision making context in which mortal combat is engaged, as well as political and community issues.

Therefore, we close by emphasizing an important point. That is, the issue of character strength has both theoretical and applied relevance in today's military. It seems evident to us that promoting character strength is an intrinsic good for which all should work. However, if the careful selection and development through training of military personnel based on strength of character promotes better efficiency, then so much the better. This closing thought focuses on both the intrinsic and the extrinsic value of character. That is, character is a good in and of itself. In addition, we are suggesting that there is utilitarian value in strength of character, for the individual soldier, the leader, and the service whose uniform s/he wears, and the nation s/he serves.

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Developing Ethical Reasoning in Army's Tactical Leaders: A Virtual Learning Initiative

by

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Abstract:

The Army Chief of Staff has a vision: “A U.S. Army that lives the Army values and embodies the Professional Military Ethic (PME) to meet the challenges in an era of persistent conflict.” To help address ethical and character development, the Chief of Staff has commissioned the United States Military Academy, West Point, to serve as the Center of Excellence for the PME with four primary missions: 1) Assess, study, and refine the PME of the force, 2) Create and integrate PME knowledge, 3) Accelerate PME development in individuals and units, and 4) Support the socialization of the PME across the Army culture and profession.

In support of these missions the Center has partnered with WILL Interactive, Inc. to design an interactive virtual experience to assist in the development and acceleration of tactical leaders in the ethical reasoning and decision making process. This paper explains modern theoretical underpinnings of character development, advantages of virtual interactive learning, and the combination of these to enhance development of junior tactical leaders.

Introduction

We were headed out to a pretty easy mission. My front truck reports that there is a dead body under a car in the middle of the road. This guy is on the ground. He had been in his car and he had been shot. At that point the gunner from my lead truck noticed a double decker bus that had stopped. And there was a guy in the top deck who appeared to have a blue video camera hanging out the window videotaping. Our rules of engagement permitted us to engage anybody videotaping an attack. I looked down my sight and noticed the same thing. The gunner looked with binos and it was the same thing. He asked me "Hey sir, can I go ahead and shoot him?"¹

For almost a decade our nation has been at war. This conflict has been called "the global war on terrorism," "the era of persistent conflict," and most recently "the overseas contingency operation." Maybe a better name would be "the era of ambiguous, ever changing, and unpredictable conflict." Soldiers and leaders at every level, particularly the tactical level, face increasingly complex and dynamic situations as our enemies adapt quickly to counter new US tactics and hardware. Along with the amorphous, fluid, and atomistic nature of the battlefield, the duration of the conflict has strained the application of battlefield ethics and morality. This creates an ethically ambiguous environment that presents profound challenges. Junior leaders and Soldiers must make decisions with no clear "right" answer. Modern communications and intelligence provide enormous flows of information, but at the tactical, local-level Soldiers receive an overwhelming volume of information that is often incomplete, cryptic, and unsubstantiated. Their decisions drastically impact the accomplishment of the mission, the welfare of their soldiers, the well-being of the local community, and their own personal and professional lives.

These realities are further evidenced in findings of the Fourth Mental Health Advisory Team (MHAT-IV) Assessment from Iraq, rising rates of criminal activities, war crimes, and regulatory incidents, and increasing occurrences of sexual assault, suicide, and other factors. Consequently, the Chief of Staff of the Army assessed a need to focus on and accelerate the moral development of all U.S. Army personnel, including officers, non-commissioned officers (NCO), warrant officers (WO), Soldiers, civilians, and contractors. The Chief of Staff has commissioned the United States Military Academy, West Point, to serve as the Army Center of Excellence for the Professional Military Ethic (ACPME). The ACPME is charged with four missions: 1) Assess, study, and refine the PME of the force, 2) Create and integrate PME knowledge, 3) Accelerate PME development in individuals and units, and 4) Support the socialization of the PME across the Army culture and profession.

In support of these missions the ACPME has partnered with WILL Interactive, Inc. to design an interactive virtual experience to help develop ethical processing and moral capacity in an era of irregular, asymmetric warfare and persistent conflict. This paper explains current theoretical underpinnings of character development, the rationale behind virtual learning, and how we combine these to enhance development of junior tactical leaders.

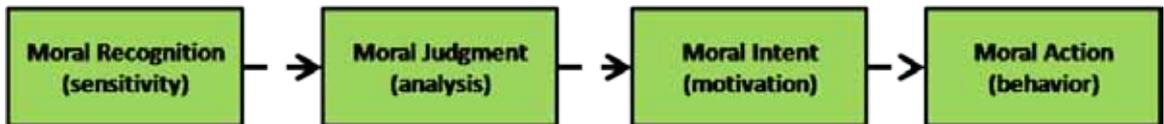
§1: Ethical Reasoning and the Moral Working-Self

Consider a case where ethical behavior breaks down, the infamous murder of Kitty Genovese.²

On March 13, 1964, at around 3:15 a.m. twenty-eight-year-old Catherine “Kitty” Genovese was stabbed in the back while walking to her apartment. Responding to her cries for help a neighbor yelled and temporarily drove the attacker away. Kitty was able to crawl to her door, but before she could enter the attacker returned. He assaulted her and then drove away. Approximately ten minutes later he returned and found Kitty semi-conscious and badly bleeding. He cut off her clothes, sexually assaulted her, stabbed her, and then left. One neighbor finally called the police at around 3:50 a.m. Kitty was dead by the time the police arrived.

Police interviews indicate that approximately thirty-eight people witnessed some aspect of the attack, either directly watching the attack or hearing Kitty’s screams. When asked why they did not help, witnesses said “we didn’t want to get involved,” “we thought it was a lover’s quarrel,” or “these things happen every day all over the world.” Where did ethical processing and behavior break down in this case?

Figure 1: A Version of Rest’s Model of Moral Processing



James Rest argues, “Ethical behavior occurs when an individual sequentially processes a moral dilemma through the stages of *moral recognition, judgment, intention, and behavior.*”³ Ideally, for example, a witness to the murder of Kitty Genovese would recognize that something was wrong, analyze the situation and form a judgment as to what was wrong and how to respond, form an intent to intervene in the situation, and actually act to prevent the murder. The model of moral processing is useful as a tool to understand the process of ethical behavior. The model is also useful in identifying possible failures in moral processing or behavior that result in a lack of ethical action.

Few witnesses of Kitty’s attack reached the first stage of moral processing as they did not recognize the attack as a moral event. Moreover, of those who thought there was a problem, only two witnesses chose to act. Consider the following events from contemporary operations:

In 2005, near the town of Haditha in Anbar Providence, Iraq, twenty-four Iraqi men, women and children were killed by a Marine unit after one of the Marines was killed by an IED. The criminal investigation determined that all twenty-four civilian casualties were caused by the Marines. Eight Marines were charged in connection with the killings, four with unpremeditated murder, and the Battalion Commander and two Company Commanders were relieved of command for negligence. That same year, two unarmed civilian Afghani prisoners in the custody of US forces at Bagram Air Force Base, Afghanistan were abused and beaten to death. Investigators implicated twenty-eight Soldiers in the deaths

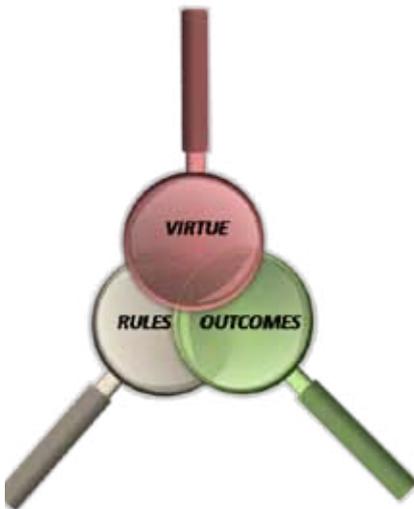
and recommended criminal charges, including negligent homicide. In 2007, in Iskandariyah, Iraq, three Army snipers were accused of murdering three unarmed Iraqi citizens. One of the snipers was convicted and sentenced for ten years for the murder of an Iraqi civilian and another sniper was accused and later acquitted, for murdering two unarmed Iraqis. Both men claimed that they were just following orders from their supervisor. Their supervisor was charged and later acquitted of the three counts of murder, but was found guilty of planting evidence in one of the cases.

In all three cases, as well as the much-publicized account of the prisoner abuse at the Abu Ghraib Prison in 2004, one can see, like the Kitty Genovese case, clear illustrations of ethical processing gone bad. The salient question in every case is, “Why didn’t anyone involved stop this obvious unethical / immoral behavior?” The answer is complex, but Rest’s model may help identify where the breakdown(s) occurred. Did they recognize the moral issue at hand? Did they decide something was wrong? Did they have the intent to intervene? Or, did they feel they were capable to change the situation? With Rest’s model of Moral Processing we can begin to see that there are several places in the decision making process that are prone to failure.

The first breakdown in moral processing may occur due to a lack of awareness of a moral situation. If a person recognizes a moral situation, the second breakdown may occur when the individual incorrectly evaluates a moral situation due to a lack of moral wisdom. Challenges at this stage include identifying morally relevant factors of the situation, identifying appropriate options, and identifying desirable outcomes. Further failure may also occur due to overvaluation in which the moral process stalls in inaction. Moreover, moral processing at this stage may falter because of faulty analysis or reasoning when deciding what to do. The third breakdown in moral processing may occur when a person lacks intent to act. In this stage, there is no impulse, desire, or resolve to appropriately handle the situation. Intent may be missing because a person does not empathize with the situation, lacks a feeling of responsibility for the situation, or does not feel “ownership” over the situation. The fourth breakdown occurs when external forces prevent an individual from acting or make him feel incapable of having a moral impact on the situation. For example, previous experience may have inculcated a lack of moral courage to act.

Considering the current situation of irregular warfare in an era of persistent conflict, it is necessary to help junior leaders by training, educating, and developing them so that they can successfully negotiate these possible areas where moral processing breaks down. Due to the rich history of moral philosophy, perhaps the easiest of these gaps to cross is that of moral analysis.

The ACPME has adopted three of the more common moral outlooks, or “lenses,” to use as tools for evaluating a moral situation. These three “lenses” are deontological ethics (duty-based ethics where motives, often expressed as “following rules,” determine the moral worth of the action), teleological ethics (consequence-based ethics where goals and outcomes determine the moral worth of an action), and areteological ethics (virtue-based ethics focusing on traits of character



that lead to a full and flourishing life). Most Soldiers will recognize these different lenses as they perform their service. By appealing to laws, standard operating procedures, or Rules of Engagement (ROE), Soldiers are most likely following an appeal to duty-based (deontological) reasoning. By focusing on mission goals, maximizing the good or minimizing harms, Soldiers are most likely following an appeal to consequence-based (teleological) reasoning. Likewise, when drawing upon the 7 Army Values, professionalism, or moral exemplars (What would the Chief of Staff of the Army do?), Soldiers are most likely following an appeal to virtue-based (areteological) reasoning.

Moral dilemmas occur when situations arise in which conflict exists between duties, acceptable outcomes, or values. For example, conflicts exist when deployed Soldiers experience situations where the ROE technically permits engaging a target, but the potential for adverse reaction by local observers likely produces subsequent negative outcomes. Soldiers may encounter wounded civilians when rules prohibit use of military transport, but humanitarian values may indicate providing immediate medical care available only through medevac. A sergeant may experience conflict when dealing with a private who broke Army regulations (failure to follow the rules) so that he could spend more time caring for his sick wife (promoting virtues related to family life). In these, and similar situations, ethical training, education, and development are needed so that Soldiers can successfully negotiate moral dilemmas.

The Army faces a challenge in developing ethically mature Soldiers and civilians who apply their own moral reasoning authentically - from within - based on their own capacities and “moral working self.” The moral working self flows from the individual’s moral identity, reflecting the aggregation of their life experience, learning, choices, and wisdom. Army members who attempt to master a rule of thumb for ethics will inevitably find themselves in situations in which the moral guideline does not make sense or overlooks an important consideration. The Army needs members who struggle with the complexity of moral situations, who are troubled by competing moral considerations, who raise moral issues to their leadership for guidance, and who make decisions for which they are willing to be accountable.

Many people tend to rely heavily on a single lens to evaluate moral situations, discount competing moral perspectives of a situation, or (especially in institutional settings such as a corporation or the Army) equate moral action with ‘following orders.’ Although such strategies may work in many cases, it is clear from the types of dilemmas occurring in contemporary conflict that such “one shot” or single lens approaches are sometimes self-defeating and result in sub-optimal performance. Successfully negotiating dilemmas faced by contemporary Army members requires focusing not only on advancing military science, designing new and technologically advanced equipment, recruiting more people, executing contingency operations, but also on refocusing effort onto the human element, including developing the moral working self.

Other useful concepts in framing the challenge of moral development include the individual’s “moral battlespace” when facing a moral situation. Past experience informs present perceptions and judgments, and the words and examples of others in the situation together form the individual’s moral battlespace. Additionally, every moral situation can be further evaluated in terms of its intensity. Several factors contribute to the individual’s perception of moral intensity, including: the magnitude of the consequences, the degree of social consensus, the probability of effect, the temporal immediacy, the proximity, and the concentration of effect.⁴

Key psychological aspects of the moral working self include moral maturation (the capacity to recognize moral issues and make moral judgments) and moral potency (the willingness and confidence to take moral action). Consequently, the Army needs to approach this issue in the development of human capital in a way that goes beyond technical proficiency, and reaches into the private core of every Army member. This is the challenge of developing the moral working self of every Army Soldier and Civilian.

§2: Developing the Moral Working Self through Virtual Experience

FM 6-22, Army Leadership, October 2006, recognizes the impact a mature and engaged mentor can have in preparing Soldiers for difficult situations. As impactful as good, personal mentorship can be, it is wholly dependent on the skill and capacity of the mentor. The experience of many Soldiers and Department of Army Civilians is varied, if not lacking all together, under the mentorship of their immediate supervisors. The Army needs a means to standardize and extend this development process to have immediate impact across the entire Force. Moreover, Army Leaders need tools that focus and inform their discussions with subordinates concerning complex issues such as ethical reasoning.

Ethics instruction has long had a place in Army schools. This provides an opportunity for inculcating standard vocabulary and practices, and good instructors to put their personal stamp on their students. Army schools also provide a respite for Soldiers from the press of duty assignments that affords moments of reflection and introspection. Yet, a Soldier may wait many years before returning to the classroom for subsequent opportunities at moral instruction. Moreover, as suggested above, the requirement for development of the “moral working self” goes far beyond moral instruction. A resource is needed to reach the entire force quickly and to enrich and standardize the role of mentorship in development ethical capacity within the Army.

E-learning tools are gaining credibility and acceptance as a training solution. E-learning tools can be useful in increasing the Learner’s cognitive knowledge, awareness, and skills. However, traditional interactive multimedia instruction may, in fact, only be imparting “knowledge about skills.” Like other forms of instruction, it is a challenge to move up Kirkpatrick’s levels of evaluation to measure true changes of behavior and result.⁵ The Army needs an educational and developmental vehicle that goes beyond a positive student reaction and the retention of knowledge, and stimulates the developmental aspects of education, such as positively influencing attitudes and behaviors. The sterility of computer-generated interactive methods separates Learners’ experiences from the situations they will confront. In essence, contemporary efforts to reduce instruction and learning to electronic media can disassociate Learners’ insights from real life experience.

To overcome the limitations of traditional e-learning tools, WILL Interactive, Inc. has created a product line of proprietary Virtual Experience Immersive Learning Simulations (VEILS®). Drawing upon the engagement of interactive video games, VEILS® blends technology and art to model real-life situations with full-motion video simulations with human actors. These simulations mimic real-world situations which allow users to make real-life choices while experiencing the consequences of those decisions in the safety of a simulation. Due to the intellectual and emotional engagement of Learners using these products, VEILS® provide a unique means to go beyond imparting “knowledge about skills,” and allows for truly increasing Learner’s cognitive knowledge, awareness, and skills.⁶

To successfully impact attitudes and behaviors through experiential fidelity in a decision-based simulation, the Learner needs to feel like he or she is there, in a real environment, with real people, doing real things in real situations. Every day, millions of people become emotionally engaged in movies and video, while users of much interactive multimedia instruction rarely - if ever - reach a psychological state that impacts their real world performance. Video has proven to be imperative in engaging an audience affectively as well as cognitively. The use of live actors enables Learners to develop empathy with on-screen characters as they make choices that guide their character through experiential learning situations.

One key to the WILL methodology is true-to-life scriptwriting, based on solid field interviews and research that immerses the Learner in the emotions, pressures, and humor of real-life situations.

Emotion and humor are vital in order to lower the cognitive load on the Learner so that “deep learning” can occur. Learners stop pretending and start living it out in interactive video. True-to-life scripting also allows VEILS® training solutions to challenge Learners to struggle with difficult choices and experience the consequences of their choices. As an example, consider the following scene:

VOICE OVER: So you find the man, and his shovel, and you search his house. Your interpreter helps you quiz him. He said he was just trying to fix a water pipe leading to his house. Funny, you don’t see any evidence of a water leak.

SGT HILL (Team Leader): I say we take him in....

VOICE OVER: So you call it in, but...

SP4 GREY (putting down the radio): Sergeant, Higher says they don’t want him... no weapon, really no suspicious activity... they got other priorities. They say you can release him now, or you can bring him in and provide a two-man guard 24-7 until he’s probably released anyway.

SSG MOULTRIE: Roger... (thinking about it)

SGT HILL: We’re just down the road from the Police Headquarters... maybe they’ll take him.

INTERPRETER (broken English): Sir, Provincial Police very bad. Government sent them here from other province to take power of local clan leaders. They very bad.

SSG MOULTRIE: What are you saying?

INTERPRETER: Sir, they torture local man. They kill local man. No justice. No one know and no one can stop them. Very bad.

SGT HILL: So what do we do? If he’s a bomb maker, we can’t just let him go!

SSG MOULTRIE: We’re headed past the Police station anyway, let’s go.... Keep ‘em secure.

This scene in the VEILS® application on Army Ethics presents an opportunity for the Learner to guide the Squad Leader in a choice between handing over an unlikely suspect to abusive local police, releasing the suspect to protect him from abuse, or to challenge the guidance from higher headquarters. This dilemma was developed from a real world experience of an Army Platoon Leader in Iraq.

§3: Developing Ethical Reasoning

During the research for this learning application, when asked how best to become an ethical Soldier, junior leaders consistently responded, “through experience and through the mentorship of a Soldier I respect.” The challenge, preparing the Army for sustained operations in the current operational environment, is to accelerate and standardize the way Army members obtain this experience and mentorship in order to promote their moral development. This is done through developing self-awareness, situational sensibility, and the capacity for moral framing that empowers Soldiers to assert positive moral choice in morally complex situations. Moreover, we must develop Soldiers so that they recognize and believe that their own moral reflections are sound and worthy of action. Soldiers, as moral agents, must be authentic in moral reflection, confident and courageous to act, and aware of the ownership and responsibility that falls to everyone who encounters a morally charged situation.

To help with Soldier development, the ACPME has partnered with WILL Interactive, Inc. to produce VEILS® products specifically designed to enhance the moral domain of Soldier development. To achieve this, the VEILS® product platform has been adapted to immerse users into two “playable” characters, a Squad Leader and a Platoon Leader, who experience a series of moral challenges during the different stages of their unit’s deployment cycle (predeployment, deployment, and post-deployment). The credibility of these moral challenges was attained by conducting focus group and individual interviews with junior commissioned and noncommissioned officers.⁷ In many cases, these leaders had recently returned from deployed experience as Squad Leaders and Platoon Leaders.

The playable characters thus encounter moral challenges based on real-life stories spanning preparations for deployment, deployment, and post-deployment to home station. During the video-play the Learner may interrupt the situation by choosing to “Get More Information” or to “Take Action.” As in real-life, if the Learner takes no action the story progresses to a consequence in which the lead character made no moral impact on the situation. The specific scenarios were selected and adapted to reflect varying levels of moral intensity in a way that Soldiers would recognize as ‘true to life.’

If the Learner chooses to “Get More Information,” resources such as command policy letters, comments from peers and leaders, and doctrinal references allow the Learner to explore the ethical battlespace surrounding the issue. Mirroring real-life situations, these resources appeal to the different ethical lenses – duty, consequences, and virtues – which, when taken together, pull the Learner in different and conflicting directions. This resource encourages the user to recognize and explore the ethical battlespace that is present in a given moral situation. The Learner may also choose to “Take Action.” As in the “Get Information” resources, these choices reflect an appeal to different and possibly conflicting ethical priorities. There are no obvious right or wrong responses in these scenarios, but each course of action contributes to the ultimate outcome of the storyline and each comes with its own consequence, or the ‘cost’ of a particular course of action. These choices reflect a range of moral judgments the Learner may form in the situation and provide a means for the Learner to express intent and behavior.

To enhance the learning experience, feedback is provided to the Learner through various methods that correspond to real life. To keep the Learner actively thinking about his choices, there is often an immediate reaction in the screenplay from a peer or subordinate that presents an alternate ethical choice or casts doubt on the Learner’s choice. These reactions sometimes invoke challenges or questions regarding the decision or situation. In-game feedback is also given for selected individual choices that are specifically critiqued by the Platoon Sergeant, a character who provides a reasoned voice of moral experience. Serving as the “moral exemplar,” the Platoon

Sergeant periodically provides a summary comment on the lead character's (Learner's) ethical decision style. For example, an over-dependence on rule-based reasoning evokes a critique and suggestion that other lenses should be given more consideration. At the conclusion of the scenario experience the Learner receives an After Action Review (AAR) in the form of a document that summarizes the Learner's ethical reasoning style and suggests alternative points for reflection. This AAR document may be used by the Learner's real-world supervisor to discuss a few key choices made and the merits of utilizing alternative lenses. Additionally, this scenario-based application may be used in a group setting in which a facilitator guides a discussion among Learners concerning choices in each ethical situation.

Unique to this VEILS[®] product is a data collection system. This system captures and time-stamps every action by the Learner to create a data record for post analysis. Researchers will be able to use this data to investigate patterns in Soldiers' moral processing, their moral development over time, and future training needs. For example, research may reveal patterns in Learner interactions that correlate to Rest's stages of ethical processing.

This learning resource is designed to provide an engaging experience for the Army member's personal reflection, and a shared situational frame of reference for discussions with peers and leaders. This training initiative is uniquely designed to engage junior Army leaders in moral development and to help accelerate the training of Leaders of Character.

Concluding Thought

Modern moral psychology and adult learning models provide a foundation for understanding character development. James Rest's sequence of moral processing and action suggests that individuals move through four stages of moral processing and action: moral awareness, moral evaluation, moral intention, and moral behavior. The capacity to do this in practice involves the development of each Army member's moral working self, including moral maturation and moral potency. These theoretical constructs provide a means to understand the moral performance of Soldiers in challenging situations, and provide the foundation of our approach to accelerating the development of Army leaders.

ACPME is fielding an innovative learning and development application to help Army members, Soldiers and Civilians, develop their moral working self, and to help Army Leaders fulfill their role as ethical mentors. As any training solution, it can only achieve its intended impact if Army Leaders endorse it and employ it with their own professional skill and creativity. During the fielding process, ACPME welcomes your feedback to understand the best means to employ and refine this new learning resource.

Discussions of the challenges of moral leadership generally focus on defining a moral issue. This is a critical capability in achieving the CSA's vision. Equally crucial are training solutions to help junior tactical leaders analyze moral dilemmas from multiple perspectives and to develop the ownership and confidence to take moral action. ACPME and WILL Interactive are working on products and processes that enhance these training solutions.

Endnotes

- 1 Praevius Group training video, “Shoot, Don’t Shoot?”
- 2 An alternative account of this case can be found from Mark Gado’s “A Cry in the Night: The Kitty Genovese Murder,” *truTV Crime Library*; http://www.trutv.com/library/crime/serial_killers/predators/kitty_genovese/1.html; Internet; accessed 18 August 2009.
- 3 Sean Hannah and Bruce Avolio, “Transforming Follower Moral Capacity: Toward a Holistic Developmental Model.” NR, 3. In this case “ethical behavior” is a descriptive, not a normative term.
- 4 Thomas M. Jones, “Ethical Decision Making by Individuals in Organizations: An Issue-Contingent Model.” *Academy of Management Review* 16,2 (April 1991): 372-378
- 5 Donald L. Kirkpatrick, *Evaluating Training Programs, The Four Levels*, 2d ed. (San Francisco: Berrett-Koehler Publishers, Inc., 1998), pp. 19-24. Kirkpatrick posits four levels of training evaluation: the student’s reaction (customer satisfaction), change in knowledge, skills and attitudes, changes in behavior, and organizational results.
- 6 VEILS® has been shown to be effective in independent studies conducted by the Army Research Laboratory, Boston University, Walter Reed Army Institute of Research, and the U.S. Naval Academy. These independent evaluations indicate that VEILS® not only increases user knowledge, but also improves their attitudes and behaviors.
- 7 Interviews conducted at Ft. Hood, TX, Ft. Benning, GA, Ft. Myer, VA, and The United States Military Academy, West Point.

Ethics and the Human Terrain: The Ethics of Military Anthropology

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On October 5, 2008, an anthropologist working on a Human Terrain System team in Iraq posted a “blog” of his impressions after two months in the field. “The best description,” he wrote,

“. . . is that it’s like, well everything in life. I get excited about the work, I get discouraged. I feel like I am doing things that can have long term value and I wonder what the hell I’m doing in this screwed up place. I have learned that the backs of my ears may never be clean again, the ex-pat life agrees with me, I miss beer and sushi, and now I know what it feels like to take pictures of young men that die two days later.

Depending on the day you ask me, I will say that the problems with the entire HTS program are so insurmountable it should be started over from scratch, and on others, I see progress. We focus on being as much help as we can to our brigade in their efforts to help improve living and security conditions for local people as best we can. . . . I go from wanting to quit to wanting to stay here for at least a year because there always seem to be another interesting project we can do.

In others words, it’s a job just like jobs everywhere.”¹

Well, not quite. Most jobs don’t produce the firestorm of public controversy that Dawson’s job has generated. Since the Army’s HTS project burst upon public consciousness with the initial deployment of the first five or so HTS teams in Iraq and Afghanistan during the summer and fall of 2007, the program has provoked vehement criticism from anthropologists affiliated with the American Anthropological Association and its affiliate societies. On October 31, 2007, the Executive Board of the AAA issued a statement strongly opposing the U.S. military’s “human terrain system,” and strenuously objecting to the participation of members of the Society in this program:

“In the context of a war that is widely recognized as a denial of human rights and based on faulty intelligence and undemocratic principles, the Executive Board sees the HTS project as a problematic application of anthropological expertise, most specifically on ethical grounds. We have grave concerns about the involvement of anthropological knowledge and skill in the HTS project. The Executive Board *views the HTS project as an unacceptable application of anthropological expertise.*” (AAA 2007)²

Shortly after, in May 2008, social scientist and HTS team-member Michael Bhatia, working in eastern Afghanistan, was killed in an IED roadside attack, for which the Taliban subsequently claimed credit. Then, on November 4, 2008, Paula Loyd, assigned to US Army

team AF-4 Blue, was conducting interviews among the local population in the small village of Chehel Gazi in southern Afghanistan. According to witnesses, she approached a man carrying a fuel jug and they began discussing the price of gasoline. Suddenly the man, Abdul Salam, doused her with the fuel in his jug and set her on fire. She suffered second-and third-degree burns over 60 percent of her body.³ Tragically, Loyd died of her injuries a few weeks later in early January, 2009. One of her HTS teammates, Don Ayala, subsequently apprehended, shot, and killed her assailant, and was subsequently charged with second-degree murder by the U.S. Army Criminal Investigation Division under the Military Extraterritorial Jurisdiction Act (MEJA), and eventually convicted of manslaughter in the U.S. District Court of Eastern Virginia. Setting women on fire is often inflicted as a punishment for immodesty. Immodesty, however, was probably not the crime of a third HTS social scientist, Nicole Suveges, killed in Iraq in July, 2008, along with eleven others, when a bomb detonated inside the Sadr City District Council building in Baghdad.

These deaths and injuries top the list of grievances of critics of the program. Journalist John Stanton writes:

According to sources, United States Army brigade commanders privately believe that the US Army's TRADOC Human Terrain System (HTS) program is a "joke" and completely unnecessary. The HTS program is publicly supported by brigade military commanders, and Secretary of Defense Robert Gates, only because it is a "pet project" of the currently politically popular US Army General David Petraeus.

The tragic deaths of two HTS members—HTT IZ3 Nicole Suveges and HTT AF1 Michael Bhatia—came amidst program management's confusion over roles and missions, ignorance of threat situations, even dress code problems. . according to sources, Suveges was a no-show at many training sessions at Fort Leavenworth and not properly trained for work in a combat zone. She was sent initially to the United Kingdom to recruit there for the HTS program and then afterwards was ultimately deployed to the volatile Sadr City in Iraq where three weeks later she met her end. One insider had predicted prior to her death that "someone was going to get killed."⁴

Who are we to believe? The field worker, on the one hand working "first-person" and "on-site," but on the other, possibly laboring under the bias of a lucrative salary paid for his risky work? Or should we believe the critics and journalists back home, dependent for their evidence on second-hand sources (such as disappointed HTS team members, recently dismissed from the program) who seem eager to discredit the program?⁵ In sharp contrast to Stanton's derogatory report on Suveges in particular, and on the lack of training and appropriate expertise of HTS team members generally, "Wired" reporter, Noah Schachtman, comments favorably on the most recent HTS victim, Paula Loyd:

Loyd knew Afghanistan well, having worked there previously for the State Department. She visited [the village of] Maywand several times and was "very popular there. She was accepted very positively throughout the village," one program official says. The man who attacked her was "from all appearances a non-belligerent." (Schachterman 2008a, see also Gezari 2009)

Confronting the Controversy over Military Anthropology

The wider debate has been about what is frequently termed “military anthropology,” encompassing a variety of distinct activities, including, but not limited to dramatically “embedding” anthropologists with military troops in combat zones (in Afghanistan, Iraq, East Timor, and other locations), where they assist military personnel on site with advice and consultation regarding strategic features of the local and regional culture. Training and deploying these teams constitutes the most visible and controversial dimension of what the U.S. Army terms its “Human Terrain Systems” project (HTS).

Even HTS itself, however, let alone the wider framework of “military anthropology” more generally, includes a great deal more than this specific and controversial “human terrain team” deployment program (see Table One).⁶ The larger HTS project also encompasses somewhat less controversial efforts undertaken by anthropologists and other social scientists to provide advice, expertise, and the results of anthropological research on “culture,” and on the details of specific cultures, to military organizations for more general guidance in the formulation of effective strategy and tactics in war zones. Thus anthropologists at the Marine Corps “Center for Advanced Operational and Cultural Learning” (CAOCL) at the Marine Corps University in Quantico, VA. have aided the Marine Corps in composing new handbook for operational culture (Salmoni and Holmes-Eber, 2008).⁷ Anthropologists have likewise been employed by the government to write guides and study materials on local cultures for military personnel deployed around the world. With the assistance of anthropologists, for example, the cultural programming unit of the Marine Corps Intelligence Activity (MCIA), also located in Quantico, Virginia, has produced a series of training and educational materials for its troops stationed overseas, including so-called “smart cards” that summarize the “most essential features” of cultures encountered in nations as diverse as Chad, Sudan, and the Philippines, as well as in Iraq and Afghanistan. Finally anthropologists engaged in the broader HTS project have assisted the U.S. Army in composing two new field manuals: FM 3-24, on “Counterinsurgency Warfare” or COIN (Patraeus, 2007), and more recently, FM3-07 “Peacekeeping and Stability Operations” (October 2008).

The aim of these learning aids is to provide a rapid and readily-available orientation to locale for young men and women of high school age and education who may never before have traveled far from home, let alone resided or worked in some of the exotic and unfamiliar locations to which such individuals now find themselves routinely deployed. Gen. James H. Mattis, U.S. Marine Corps, originally the co-editor of the COIN manual with General David Patraeus, is credited with the observation that “our soldiers and Marines must learn to navigate the human (cultural) terrain with as much facility as they use maps to navigate the geographical terrain.”

While all of the foregoing HTS activities constitute important forms of military anthropology, the latter, much broader term, also encompasses the employment, by the U.S. military services, of anthropologists who perform routine educational and scholarly tasks for military and State Department personnel. Anthropologists teach and carry out their own individual scholarly research at federal service academies, war colleges, and language institutes. Anthropologists advise their academic employers in these institutions on how to increase cultural literacy, promote and enhance foreign language acquisition and competence among their students, and increase the “cultural awareness” and cultural sensitivities of those students. Anthropologists are being asked to assist in the development of new “regional studies” programs for the Department of Defense and its constituent military organizations. Under the code name “Project Minerva,” Secretary of Defense Robert Gates (himself a historian and former university president) recently sought to encourage, and to generously fund, broad-based scholarly contributions to national security studies from sectors of the academic and higher education community (including the discipline of anthropology) that have heretofore been under-represented and marginally utilized for such purposes.⁸

Finally, the term “military anthropology” can be applied to a series of activities seemingly distinct from all those preceding; namely, making the military itself, or its distinct organizations and/or service sub-cultures, the *objects* of anthropological study and field research. In this third, distinct sense, the military anthropologist does not render some autonomous culture or society the object of investigation in behalf of purposes entertained *by* the military. Rather, the anthropologist renders the members and sub-cultures of the military *themselves* the objects of ethnographic study. The purpose here is first and foremost simply to understand those organizations and sub-cultures more completely, as objects of scientific study, much as one is curious about the members of an alien or radically unfamiliar culture one might encounter. The results of such study might simply satisfy scientific curiosity, help the military services better understand (and perhaps improve) their own organizations, or even help societies better understand the nature and role of the military organizations with whom they co-exist.

It is fair to say that these recent developments, emerging gradually in the wake of “9/11” and the ensuing wars in Afghanistan and Iraq, have generated a firestorm of controversy, both within the discipline of anthropology itself, and among the wider educated public (Bender 2007; Rohde, 2007). At one extreme are anthropologists involved in the most controversial aspects of this new venture, advocating greater involvement of their colleagues in efforts to save innocent lives, reduce troop casualties, and aid in the successful rebuilding of devastated civic infrastructures, especially in Afghanistan and Iraq, two nations ravaged by decades of virtually continuous warfare and civil strife (Kilcullen 2009; McFate 2005 a, b). At the other extreme are critics of any involvement of behavioral scientists and scholars with the government and military, who denounce initiatives like the human terrain teams as “mercenary anthropology,” or the “militarization” of anthropology (Gonzalez 2007, Gusterson 2007, NCA 2007). Caught in the cross-fire between proponents of HTS and anti-war activists are the bulk of those who would identify themselves as “military anthropologists” more broadly, who complain that their work is unfairly caught up in, and their own efforts and careers unfairly impugned by, this raging controversy over merely one, controversial program in a much wider and, for the most part, morally benign area of inquiry.

Because of these inflammatory concerns over the HTS program specifically, many anthropologists have gone so far as to denounce *any* cooperation with the government or military *whatsoever* as “unethical,” including even some of the more apparently benign scholarly studies or educational activities described above. Professor Terrence Turner of Cornell University, a persistent critic of both military anthropology and, more broadly, of forms of practical, applied, or “practice” anthropology in non-academic settings, for example, firmly believes that “classified work for the military is unethical...and the association should have the will and guts to say so” (Jaschik 2009).

From Principles to Practices

My own recent book on the ethical controversy over military anthropology (Lucas 2009), however, highlighted a glaring defect in the entire discussion of military anthropology to date. Thus far, that public debate about the moral legitimacy and professional propriety of HTS has been *a debate about principles* – either disagreements about what moral principles might be placed in jeopardy by HTS, or about basic canons of professional practice that might be found at odds with the demands placed upon the likely activities of HTS teams. It has not, however, been a debate grounded in specific evidence, or widespread experience.

When we move from an abstract debate of ethical principles to a discussion of the morality of concrete practice, for example, we might wonder more about the moral dilemma of putting lightly-trained social scientists (along with embedded journalists) at risk in combat zones. Do they constitute a danger to themselves, or to military personnel assigned to protect them, for example?

Are the risks to themselves and the liability to others that they represent by their presence worth the benefits they might provide to those same military personnel in carrying out their stability and peace-keeping operations?

Rarely, in any profession or discipline, are abstract discussions of principles, or even past history alone allowed to settle, and particularly to foreclose *a priori* an area of activity that might otherwise hold promise, especially if the nature of that promise, as formally presented, was to aid and protect vulnerable victims of war. Instead, as in most disciplines, professions, and vocations, the genuine moral challenges are to be found arising in specific circumstances, in that crucible of issues that constitute case literature grounded in actual professional experience.

Hence in my book (Lucas 2009) I attempted to sort out some of the *different types* of HTS activities, and then proceed to evaluate the ethical compliance and moral probity of each (see Table Two). First, there is what I labeled HTS₁, the activity of embedded field anthropologists directly engaging in strict cross-cultural translation in support of combat and security operations with war zones. Team members talk to villagers and then pass along their interpretation of what villagers say to members of the military. What they learn is for immediate and local consumption, guiding the actions and reactions of civil and military forces in zones of conflict.⁹ This is what the “embedded” military anthropologist, Mark Dawson, quoted at the beginning of this paper, describes himself primarily as doing as part of an HTS team. It seems pretty clear that this is the activity that Paula Loyd was engaged in when she was brutally attacked. From all the limited accounts to date, HTS₁, appears to comprise the bulk of HTS activities carried out by anthropologists who are deployed and embedded in combat zones.

On a live radio interview in October, 2007, for example, Lt. Col. Edward Villacres, a Middle East historian from West Point deployed at the time to command an HTS team in Iraq, described to anthropologist David Price and HTS program director Montgomery McFate how his four-person team (consisting of an adjunct professor of anthropology from Cal State-East Bay, a junior officer fluent in Arabic, and a civil affairs specialist who is an Army staff sergeant) attempted to “enhance the ability of ground forces to make good decisions” (Rehm 2007). He recounted how rival tribal leaders in war-torn areas have a specific cultural “formula” for reconciliation negotiations following a conflict. It is imperative to be aware of, and to subscribe to the rituals of this formula in order to conduct effective negotiations, and help the warring factions make peace. It was the HTS team’s job to interpret these vital cultural data to the American troops engaged in peace-making in contested areas of the “Sunni triange” in Iraq.¹⁰

Not coincidentally, this is the kind of HTS activity regarded with the greatest suspicion by critics of military anthropology as fundamentally incompatible with the AAA Code of Ethics (CoE 1998; rev. 2009). Anthropologist David Price, on the same program, reiterated the results of his own historical research on the military’s use and abuse of social scientists during World War II and the Cold War. He complained about one Pentagon official who had compared HTS favorably with the “civil operations revolutionary development support” (CORDS) programs undertaken during the Vietnam war.¹¹ That effort, Price explained, helped identify Vietnamese communist insurgents and Vietcong collaborators. It entailed Army “Green Berets” (Price alleged) “illegally” translating into English a detailed ethnography of Highlanders in Vietnam by a French anthropologist, Georges Condominas,¹² and then using the insights gained from this work to target and assassinate Vietcong collaborators. He acknowledged that he himself was not charging that such things are taking place now in Iraq and Afghanistan, but he understandably found it “troubling that a Pentagon spokesman would make such a comparison.”

The foregoing discussion, however, suggests a further distinction, HTS₂, in which the anthropologist gathers information to populate databases located back in the U.S., accessible to analysts who are not anthropologists. These databases are proprietary to the military, but not

classified, so that results can be accessed and used by other anthropologists engaged in legitimate scientific work. In her account during this radio interview, anthropologist Montgomery McFate described how she had originally proposed something like this as the main activity of HTS when she was first approached to undertake this new task in 2003. The Army, however, wanted something different, what she described as “an angel on the shoulder,” that is, HTS₁, mediated by a real person, and not merely a database, and “there” (meaning, in the field) rather than “here” (in the U.S.).

Academic anthropologists and critics of HTS often voice a concern about undertaking “clandestine research,” or, as Professor Price does, fret over the possible misuse and misappropriation, without knowledge or permission, of prior anthropological research (such as the published field notes of Georges Condominas). That, however, would constitute something different from HTS₂, something more akin to genuine espionage or “intelligence gathering” than legitimate anthropological research. Accordingly, I label this very specific and focused concern HTS₃, in which the primary activity of the anthropologist (or those purloining the results of anthropological studies) is to gather information to populate classified databases. As illustrated in Price’s comments, these concerns over anthropologists engaging in espionage and clandestine research activities constitutes a holdover from what anthropologists consider their “darkest days” during Vietnam, specifically, an Army project known at the time as “Project Camelot,” and a subsequent DARPA-sponsored project in southeast Asia known widely as “the Thailand controversy.”¹³

This third category appears to encompass the recent allegations of the Zapotec in Mexico, who allege that a geographer and anthropologist from the University of Kansas solicited their consent, under false and deceptive circumstances, to engage in an ethnographic mapping of indigenous communities. They claim that, unknown to them at the time, his research was partially funded by the Foreign Military Studies Office of the U.S. Army, which maintains a proprietary global database used in the Human Terrain Systems project.¹⁴ As I will demonstrate below, however, there are no reports of job openings for, or other reports apart from this allegation of, anthropologists engaging in HTS₃, which would constitute the most explicitly problematic of these three types of activities from the standpoint of professional ethics. HTS anthropologist Mark Dawson does not acknowledge engaging in such activities. When they were injured or killed, neither Bhatia, Suveges, nor Loyd were engaged in such clandestine activities. No published or broadcast accounts either document instances, or even suggest that such clandestine activities are part of this program. At best, as seems to be the case with Price, this concern constitutes a kind of historical anxiety through which lens one refracts the prospects for commission of such abuses in the present.

In fact, however, the preponderance of work to be found, apart from working on education, doctrine and training back home, is for HTS₁. It is possible, but not confirmed, that some of the data and experiences gathered will find its way into proprietary but unclassified data bases back home. HTS₂ does have a certain allure in holding out to middle east regional experts the prospect of regaining access to regions of central Asia, such as Afghanistan, long off-limits to them as zones of conflict. But populating databases is not the principal motivation for the HTS program itself. Rather, as we will note in job ads and position descriptions, the prospect for ethnographic field research and data-gathering is part of the wider lure to research anthropologists, a potential “added personal benefit” of their HTS employment that (the job openings promise) will allow them to pursue their *own* scholarly research and publication on the people and “cultures” in which they are immersed during their deployment, *should they wish to do so*. That is what the job ads promise enticingly, and such a benefit is *far* from constituting the sinister or clandestine activity defined as HTS₃.

Indeed, a critic of a suspicious turn of mind might suspect that language in these position descriptions, offering HTS₂ as an added personal benefit to those who enlist in the program has been inserted *precisely* to assuage critics, fulfill ethical and professional restrictions, and otherwise

comply with AAA Code of Ethics (CoE 1998; rev. 2009) provisions that those critics have identified as the chief obstacles to approval of Human Terrain Systems program overall. In any case, it would be vital to examine actual experiences of team members, to determine whether, under combat conditions, very much in the way of useful cultural data could be gathered and referred to “proprietary databases,” whether classified (HTS₃) or not.

Finally, a preliminary report released in November 2007 by the AAA’s Ad Hoc Commission on the Engagement of Anthropologists with the U.S. Security and Intelligence Community (CEAUSSIC)¹⁵ suggested two other kinds of HTS embedded activities: HTS₄ (providing forensic advice or examining evidence of combat casualties in pursuit of war crimes), and HTS₅ (lobbying, and indeed, actively working for the preservation of valuable cultural patrimony that happens to be located in war zones). The former would involve the forensic anthropologist in a perfectly legitimate form of law enforcement, including the possible investigation and prosecution of war crimes against civilian noncombatants. I see no prospect for this constituting a violation of any professional norms. Likewise HTS₅ (assuming the good faith and integrity of anthropologists on the project) is not a moral “problem” but a moral *obligation*: anthropologists (including archaeologists) are enjoined by the very nature of their discipline to refrain from damage or theft themselves, and to do all in their power to resist damage to, or theft of valuable cultural patrimony, sacred to the people and cultures they study, and vital to the advancement of cultural knowledge worldwide.

Fact versus Hypothesis

In my book, I consider a hypothetical case in which a democratic nation’s government has embarked upon a preventive war of dubious justification, gotten itself into quite a mess, and now realizes it needs to change course, patch up the damage, and leave (Lucas 2009, Ch. 4; see also Lucas 2008). Its military now finds itself enmeshed in a nasty and seemingly-intractable counterinsurgency, and reaches out to anthropologists to assist with greater understanding of the regional culture in order to provide effective and workable solutions toward political stability, get the local populace working together to rebuild their civil infrastructure, reintroduce reasonable security under the rule of law, and then pack up and “go home.”

In the book, I conclude that, in such an instance, our hypothetical anthropologist would not automatically be forbidden, ethically or morally, from providing such assistance. Specifically, providing such assistance would not constitute a violation of the AAA Code of Ethics (CoE 1998; rev. 2009), provided the motivations for this engagement were as described, and the constraints on allowable activities that these motivations imposed were indeed met. What is problematic about this hypothetical case is not the conclusions (even if some are displeased with them), but the lack of material and cultural substance in the example.

“The military,” for example, is not a single, monolithic entity that entertains objectives, or even goes out and hires employees. There are competing military services, with complex internal service cultures and subcultures, and conflicting chains-of-command. “The military’s objectives,” like those of a nation, may reflect the fundamental proposals of some governing elite, but that does not automatically translate into compliance up and down the chain of command, even granting basic “buy-in” and good faith in carrying out those objectives. There are political factions within each service, and within the Department of Defense, vying for power and influence.

Typically an influential member of the governing elite, a figure like General David Petraeus in the Army, for example, formulates the idea that “the military mission” in a nation like Iraq or Afghanistan (however that mission itself is, in fact, generally characterized) might be more effectively accomplished with the help of anthropologists, who might bring an enhanced understanding the “cultural terrain.” This proposal automatically becomes the brainchild or “pet

project” of one faction of that branch of the military services, perhaps shared or agreed to by others, and largely ignored, or even actively opposed by yet others as a “waste of time and money,” or unworkable.

Even apart from such political fragmentation, there are practical questions that bear heavily on the actual practice proposed as a remedy. For example, who will recruit and hire these scholars? How will they be oriented to the rigors of this particular kind of field work (largely unlike any most will have encountered before)? How will they be organized, deployed “into country,” commanded, even evaluated? To whom will they report, and to what uses will their information finally be put in the field, far from the headquarters of those leaders whose “brainchild” their inclusion in these delicate, fragile, and (as we now see) risk-fraught military operations was in the first place?

Given all the assumptions packed into the above-mentioned hypothetical case, we would need some rather robust assurances that practical and procedural questions like these would admit of some decidedly positive answers, in order to address the manifold and substantive concerns of critics of this program. Instead, the scanty evidence we have in fact ranges from random and anecdotal testimony (such as the remarks of HTS anthropologist Mark Dawson, cited at the beginning of this essay), that the record of accomplishment is decidedly mixed (with some positive results, and no dilemmas of “professional ethics”), through rosy accounts of success from the Secretary of Defense, all the way to increasingly exaggerated accounts of death and injury, and journalistic (but unsubstantiated) charges that the actual, functioning HTS program is, on balance, an unmitigated disaster, “in total disarray,” and largely amounts to a useless waste of time and resources.

Just as importantly, *we would want some kind of external oversight and evaluation of these ongoing arrangements*, so as not to have to rely solely on the reports of the individuals hired, or heads of organizations hiring them, let alone of journalists and bloggers transparently fronting for critics of the program.¹⁶ All these are now involved in an inherent conflict of interest that might cloud their own evaluations of the successes or failures, as well as of the professional probity and moral rectitude, of their activities. We would need, as military officials themselves often say, “to trust, but verify.”

Let’s begin with the matter of recruiting and hiring. For many years, the military has been divesting itself of the principal responsibility for hiring civilians. Using the image of their overall operations as an effective “guard dog,” the policy question has been how most effectively to invest personnel and resources between “tooth” and “tail.” The primary, combat-ready aspects, the “tooth” in this metaphor, are the responsibility of men and women in uniform. Their job is to “take the fight to the enemy.” The logistical and support activities necessary to mobilize and sustain those combat missions (the “tail” in this metaphor) have been increasingly divested and sub-contracted to private military contractors (PMCs).¹⁷ This encompasses everything from preparing and serving food, to maintaining barracks, showers, and latrines, to providing troop transport and supply convoys, to maintaining ship yards and motor pools. All the non-combat activities that used to fall to “Beetle Bailey” or “Sergeant Bilko” are now performed by civilian contractors. Recruiting, assembling, training, and deploying HTS “teams” is a non-combat, logistical enterprise, and as such, is the sort of thing done by PMCs.¹⁸

Up until January 2009, the principal responsibility for recruiting, hiring, training, compensating, deploying, and ultimately evaluating “social scientists” hired to serve in various components of the Human Terrain System project was delegated via competitive bidding to a private firm, BAE Systems, Inc.¹⁹ With operations in five continents and customers in over one hundred countries worldwide, BAE Systems is a private military contractor describing itself as “one of the world’s foremost providers of advanced aerospace products, intelligent electronic systems and technology services for government and commercial customers.” The firm, formerly known as “British Aerospace,” employs nearly 100,000 personnel worldwide, reports gross annual income of nearly

\$30 billion, and (as its original name implies) is based in the U.K. In its early years, British Aerospace largely exported military aircraft, armored vehicles, and other war-fighting equipment. “BAE Systems, Inc” now describes itself, however, as involved increasingly in the “integration” business, rather than merely in hardware and platform provision. The company has major offices in South Africa, Sweden, Saudi Arabia, Australia, and the U.S.²⁰

The job descriptions below were posted in the recent past on BAE’s non-classified, public web site, soliciting anthropologists to work on the Human Terrain System. Positions include openings for social scientists, research managers, HTS “analysts” and “team leaders.”²¹ The positions include an initial training period, typically of four months duration at the company’s facility in Ft. Leavenworth, Kansas, “including orientation to the military/deployment environment, in-depth country briefings, and multi-disciplinary social science concepts and methods.” Training and orientation are followed by deployment to Iraq and/or Afghanistan, typically for six to nine months. This is how a prospective applicant would initially be introduced to the program as an opportunity for his or her prospective career:

“The Human Terrain System (HTS) is a new Army program designed to improve the military’s ability to understand the local socio-cultural environment in Iraq and Afghanistan. *Human Terrain Teams help military commanders reduce the amount of lethal force used, with a corresponding reduction in military and civilian casualties, [my emphasis] allowing the commander to make decisions that will increase the security of the area, allow other organizations (local and international) to more effectively provide aid and restore the infrastructure, ensure that US efforts are culturally sensitive, promote economic development, and help the local population more effectively communicate their needs to US and Coalition forces. HTS teams act as advisers to Army Brigades and Marine Corps Regiments. [An HTS Team] will not engage in combat missions, nor does it collect intelligence. [An HTS] team will [typically] analyze data from a variety of sources operating in theatre (e.g. conventional military patrols, non-governmental organizations, international organizations, civil affairs units, special forces). Working as a social scientist on a Human Terrain Team offers a rare and unique opportunity to help reshape the military’s execution of their mission by offering them a much greater appreciation of existing socio-cultural realities and sensitivities in the countries where they are operating. This position also offers an opportunity to develop new methods for data collection and analysis. Social scientists will be able to write about their experiences and otherwise contribute to the academic literature in their field after participation, subject to standard security review [my emphasis].”*

The characterization of the work offered by the hiring entity seems meticulously crafted to meet the requirements of AAA Code of Ethics restrictions, including even language re-introduced in 2009 to promote “transparency” and inhibit “secret research.” The ad deftly addresses suspicions or reservations about the nature of the work the recruited candidate might finally be ask to undertake, or the restrictions under which he or she might finally be forced to work. As we have seen, however, living up to the requirements or restrictions of that AAA Code will likely prove to be the least of a job applicant’s legitimate worries.

Job applicants in this instance are required to hold US citizenship, and to hold or have the ability to obtain and maintain a security clearance. The jobs also require a PhD in anthropology, or in a “related field such as sociology, political science, history, theology [*sic*], economics, public policy, social psychology, or area studies.” Despite reports of salaries in excess of \$20,000 per month during deployment, these positions are not for just anyone. In fact, one of the main criticisms of the program is that (apart from the fictional Hollywood character, “Indiana Jones”) few if any persons are likely to possess the entire skill set required. As if this weren’t enough, the BAE Systems advertisements also warn that successful candidates must be able to endure rigorous conditions and physical hardships of the sort

that would lead even the “early,” let alone the “later” Indiana Jones to complain, including:

- Adverse battlefield conditions
- Heat well in excess of 110 degrees in the Summer, cold and freezing conditions during the winter
- Rough Terrain including climbing rocks, mountains and fording bodies of water.
- Hostile environment to include persons that may cause bodily harm, injury or loss of life.
- Required to work at times with little sleep or rest for extended periods of time while producing both physically and mentally challenging projects.
- Extended travel by foot, military ground vehicles and air transport into mountainous regions for extended periods of time.
- Sleeping on the ground in environmentally unprotected areas.
- Required to lift 40-75 pounds of equipment and personal gear including protective equipment several time a day.
- Required to carry 40-75 pounds of gear, personal protective equipment for 10-16 hours a day while walking in rough terrain.

Finally, the ads suggest that preferred candidates will, not surprisingly have experience living or working in the Middle East and possess language skills in Arabic, Pashtun or Dari.

Assuming that BAE contract staff (or, more recently, Army TRADOC staff) are fortunate enough to locate and recruit interested individuals with these impressive skill sets, what positions might they occupy? Typical positions include HTS Team Leader, analyst, research manager, and a more general opening for a “social scientist.” Here is where the nature of the team structure and organization come into play. The “Human Terrain Team Leader” requires *prior substantial military experience* as a brigade staff officer, at the rank of O-5 (i.e., Lieutenant Colonel or Navy Commander) or above, and preferably, graduation from a Staff and Command College (or its equivalent). The HTS Team Leader (the BAE job advertisement states), “will lead the Human Terrain System (HTS), which is a team that will collect and analyze data from the Brigade Combat Team (BCT) and Regional Combat Team (RCT) to obtain cultural and political awareness in order to sustain and foster stabilization. The HTS project is designed to improve the *gathering, interpretation, understanding, operational application and sharing of local population knowledge* [my emphasis] at the BCT and RCT and Division levels. The Human Terrain Team Leader will be the BCT commander’s principal human terrain advisor, responsible for supervising the team’s effort and *helping integrate data into the staff decision process*. The key attribute of the HTT team leader is the ability to successfully integrate the HTT into the process of the BCT in an effective and credible manner and become a trusted advisor to the BCT commander.

An HTS Analyst is also required to have prior military experience, preferably with intelligence debriefing. The analyst “will be a part of the Human Terrain System (HTS), which is a team that will collect and analyze data from the Brigade Combat Team (BCT) and Regional Combat Team (RCT), once again, *to obtain cultural and political awareness in order to sustain and foster stabilization*. The Human Terrain Analyst will serve as the primary human terrain data researcher. He/She will participate in debriefings, and will interact with other target area organizations and

agencies.” Yet another position, the “Human Terrain Research Manager” must also have some prior military experience, preferably in HUMINT (human intelligence), and is expected to integrate the team’s findings into a broader, regional context “to obtain cultural and political awareness in order to sustain and foster stabilization.”

The position for a “Social Scientist” as a member of the HTS team is *the only position that does not require prior military service*, and which emphasizes in particular the skill set acquired in earning a doctorate in anthropology. “The Social Scientist will provide local interpretation of socio-cultural data, information and understanding of local and regional culture. The Social Scientist will work closely with and possess similar skills as the Cultural Analyst, but with more focus on the larger region in which the target area is embedded.” Note that this last was the position that both Michael Bhatia and Paula Loyd apparently held in their respective teams in Afghanistan. Lt. Col. Edward Villacres, with the 82 Airborne Division HTS team in Iraq, was the “HTT team leader,” while Nicole Suveges, also in Iraq, was an HTS analyst. Both these individuals had prior military experience at the officer and enlisted level, respectively.

There are a number of grave problems with these job descriptions, most of which are *not* the “questions of professional ethics” envisioned by the HTS program’s critics back in the U.S. But those problems are formidable nonetheless, and may raise a host of moral and ethical questions in their own right. Note, for example, that all members of the proposed HTS team except the subject matter expert in social science must have substantial prior military experience. Thus, the abilities and training in surviving wartime conditions that might be envisioned, and even the ability to work cooperatively with brigade and regional combat forces, are likely to be handled by those with prior experience in such operations, with the academic anthropologist “tagging along.” Neither Paula Loyd, nor Nicole Suveges, nor Michael Bhatia, for example, were neophyte anthropology scholars lured in by high salaries, or minimally trained at Fort Leavenworth, and then released recklessly into a combat zone, as was erroneously reported at first. Instead (although this does not mitigate the tragedy of their loss), two were prior military enlisted with considerable experience in country (Suveges, Loyd), while Bhatia was a civilian with substantial experience in counterinsurgency and post-conflict interventions. They are the ones whose job it is to liaise with brigade and regional commanders, coordinate embedded team activities with combat and security operations, and, in all likelihood, keep their less-well-oriented academic “SME” (subject matter expert, the “adjunct professor of anthropology” from Cal State cited above, for example) from getting his or her head blown off (or, just as seriously, causing others to get their heads blown off by being in the wrong place at the wrong time).

This is not an ideal working relationship. Military commanders in the field with some experience of these kinds of arrangements opine that the likely problems with HTS teams is not that they will provide “critical or clandestine intelligence” about local populations (which might better be obtained from the brigade’s assigned native translator), let alone that they will be asked to collude in doing harm to locals. Rather, having all these “non-combat personnel” wandering around in a combat zone is a dangerous distraction for all concerned. Journalist Stanton’s hearsay report of opinions that “someone is likely to get killed” over HTS pertains more to that problem than to the alleged lack of training of the prior military personnel who form the bulk of the team.²²

The risk might be worthwhile, if the subject expertise that the academic social scientist could bring to bear on brigade operations were substantial and accurate. But, as the BAE advertisement suggests, there is very little likelihood of that. Given that all these regions have been in a state of armed conflict for over two decades, it is extremely unlikely that any scholar who was not native-born (and perhaps a refugee from the violence) would have found the opportunity of acquiring remotely the diverse kinds of skill sets requested. Bhatia and Loyd were notable and commendable exceptions in this respect. As the BAE advertisement also makes clear, the hiring contractor

has adopted (shall we say) a rather ecumenical, eclectic attitude toward relevant subject matter expertise: if the candidate lacks a degree in anthropology, a degree in theology, economics, or (only slightly more plausibly) social psychology will suffice.

Where's the Outrage?

Once again, most of the AAA debate has focused on the principled outrage within the discipline of anthropology occasioned by such ads, and by the revelations that programs like HTS and companies like BAE Systems are recruiting academically-trained anthropologists for such work. Is the concern warranted? Is there, finally, any good reason, in principle, why an anthropologist *should not* accept these jobs?

On one hand, I'm inclined at this point to conclude that the answer to that question, grounded in principle, and based upon the foregoing job descriptions, is simply "no." On the other hand, from the foregoing accounts, this does not seem to be quite the right question, not at least for HTS team members engaged in HTS₁. The proper question is, *could* anyone hired through such a process meet these requirements successfully? Would their brief, four-month orientation at Fort Leavenworth be enough (absent a prior career either in the military itself, or as a field anthropologist under the most demanding of circumstances) to prepare them for the risks and rigors they would face? Would they end up proving an asset, or a liability, even to their HTS team members, let alone to the military forces they are trying to assist? Would the rewards they might bring in protecting human subjects and lowering the incidents of conflict or mistaken resort to deadly force be worth the risks they would incur to themselves, let alone worth the implicit threat that all non-combatant support personnel pose to military units when deployed in a combat zone? That is to say, the real problems, including true moral dilemmas or conflicts of professional ethics, likely arise in filling these positions, providing the promised training, and delivering on the promises contained in the description of the overall HTS mission.

At present, we are reliant for our evaluation of such important questions entirely on the scattered reports and rumors emanating from the field. As noted, the scant factual reports vary widely. In the fall of 2007, with the first HTS team initially deployed to Afghanistan and five presumably embedded in Iraq, Pulitzer Prize-winning reporter, David Rohde, of the *New York Times* featured interviews with the participating anthropologists and their military supervisors, praising the program. The article reported on the experiences of a "soft-spoken civilian anthropologist" named "Tracy," and the evaluations of her supervisors and chain of command:

"Tracy, who asked that her surname not be used for security reasons, is a member of the first Human Terrain Team, an experimental Pentagon program that assigns anthropologists and other social scientists to American combat units in Afghanistan and Iraq. Her team's ability to understand subtle points of tribal relations — in one case spotting a land dispute that allowed the Taliban to bully parts of a major tribe — has won the praise of officers who say they are seeing concrete results.

Col. Martin Schweitzer, commander of the 82nd Airborne Division unit working with the anthropologists here, said that the unit's combat operations had been reduced by 60 percent since the scientists arrived in February, and that the soldiers were now able to focus more on improving security, health care and education for the population. "We're looking at this from a human perspective, from a social scientist's perspective," he said. "We're not focused on the enemy. We're focused on bringing governance down to the people."

In September, Defense Secretary Robert M. Gates authorized a \$40 million expansion of the program, which will assign teams of anthropologists and social scientists to each of the 26 American combat brigades in Iraq and Afghanistan. Since early September, five new teams have

been deployed in the Baghdad area, bringing the total to six.” (Rhode 2007)

That report, as of this writing, is nearly two years old.²³ As we noted, other, more recent reports have been less flattering. Some tell of malfunction, rather than abusive practice. Others dismiss the entire project of HTS “teams” as a useless waste of resources, while the most recent have contained reports of the deaths of two, and the serious injury of a third program participant (who subsequently died of complications from her injuries while hospitalized). In this respect, the testimony of our embedded anthropologist, Mark Dawson, “blogging” in Iraq, speaks forcefully, and seems sharply at odds with what both supporters and critics of the programs have attempted to project as its current condition. He writes:

What’s it like? The Army has been helpful, hospitable, arranged about any kind of fieldwork we wish to do. It should be no surprise that they were polite and helpful, but deeply skeptical over any real value we might add other than eating the food in the Dining Facility (DFAC). But now we have gotten a seat at the table so to speak, people request our assistance on various topics . . .

Looking at the AAA controversy after two months actually in the field makes some of the issues laughable. This idea that Human Terrain Teams are involved in gathering intelligence for example (we’ll ignore for the moment the error of jargon people make: you don’t “gather” intelligence). I have seen this written about as if there are people in trench coats and dark glasses hovering by the HTT door just dying for a chance to peek at our work! Lord what a load of nonsense. I don’t know how many times this can be said, no... we don’t, ever. They don’t even want us to. Why, because it’s not our jobs, and they have professionals for that.

[Instead] we look at people in transition from jobs in one sector to another, how effective governance is in areas, issues of economy. The meetings I sit in are about building schools, putting in water purification facilities, trying to help local governments get more support for their communities from the Iraq national government, understanding complex issues related to agriculture and the economy. . . . any anthropologist involved with development work would be pretty [much] at home here.

Once again, it is important to stress that this account, while it may count as “field notes” of a sort, is the report of a single individual. It may not be representative of successes or failures of the program as a whole, let alone of the adequacy with which this kind of program is administered by the private sector in the midst of combat. What is telling, and what rings true on the basis of the testimony of myriad others with “on-site, on-the-ground” experiences of this sort to report from their deployment in both Afghanistan and Iraq (including skeptical journalists embedded with combat troops) is what follows:

I think what has stuck me the most since I have been here are the relationships that the military have built with their Iraqi counterparts helping them [in] creating their own local governmental structures. Most of these young women and men have been trained to lead tanks and infantry companies. They showed up in Iraq and someone told them to establish security in an area and help the local population create an effective structure for representation to the provincial and national level. I have done part of my fieldwork in these meetings all over our area of the country. It’s amazing and impressive. They have made it happen with no training and little support. Its fragile, rough, does not work always the way it should, but it’s indeed on the way. These military people figured out how to make it happen simply because they had no other choice but to try. *They have all told me they wish anthropologists and governmental experts had been there to help them 12 months ago.* [my emphasis]

This recent account squares, in its mixed assessment and moral ambiguity, with similar accounts of progress or its lack from military personnel rotating in from the field. Surface Warfare officers, with degrees in oceanography, find themselves detailed to disassemble IEDs in the “Sunni Triange,” while P-3 pilots and submariners “I.A’d” (“individually augmented,” in military-speak) to

Afghanistan, command special forces units in rebuilding schools, roads, hospitals, and constructing wells and water treatment plants while fending off Taliban attacks against the villagers in their regions. “It’s okay, sir” one Navy Captain joked recently, during a video teleconference from Kabul with the U.S. President, Secretary of State, and Secretary of Defense. “I spent the night in a Holiday Inn Express.”²⁴

Dawson’s description also aligns with the earlier accounts of independent news reports, like those of David Rodhe of the *New York Times*, and also by the head of the HTS team attached to the 82nd Airborne division in Iraq in the Fall of 2007 on the “Diane Rehm Show.” In all instances, those reports are more detailed, nuanced, and usually at odds with the portraits painted by war’s supporters, detractors, and also with the verbal “snapshots” obtained from conventional media sources.²⁵ The complexity of which this individual testifies, and the bureaucratic and logistical complaints he lodges, can be traced to a number of factors, worthy of consideration because they bears substantively on whether, on balance, the HTS program will prove effective, let alone morally justifiable, in achieving its aims.

Conclusions: the Need for External Program Review

What emerges as the principle moral (as opposed to ethical) dilemma on the foregoing accounts has less to do with “clandestine research” or malevolent covert actions, than with safety and transparency. The HTS program is similar, in many respects, to the practice of embedding journalists, chaplains, and perhaps also medical personnel with combat troops. Such personnel can be tremendously helpful, but they also pose a grave danger to themselves and others. The kidnapping of reporter David Rohde, and the serious injury and subsequent death of HTS team member Paula Loyd, illustrate the problem of “forward-deploying” non-essential personnel in combat zones. The moral dilemma, as stated, is whether the benefits and rewards of doing so outweigh these risks.

It is impossible to answer that question, in turn, without a much fuller account of HTS activities that we are thus far able to give. These important questions of safety and cost-effectiveness can only be addressed through a full program review. It is high time that such a review were conducted. The Human Terrain System is, admittedly a fairly new program, with only a few units in the field, and little assessment thus far of its overall effectiveness. That situation, in turn, owes much to the unusual requirements of the program, recruitment difficulties, and complexity of operation. This would be true even if the program was able to retain the very best talent, and train and deploy individuals with the most exemplary personal character on all fronts. The problems would be magnified, quite naturally, if some of the personnel hired and deployed turned out to be unqualified, irresponsible, or incompetent, or if (as alleged) some management staff themselves were irascible, difficult, or malevolent.

At present, however, there is no reliable system for external program oversight, and just as importantly, for program review and assessment. This is, unfortunately, typical of government programs. Enormous energy and thoughtfulness go into their creation, but the government and military are far less effective when it comes to managing and evaluating the effectiveness of ongoing programs. Such concerns are often an afterthought in the planning stages, and are brought to the fore only by an internal crisis, or by external criticism. To date, there is no evidence than anyone internal to the HTS program has provided procedurally for such program review and evaluation. We rely on endorsements from participants and advocates, or criticism from detractors, most of which consist more of rumor than of fact.

In its magnitude, this requirement is a far greater problem in practical or applied ethics than any malevolent actions or intentions, or any “secret or clandestine research” in which participants may

be engaged. We have, through this experimental program, apparently recruited some very decent and talented individuals, placed them in harm's way in the midst of combat, and asked them to "do some good." Like our military forces, to whom we gave essentially the same vague mission, we have provided no guidance, no framework for success, and no procedures to evaluate how well or poorly they are doing. Meanwhile, back home, uninformed pundits and journalists spin dark tales of malevolent conspiracy, and rant ponderously and pompously about "secret research." Mark Dawson is right: it would all be laughable, were it not – as in the cases of Bhatia, Suveges, and Paula Loyd –so thoroughly tragic.²⁶

Table One

Types of Military Anthrpology

Symbol	Type	Description
MA ₁	Anthropology <i>of</i> the Military	Anthropological Study of Military Culture
MA ₂	Anthropology <i>for</i> the Military	Human Terrain Systems (HTS)
MA ₃	Anthropology <i>for</i> the Military	educational programs (language, culture, regional studies) at military academies

Table Two
Forms of HTS Activities

Symbol	Description
HTS ₁	Providing cultural advice and regional knowledge (including language skills) on site to military personnel in combat zones
HTS ₂	Populating non-classified, nonproprietary cultural databases maintained in the U.S.
HTS ₃	Cultural espionage; gathering clandestine cultural data for classified databases (“Thailand Affair”)
HTS ₄	Forensic anthropology; investigation of possible war crimes
HTS ₅	preservation of valuable cultural patrimony in war zones

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Endnotes

1 The blog from Mark Dawson can be found at <http://www.ethnography.com/> (accessed 10 October 2008), and archived, along with similar accounts or responses from other HTS team members, on the site for subsequent reference at www.ethnography.com/index.php?s=HTS+Teams. The author is hardly an unbiased source of information on the program. It is clear from his remarks that he is contemptuous of the main groups of critics of the program "back home," and discouraged by the American Anthropological Association and its membership's handling of the controversy. Also importantly, he does not identify himself as an academic, or former academic anthropologist, but as a "practitioner," meaning one who has worked as an anthropologist in the private sector even before accepting a position in the HTS program. The responses to this and previous postings by this author on HTS, moreover, elicited a number of responses, some highly critical, and many raising legitimate questions about the accuracy or comprehensiveness of his account, or the moral probity of the terms of his employment and the working conditions he describes.

2 The AAA website describes the Executive Board's positions in varying terms, from "opposing" to "strongly disapproving" of HTS as a violation of the AAA Code of Ethics.

3 See (Schachtman 2008a), (Constable 2009), and (Stockman 2009). See also "Rough Terrain" by Vanessa M. Gezari, *The Washington Post Magazine* (30 August 2009), pp. 16-29.

4 An earlier article dated 23 July 2008 at the same hyperlink is the first of three published by this journalist, most simply repeating, updating, or amplifying the charges found here. Stanton describes himself as "a Virginia-based writer specializing in national security and political matters, and author of *Talking Politics with God & the Devil in Washington, DC* [n.d., n.p.]" He, likewise, is not an unbiased source, as most of his information for this article appears to come from Professor David Price's book, *Anthropological Intelligence* (Price 2008).

5 Attributing the cause of death of the two HTS team members killed in action to their inexperience or inadequate training seems to be inaccurate. As the analysis of the private military contractor, BAE Systems and its hiring practices, below, shows, these two team members either would have had to have been former U.S. Army personnel with prior experience and considerable training in counterinsurgency, or else have provide evidence of equivalent experience. Robert Rubinstein indicates that, although Michael Bhatia had not to his knowledge served in the U.S. Army, he had extensive experience in post-conflict interventions in Afghanistan, and with the

United Nations in East Timor. The charges in Stanton's *Pravda* article, above, have been, item by item, disputed or refuted by one of the principles named and criticized in it, Dr. Montgomery McFate. In particular, she points out that IZ3 Nicole Suveges was an Army reservist who had years of prior experience in combat zones in Bosnia and Iraq. See excerpts from her letter to the editor of *Newsweek* magazine, offering a very different perspective on these same developments reported by Stanton and other journalists, who tend to cite sources from the "Network of Concerned Anthropologists:" <http://www.ethnography.com/index.php?s=HTS+Teams>.

6 For a wide-ranging survey of the components of this field, see the essays by a number of leading military anthropologists in *Anthropology and the United States Military: Coming of Age in the Twenty-First Century* (Frese and Harrell, 2003). For a critical account from a military practitioner perspective of how the human terrain teams approach is both failing, and undermining the military's own efforts to enhance cross-cultural competence, see "All our Eggs in a Broken Basket: How the Human Terrain System is Undermining Sustainable Military Cultural Competence," by Major Ben Connable, U.S. Marine Corps: *Military Review* (March-April 2009), 57-64.

7 Anthropologists Barak A. Salmoni (Ph.D., Harvard University) and Paula Holmes-Eber (Ph.D., Northwestern University) co-authored this new handbook, *Operational Culture for the Warfighter: Principles and Applications* at CAOCL.

8 Criticisms and concerns from anthropologists regarding the orientation, administration, and likely impact of the Minerva program can be found in an AAA press release dated July 7, 2008, and located on the Association's web site at URL: <http://www.aaanet.org/issues/press/upload/Advisory-Anthropologists-Critique-Pentagon-s-Minerva.pdf>.

9 Here I'm indebted to Anna J. Simons for originally suggesting this line of inquiry in her review and critique of my earlier article in the *Journal of Military Ethics* (Lucas 2008). This, and some of the remaining descriptions of specific activities, follow from her suggestions.

10 "Anthropologists and War," (Rehm 2007). Guests included McFate, Price (via telephone from the West coast), Lt.Col. Villacres (via telephone from Iraq), Col. John Agoglia, director of the U.S. Army's "Peacekeeping and Stability Operations Institute," and David Rohde, a renowned reporter from the *New York Times*, whose article on HTS teams from the previous week is cited below.

11 In (Price and Gonzalez, 2007: 3), this remark is attributed to David Kipp of the Foreign Military Studies Office at Fort Leavenworth, KS, who reportedly described HTS as "a CORDS for the 21st century."

12 The reference is to (Condominas 1994). It is not clear why translating a published work into the readers' language is "illegal" unless the intent was to publish in violation of copyright. The point is, rather, that research results were being appropriated and used contrary to professional intent and the constraints of professional ethics.

13 See my account of these and other controversial engagements by anthropologists with the military in *Anthropologists in Arms*, Chs. 1-2 (Lucas 2009). See also (Silvert 1965; Horowitz 1967; Fluehr-Lobban 2003a), and, for the "Thailand Affair" specifically, see (Berreman 2003; Price 2003).

14 It is unclear whether their objection is to the failure of full disclosure, including funding sources and purposes to which the ethnographic data will be put, or obtaining "informed consent" allegedly under false pretenses, or, as with David Price, fear of the eventual use to which such data might be put by researchers. See "Zapotec Indigenous People in Mexico Demand

Transparency from U.S. Scholar,” by Saulo Araujo of the Union of Organizations of the Sierra Juarez of Oaxaca (UNOSJO), reported 22 January 2009 (<http://elenemigocomun.net/2059>). There has as yet been no verification that this research, or the personnel conducting it were, in fact, connected to the HTS program.

15 The complete report is available at URL: http://www.aaanet.org/pdf/Final_Report.pdf .

16 One such persistent critic is Maximilian (“Max”) Forte, a professor of anthropology at Concordia University (Montreal, Canada), who routinely posts articles with blog commentary and readers’ replies, on his website, “Open Anthropology.” He describes himself as relentlessly opposed to “institutional and disciplinary anthropology, insofar as it has or may continue to support, justify, participate in, or abide by imperial projects.” His perspectives on the discipline and its habits, as well as specific comments on the HTS project, can be found at: <http://www.openanthropology.wordpress.com>

17 There is an enormous and burgeoning literature on this phenomenon, and on its advisability. Probably the most well known work is (Singer 2003/2008). For a somewhat different, and more positive account of the activities, quality of performance, and moral and legal questions involved in using such contractors in combat zones, see (Carafano 2008). These two works adequately map the boundaries of highly disputed terrain over this interesting development. There are troubling ramifications that we cannot explore in detail in this book, such as the increasing reliance on such contractors to make combat operations even possible to sustain, together with questions about whether such reliance makes it easier for democracies like the U.S., Britain, and Australia to pursue military options in foreign policy without the full knowledge and consent of the electorate, in violation of the classical just war requirement of “legitimate authority.” As a professional matter, moreover, why should tax-payers be paying private contractors three times the wages we pay military personnel to do the same job? What does this do to military training, professionalism, and morale? These issues are currently under scrutiny at the U.S. Naval Academy’s Stockdale Center for Ethics and Leadership: see our Executive Summary at <http://www.usna.edu/ethics/Seminars/mccain.htm>

18 At this writing, the Obama administration and Congress have launched vigorous inquiries into the DOD’s policy of heavy reliance upon private contractors for security and logistical support in combat. See (Tiron 2009).

19 In January, 2009, partly as a response to the problems described below, the BAE Systems contract was terminated, and the HTS program directly subsumed under TRADOC, the U.S. Army’s training and doctrine command. The new regime may be studied at their website, established 15 January 2009, at <http://humanterrainsystem.army.mil>. The job advertisements and position descriptions detailed below (current as of 30 November, 2008) have been largely transposed intact to this new site. The positions are now, however, standard civilian DOD positions in the U.S. Civil Service, rather than PMC positions. With those changes, most of the remainder of the present analysis remains intact.

20 This information is from the company’s website: www.baesystems.com.

21 These position descriptions have been migrated largely intact, and are now posted at the HTS TRADOC website: <http://humanterrainsystem.army.mil/employment.html>.

22 A recent report by *Washington Post* correspondent Vanessa Gezari (Gezari 2009, p. 20), describes the work of psychologist and conflict resolution specialist, Karl Slaikeu, Paula Loyd’s replacement on her former Human Terrain Team. Reconnoitering in the village of Pir Zadeh in southern Afghanistan, the Brigade Combat Team commander, 24-year-old Army Lt. Terrence Paul Dunn, is obliged to issue instructions to this inexperienced HTS team member on how to stay out

of danger (and out of the way) if the unit should come under fire.

23 Some readers might also note the additional oddity that all the credible journalistic reports thus far seem to cite the Army's 82nd Airborne Division. Lt.Col. Villacres, from the 2nd Brigade Combat Team of the 82nd Airborne Division, on the "Diane Rehm Show" in October, 2007, telephoned from Baghdad. *New York Times* reporter David Rohde, author of the account cited above, was also present in the WAMU studio in Washington DC at the time. But his report, written only a few days before, is situated in Afghanistan, and quotes Col. Martin Schweitzer, also from the Army's 82nd Airborne Division. One wonders both how thin this particular division is stretched.

24 That story was related during a brief furlough in the U.S. by Captain Scott Cooledge, USN, commander of a provincial reconstruction team in Gahzni Province, Afghanistan, the keynote speaker at the Stockdale Center's semi-annual Ethics Essay Award banquet on September 17, 2008. Secretaries Gates and Rice, he reported, were mystified by his reference to a U.S. hotel chain in Afghanistan, but the President got the joke.

25 For more nuanced background accounts of Iraq, in particular, readers might wish to consult the reflections published on the Thanksgiving Day, 2008 *Washington Post*, by Captain Giles Clarke, USMC, midway through his third tour of duty since 2003, with a personal investment of over nineteen months in that country (Clarke 2008).

26 Psychologist and conflict resolution specialist, Dr. Karl Slaikeu, Paul Loyd's HTS replacement in southern Afghanistan, recently confirmed this analysis. He describes his own misgivings and awareness of the ethics debate in the AAA over the propriety of HTS. During his training at Ft. Leavenworth, and subsequently during his deployment in Maywand, Southern Afghanistan, he describes himself as watching "for anything that might jeopardize ethical standards by endangering local people." "It just hasn't come, he said, "and I've been looking for it." (Gezari 2009, p. 23)

Integrity and the Inconsistent Strategy

Responding to al-Qaeda

By Peter D. Menk

Introduction

In Shakespeare's *Hamlet*, Hamlet covertly alters his escorts' letters of introduction to the English king resulting in their execution and freeing Hamlet to return to Denmark. Hamlet's line, "For 'tis the sport to have the engineer Hoist with his own petard" has come to mean using an opponents' own positions against that person.

Our present national strategy is a self-imposed critical vulnerability giving al-Qaeda terrorists an opportune advantage.¹ The petard is inconsistency in how alleged terrorists are presently held accountable. Detained al Qaeda terrorists are held accountable based on bad conduct even though many are initially classified by status as an enemy. This creates an inherent contradiction rendering the strategy contradictory, increasingly ineffective, patently unfair, and lacking sufficient integrity to sustain public support. It is unprecedented for civilian judges to engage in oversight of tactical military operations against the enemy but that is now occurring.² It is practically impossible to successfully prosecute (absent a confession) someone detained as an enemy on the battlefield but later prosecuted in a state-side court room. The witnesses will not be available or remember well enough to survive cross examination, evidence cannot be safely collected and the chain of custody of any evidence and any statements taken from the accused do not and cannot practically be done in compliance with criminal procedure required for admissibility. This flawed strategy is leveraged by al-Qaeda to degrade the legitimacy of our government in the eyes of the world and amongst ourselves. Disturbing to our sense of justice, an admitted al-Qaeda leader, captured on a battlefield, is released and returned to his home in Saudi Arabia. In Operation Iraq Freedom more than 100,000 "useful fools" were detained and when determined "mostly harmless", returned on "parole" to their communities. Inconsistent, a "useful fool", John Walker-Lind, mostly harmless, continues to serve a lengthy United States prison term. Disturbing to our sense of fairness, a United States Special Operations sniper in combat in Afghanistan targets an individual on the list of enemies and is investigated for using excessive force in apprehending a civilian criminal.³

Repeatedly fine tuning criminal procedures only adds to our conflicted response to al-Qaeda terrorism. Criminal law sets only the minimum standards of conduct society will tolerate and is not in itself adequate. A government must also act with integrity to generate perceived fairness and justice thereby creating and sustaining governmental legitimacy. This paper describes the current strategy and proposes a new strategy. The integrity of the current strategy and of the proposed strategy is assessed through an analysis using a model for ethical method.⁴

Current Strategy

The current strategy originated in the immediate aftermath of the attacks of September 11, 2001. President Bush described the participants in the September 11 attacks in addressing a joint session of Congress as both criminals (bring to justice) and enemies (committed an act of war).

Tonight, we are a country awakened to danger and called to defend freedom. Our grief has turned to anger and anger to resolution. Whether we bring our enemies to justice or bring justice to our enemies, justice will be done.⁵

On September the 11th, enemies of freedom committed an act of war against our country.⁶

The current strategy adjudicates al Qaeda terrorists, their aiders and abettors through the criminal judicial system including those initially detained as an enemy. The Obama Administration has not significantly altered the strategy and has only made rhetoric change to implementing the strategy. Declaring torture unacceptable or closing one prison and opening another does not constitute a change of strategy.

A New Strategy

A new strategy is to hold all individuals accountable regardless of geographic location or citizenship utilizing the concept of enemy. The focus is on an individual's status as a belligerent rather than on bad acts. Should there be a criminal case the individual can also be prosecuted and face the same consequences as any other criminal, but his/her initial detention is predicated on status not on proving criminal conduct. The Geneva Conventions may not legally require al Qaeda terrorists be treated as enemies since they are without uniforms and do not meet all the criteria, but nevertheless treating them initially akin to prisoners of war is without question legally permissible.⁷ It is within the war power of the United States government to implement a strategy treating al-Qaeda and any person reasonably believed to aid or harbor or to conspire with them as enemies. The United States Supreme Court is unlikely to overturn the proposed strategy.

The "war power of the national government is the power to wage war successfully" (and it is) "not for any court to sit in review of the wisdom of the actions of the Executive or of Congress, or to substitute its judgment for theirs. If the Court could say there was a rational basis for the military decision, it would be sustained".⁸

Model for Ethical Method

Determining whether or not one is acting with integrity requires using a systematic process. Using a model for systematic fact gathering and evaluation helps avoid the human tendency to drift into the flawed pattern of "consequentialism", actions are right or wrong exclusively according to their intended consequences.⁹

Consequentialism occurs when each person has his/her own immediate opinion of the correctness of consequences of any act and considers anyone who disagrees as lacking integrity, or being corrupt, or stupid, or all three. Consequences are of vital importance, but must be evaluated in a systematic process and not as the sole issue. Failure to gather systematically all the facts and to properly evaluate them is failure to use prudence.

The model for ethical method provides a useful systematic process for acting with integrity. Acting with integrity is a three step process: (1) *discerning* what is right and what is wrong; (2) *acting* on what you have discerned even at personal cost; and (3) *saying openly* that you are acting on your understanding of right and wrong.¹⁰

The evaluation and comparison of the current strategy and the proposed strategy focuses on the first step, to ascertain what is right from what is wrong, in the model for ethical method. The second and third steps require the opportune moment for leaders with courage to act.

The model for ethical method can be visualized as a spoked wheel with a hub in the center.

On the hub are four sets of reality-revealing questions: (1) What; (2) Why, How, Who, When, Where; (3) Foreseeable Effects, and; (4) Viable Alternatives. The wheel model has nine spokes, each spoke reflecting an evaluational resource through which ethical consciousness can unfold: (1) Creative Imagination; (2) Reason and Analysis; (3) Principles; (4) Affectivity; (5) Individual Experience; (6) Group Experience; (7) Authority; (8) Comedy; and (9) Tragedy. (Not all nine evaluational resources apply to every circumstance.)¹¹

A sense of profanation alerts one to use the model for ethical method to evaluate the current strategy. A sense of profanation is a disturbing sense of violation and insult that one experiences in the face of certain words and actions that offend. The current strategy generates a sense of profanation because of inconsistent treatment of detained individuals, some are held accountable while some go free. Some are deemed innocent until proven guilty detainable only by reasonable force and others are enemies, lawful targets on sight.

Decisions based on a sense of profanation alone however lack prudence. Good intentions triggered by a sense of profanation alone can trigger bad results. United States military operations in Somalia were triggered by a CNN induced sense of profanation. Political decision-makers lacked prudence, did not sufficiently gather systematically all the facts and evaluate them properly, resulting in failure.

The reality-revealing questions, (1) What; (2) Why, How, Who, When, Where; (3) Foreseeable Effects, and; (4) Viable Alternatives, are similar to those of the Military Decision Making Process (MDMP) and to the Joint Operation Planning Process (JOPP). MDMP and JOPP processes involve (1) Mission Statement/Problem Definition; (2) Information Gathering; (3) Course of Action Development; (3) Analysis; and (4) Decision.

Discussion of the reality-revealing questions

What

The distinction between criminal and enemy is significant both procedurally and substantively. Criminals are apprehended, tried, and if found guilty of prohibited conduct beyond a reasonable doubt, are incarcerated for the purposes of punishment, safe guarding the public, deterring others, and rehabilitation. Deterrence, punishment, and rehabilitation are not significant to extremists. Safe guarding the public is the only remaining purpose of the incarceration. The criminal process is not particularly effective for that purpose. American jurisprudence is premised on the concept that it is better for nine guilty to go free than for one innocent person to be punished. Crime enforcement is retroactive, the bad conduct has occurred. Prevention of terrorists accomplishing their goal of mass casualties requires discovering preparations and conspiracies before the final act can be committed. This requires surveillance, invasion of privacy, threat to civil liberties.

Why, How, Who, When, Where

The current strategy is based on two assumptions now proven false, but nevertheless the strategy continues. The first assumption was that in “nation building” there are distinct phases that are sequential. Movement from one phase to the next is at a clearly identifiable date and time and in effect there is a change of command ceremony passing authority from one entity to another. Military power completes its mission to establish order in the disrupted society and via a “change of command” the civilian authorities take over and establish rule of law. The reality is that the establishing order phase runs concurrent with the establishing rule of law phase. Stabilization recognizes this concurrency. New rules of engagement for Afghanistan bridge kinetic combat with establishing governance is a disrupted society.¹²

The second assumption was that all cultures make a distinction between combatants and noncombatants as defined by western concepts incorporated in the Geneva and Hague Conventions. The adherents of al-Qaeda and other extremists have a different view in that all people regardless of age are resources to be used in the jihad. The male head of the family will if advantageous place his family in harm's way if doing so renders an advantage. He will place his family members at a rocket launch site to deter counter fire against the site. It is not for lack of familial love, but a sincere belief that all, including his family members, are combatants in the jihad. The driver of the VBIED or the individual with the bomb vest anticipates reward in heaven for their act and is celebrated as martyr amongst peers. There is no remorse or acknowledgement of a societal wrong committed. This makes western notions of crime and punishment ineffective. Criminals in the common law system of jurisprudence are apprehended, tried, and if found guilty of prohibited conduct beyond a reasonable doubt, are incarcerated for the purposes of punishment, safe guarding the public, deterring others, and rehabilitation. An observation of a court proceeding in the western world will typically show the criminal defendant being respectful of the judge and at sentencing attempting to show genuine remorse. The al-Qaeda member is proud of his/her acts and prefers martyrdom. Western concepts of deterrence, punishment, and rehabilitation are not applicable to al-Qaeda extremists.

Safe guarding the public is the only remaining purpose of the incarceration. The criminal process is not particularly effective for that purpose. Crime enforcement is retroactive, the bad conduct has occurred. Prevention of terrorists accomplishing their goal of mass casualties requires discovering preparations and conspiracies before the final act can be committed. This requires surveillance, invasion of privacy, threat to civil liberties.

The concept of bad conduct in American jurisprudence is not applicable to an enemy. An enemy may be attacked and killed, not for bad acts, but because of a status as a belligerent. An enemy may be captured and detained until paroled or until hostilities cease. Processing based on status as an enemy is an efficient and effective avenue to safeguard the public through incarceration of the al-Qaeda terrorist. However, the detention as an enemy does not generate the admissible evidence, the proof beyond a reasonable doubt required should justification for the incarceration be required under the criminal process.

Foreseeable Effects and Viable Alternatives

Exigencies of wartime have historically led to a clash between the demands for securing the nation from the enemy and preserving civil liberties. William H. Rehnquist, Chief Justice of the United States Supreme Court, writing on the issue of civil liberties in wartime, indicates that the Court may not interfere with the balance shifting against civil liberties if the price of preserving civil liberties is too high.

In any civilized society the most important task is achieving a proper balance between freedom and order. In wartime, reason and history both suggest that this balance shifts to some degree in favor of order – in favor of the government's ability to deal with conditions that threaten the national well-being.¹³

The American public also has grown impatient with the tilt towards order. The worst case scenario is playing out. The government is suffering from the perception that it is abusing rights while being substantially ineffective.

It is time to better defend the legitimacy of the United States government by setting a new course. A viable alternative is the proposed new strategy.

Discussion of evaluational resources

Individual experience and group experience are the evaluational resources discussed in this article. There is a working rule “if anything has been held by a large number of persons for a long period, it is most likely not completely valueless.”¹⁴ A historical review discloses that the United States has in the past tried both the criminal and the enemy approach during times of conflict. The comprehensive (foreign and domestic) enemy approach, the proposed strategy, has served better than the criminal approach.

The Historic Case for Enemies Foreign and Domestic

Even before there was a United States Constitution there was a necessity for loyal and faithful officers in the Army to protect Congress against enemies foreign and domestic. On May 15, 1777, John Adams, a Delegate to Congress sitting in Philadelphia, with the British Regulars and Colonial royalists threatening, wrote his wife, Abigail Adams, “However, now We have got over the dreary, dismal, torpid winter, when We had no Army, not even three thousand men to protect Us against all our **Enemies, foreign and domestic**; and now We have got together a pretty respectable Army, which renders Us tolerably secure against both”.¹⁵

Enemies included those who aided or supported. On February 3, 1778, the Continental Congress formally recognized the need for every military officer holding a commission or office from Congress to take and subscribe to an oath. The necessity to do so was obvious to a Congress sitting in circumstances where perhaps only approximately one third of the population were loyal and faithful to the revolutionary cause, one third were “sun shine patriots” from which traitors came and the remainder were royalist supporters of the King George the Third. The inclusion within the oath of the terms “abettors, assistants and adherents” defines as enemies both principals and those who support the foreign enemy (King George) domestically.

I.....do acknowledge the United States of America, to be Free, Independent and Sovereign States, and declare that the people thereof owe no allegiance or obedience to George the Third, King of Great Britain; I renounce, refuse and abjure any allegiance or obedience to him; I do swear that I will to the utmost of my power, support, maintain and defend the said United States, against the said King George the Third, his heirs and successors and **his abettors, assistants and adherents** and will serve the said United States in the office of which I now hold, with fidelity, according to the best of my skill and understanding. So help me God.¹⁶

After the Revolution War was over, the concept of the Army continuing in peacetime the dual roles of safeguarding the nation from “all enemies foreign and domestic” was addressed by George Washington in his letter dated March 15, 1784 to Friedrich Wilhelm, Baron Von Steuben.

A peace establishment ought always to have two objects in view. The one present security of Posts, of Stores and the public tranquility. The other, to be prepared, if the latter is impracticable, to resist with efficacy, the sudden attempts of a **foreign or a domestic enemy**. If we have no occasion of Troops for the first purposes, and were certain of not wanting any for the second; then all expence of every nature and kind whatsoever on this score, would be equally nugatory and unjustifiable; but while **men have a disposition to wrangle, and to disturb the**

peace of Society, either from ambitious, political or interested motives, common prudence and foresight requires such an establishment as is likely to ensure to us the blessings of Peace.¹⁷

A Thomas Jefferson contribution to the historical trail of references to enemies foreign and domestic is found in his letter to William B. Giles dated April 20, 1807 concerning Aaron Burr's attempt at establishing a monarchy in the west.

The federalists, too, give all their aid, making Burr's cause their own, mortified only that he did not separate the Union or overturn the government & proving, that he had a little dawn of success, they would have joined him to introduce his object, their favorite monarchy, as they would any other **enemy, foreign or domestic**, who could rid them of this hateful republic for any other government in exchange.¹⁸

The derivation of the present day oath of office for military personnel requiring officers to defend "against all enemies foreign and domestic" is the May 13, 1884 version of the oath of office found formerly in 5 United States Code 16, now by re-codification 5 United States Code 3331.

Of note is that the May 13, 1884 legislation calling on military officers to defend against all enemies foreign and domestic occurred six years after the enactment of the Posse Comitatus Act in 1878 which prohibits the direct regular Army and Air Force involvement with civilian law enforcement activities except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.¹⁹ Clearly Congress in its enactment of the Posse Comitatus Act and its reenactment of the oath of office six years later made a clear distinction between enemies, foreign and domestic, and common criminals.

Infiltration by Nazi Saboteurs

In June of 1942 the United States was at war with the German Reich. On June 13, 1942, Richard Quirin and three other saboteurs landed from a German submarine at Amagansett Beach on Long Island, New York. Four days later, five other saboteurs were landed from submarine on Ponte Vedra Beach, Florida. Each of these individuals carried with them a supply of explosives, fuses and incendiary devices and large sums of American currency. Each entered civilian society and proceeded to various points throughout the United States. Their objective was to destroy war industries within the United States. As part of their reward their relatives were to receive salary payments from the German government. Their landing places were within the area of operations of the Eastern Defense Command of the United States Army.²⁰ One of the nine individuals alerted the Federal Bureau of Investigations which was able to apprehend all eight remaining saboteurs before they could act. The FBI delivered the captives to the Department of Defense for processing and adjudication pursuant to a July 2, 1942 Proclamation by President Roosevelt.

All persons who are subjects, citizens or residents of any nation at war with the United States or who give obedience to or act under the direction of any such nation.....and are charged with committing or attempting or preparing to commit sabotage, espionage, hostile or warlike acts, or violations of the law of war, shall be subject to the law of war and to the jurisdiction of military tribunals."²¹

Each of the individuals was tried before a military tribunal, convicted, and executed including one of the prisoners who had claims of being a United States citizen. Their petitions for writs of

habeas corpus arguing they could only be tried in civilian courts were denied by the United States Supreme Court.²² This legal case remains the law of the land. The Uniform Code of Military Justice confirms that this law applies to terrorists. Unlawful belligerents, and any other person who aids or harbors or conspires with terrorists may should strategy and politics see fit, be tried before a military commission.²³

Historic Precedents of the Current Criminal Approach Strategy

The criminal approach triggers concerns over maintaining the proper balance between order and civil liberties. The very foundation of the United States Constitution is that of checks and balance maintaining a healthy competition and tension between the three branches of the federal government and between the federal government and the states. Any strategy or law shifting the balance in favor of one, order, or the other, civil liberties, generates push back. While as Justice Rehnquist noted in time of threat the balance may tip towards order that tilt is temporary. Such “tilting” policies and laws lasting beyond “temporary” have usually within a few years at most generated societal disrupting push back.

American history is replete with examples of the balancing contest and the consequences of “tilting” policies. President John Adams lost reelection in part because of backlash against the Alien and Sedition Acts of 1798²⁴. The World War I Espionage Act of 1917 and the Sedition Act of 1918 were both repealed in 1921.²⁵

The advent of the Cold War in the late 1940’s brought threat of domestic espionage within the United States by the Soviet Union aided and abetted by United States citizens. This led to the passage of the McCarran Internal Security Act in 1950 followed in 1952 by the Immigration and Nationality Act or McCarran-Walter Act and the Communist Control Act of 1954.²⁶ From these laws and associated policies arose the abuses of “McCarthyism”, the misuse of national security to infringe on civil liberties. The abuses and excesses of McCarthyism resulted in the rendering ineffective other and appropriate defenses against what is now known to be in fact extensive Soviet espionage within the United States.

Following the al-Qaeda terrorist attacks of September 11, 2001 within the United States suspected terrorists were detained and the Patriot Act passed. Enemy combatants captured abroad were detained at Guantanamo Bay. Attempts at prosecution of suspect al-Qaeda terrorists has proven divisive, prohibitively time consuming, expensive, and because of the realities of combat’s incompatibility with chain of custody and the exclusionary rulings. The criminal prosecution response is vigorously condemned and opposed as a renewal of “McCarthyism”. Fear of the return of “McCarthyism” now stymies defense against al-Qaeda. A law intended to defend against al-Qaeda, The “Violent Radicalization and Homegrown Terrorism Prevention Act of 2007” was passed by the House in 2007 by a vote of 404 to 6, but has yet and is unlikely to ever reach the Senate floor.²⁷ Whether or not the “Violent Radicalization and Homegrown Terrorism Prevention Act of 2007” is an effective law or a divisive one, the fact it cannot be brought to a vote indicates a result where government is rendered ineffective in defending against known al Qaeda intentions to defeat the United States.

Conclusion

The current strategy to detain and eventually adjudicate al Qaeda terrorist via the criminal process is failing because it lacks integrity. It constitutes a self-imposed petard. A viable alternative strategy should be implemented for the government to have the ability to deal with the al Qaeda threat to our national well-being. A new strategy based on classifying al Qaeda terrorists and those

who aid and abet them as enemy is a strategy that reviews through the model for ethical method shows possesses integrity.

Endnotes

- 1 This article is limited to individuals who are al Qaeda members and those who aid or abet them. The recommendations do not apply to others who may use the tactic of terrorism such as the Timothy McVeighs of the world who are held accountable via the civilian criminal adjudication system.
- 2 David B. Rivkin Jr and Lee A. Casey, “Judges Don’t Belong on the Battlefield”, *Wall Street Journal*, July 17, 2009.
- 3 Herschel Smith; “Concerning Snipers, Rules of Engagement and General Kearney”; *The Captain’s Journal*; investigation of MSG Troy Anderson September 21, 2007. See also; Mark Walker; “Manslaughter Case Against Marine Sniper Under Way (SGT John Winnick, *North County Times*, July 1, 2008.
- 4 For an example of the using an ethical model to examine an issue see, Menk, Peter D., “Kairos and Courage”, Strategy Research Project, USAWC Class of 1998, U.S. Army War College, Carlisle Barracks, PA.
- 5 Bush, George W., “Transcript of President Bush’s Address”, *Washington Post*, September 21, 2001.
- 6 Ibid.
- 7 For a detailed discussion of internal and international armed conflict which trigger law of war and humanitarian protections see Peterson, Alex G., “Order Out of Chaos: Domestic Enforcement of the Law of Internal Armed Conflict”, *Military Law Review*, Volume 171, Department of the Army Pamphlet No. 27-100-171, March 2002.
- 8 *Hirabayashi v United States* 320 U.S. 81 at 93. Subsequent cases are critical of this case dealing with internment of individuals of Japanese descent during WW II but the quote used (cited by Chief Justice Rehnquist, see footnote 27) may accurately reflect the Courts views in deferring to the Executive in war.
- 9 Stephen L. Carter, *Integrity*, HarperCollins Publishers, New York, 1996, p.65.
- 10 Ibid. p.7.
- 11 Maguire, Daniel C. and Fagnoli, A. Nicholas, *On Moral Grounds, The Art/Science of Ethics*, The Crossroads Publishing Company, new York, 1996, p. 41.
- 12 “New Rules of Engagement for Afghanistan part of Psychological Campaign to Wind Civilian Support in Afghanistan”, Defense Update news Analysis; <http://defense-up-date.com/analysis/analysis-070709-roe-new.directive.html>.
- 13 Ibid, Rehnquist, p. 222.
- 14 Ibid. Maguire, *On Moral Grounds The Art/Science of Ethics*, p. 23.
- 15 Thomson, Charles, Secretary, “Extract from the Minutes of the Continental Congress”, In Congress, February 3, 1778: Resolved that every officer who holds or shall hereafter hold a commission of office from Congress, shall take and subscribe the following oath or affirmation ...
- 16 Extract from the Minutes of the Continental Congress, Charles Thomson, Secretary,

Resolution In Congress, February 3, 1778: Resolved, that every officer who holds or shall hereafter hold a commission or office from Congress, shall take and subscribe the following oath or affirmation....

17 Fitzpatrick, John C., Editor. "The Writings of George Washington from the Original Manuscript sources, 1745-1799" Vol. 27, , George Washington letter to Friedrich, Wilhelm, Baron Von Steuben, March 15, 1784, The George Washington Papers at the Library of Congress, 1741-1799.

18 Ford, Paul Leicester, Editor, The Works of Thomas Jefferson in Twelve Volumes, Federal Edition, Library of Congress.

19 Posse Comitatus Act, 18 U.S.C.A. Section 1385 (2000)

20 See United States ex rel. Quirin, 317 U.S. 1, 63 S.Ct. 2 (1942).

21 No. 2561, 7 Federal Register 5101.

22 Ibid. ex rel. Quirin

23 Operational Law Handbook, The Judge Advocate General's School, p. 18-9 (2001).

24 The commonly referred to *Alien and Sedition Acts* were four separate laws, *An Act to Establish a Uniform Rule of Naturalization*; ch. 54, 1 Stat. 566; enacted June 18, 1798, repealed in 1802. *An Act Concerning Aliens* ; ch 58, 1 Stat. 570, enacted June 25, 1798, expired 1800. *An Act Respecting Alien Enemies*; ch. 66, 1 Stat. 577 (in force see 50 U.S.C. Sections 21-24. *An Act for the Punishment of Certain Crimes Against the United States*; ch.74, 1 Stat. 596; expired March 3, 1801. The statutes are founded using the government search engine named after Thomas Jefferson, <http://thomas.loc.gov/>

25 Ibid.; <http://thomas.loc.gov/>

26 Ibid.; <http://thomas.loc.gov/>

27 <http://www.house.gov/harman> is the webpage "the Virtual Office of Congresswoman Jane Harman", one of the sponsors.

Military Professional Ethics: The Bad News

by

Thomas B. Grasse

ABSTRACT

Military professional ethics are strongly differentiated. “We may define a professional role as *strongly differentiated* if it requires unique principles, or if it requires its norms to be weighted more heavily than they would be against other principles in other contexts.” (Alan Goldman) This is “bad news” because 1- military professionals are human beings with a unitary, not a bifurcated, consciousness; 2- most examinations of ethical requirements are written for “normal people in standard situations,” not for specialized professionals in unique circumstances; and 3- strong differentiation must be better addressed in professional military education, and it must be explained well by senior leaders to internal and external audiences.

General Sir John Hackett is celebrated, at least among those of us who study and teach about military professional ethics, for having asserted:

A man can be selfish, cowardly, disloyal, false, fleeting, perjured, and morally corrupt in a wide variety of other ways and still be outstandingly good in pursuits in which other imperatives bear than those upon the fighting man.... What the bad man cannot be is a good sailor, or soldier, or airman. Military institutions thus form a repository of moral resource that should always be a source of strength within the state. [1]

While I think his comment is true, it is so in a special sense, and definitely *not* in the sense that a great many people -- notably senior civilian and uniformed leaders of our military -- have taken it. This paper argues that military professional ethics is *strongly differentiated*, and that this is “bad news” to what many of us believe we need to know in order to be, or to help others to be, good soldiers, sailors, airmen, or marines.

Let me begin, then, by presenting the view which I now reject. Many people (including myself even while I was teaching military professional ethics to mid-grade and senior field-grade officers at the Naval War College) conceive of professional ethics as essentially personal ethics applied to special, often arduous, circumstances. They think that, in order to be an ethical soldier, one simply must be an ethical man or woman, albeit in highly demanding circumstances. To them, the challenge of military professional ethics is not in the *content* of what must be known but in the *willpower* needed to fulfill one’s recognized moral duties.

The counterview that I now hold is that, to be an ethical soldier, a man or woman in uniform must understand and obey a moral code that requires, at critical points, behavior that is the *opposite* of what

a good man or woman would recognize as ethically required (or ethically forbidden). Put another way, at times an ethical soldier must know to do what a non-soldier is ethically prohibited from doing, and at times a moral soldier must know to refrain from doing what a non-soldier is morally required to do. Philosophers and sociologists term this “strong differentiation.”

Perhaps the most comfortable way to introduce that concept is to consider the ethical expectations we have of other professions which also are strongly differentiated, and whose requirements we already understand and accept.

First, let us think about Melvin the Murderer. Melvin has committed the “perfect crime,” and is not even a suspect. Although police have some DNA-related evidence from the crime scene, Melvin has no prior record and his DNA is not available for comparison. Melvin talks, in strictest confidence, to his friend Xavier, and reveals details of the crime and how guilty he feels, how sorry he is that he did it, and so on.

Xavier, a very moral person, tries to convince Melvin to turn himself in, but Melvin refuses. After a long but futile conversation, Xavier realizes Melvin will not confess to the police or even go to a criminal defense attorney for counsel.

Meanwhile, completely frustrated, the police appeal to the public for assistance. I propose that, in such a situation, we all agree that, painful as it may be due to the friendship between Xavier and Melvin, Xavier has a moral obligation to report Melvin’s conversation to the police for their investigation. Maybe Melvin is delusional and had nothing to do with the crime; maybe he was really acting in justified self-defense but does not realize it; maybe a good defense attorney can prove Melvin was temporarily insane. None of these possibilities alters Xavier’s ethical duty to notify the police of what Melvin has told Xavier. (I leave aside topics such as whether Xavier has a legal obligation to make such a report, or whether the failure to report might put Xavier in legal jeopardy of any kind. We are looking only at Xavier’s moral obligation.)

When one is aware of a serious crime committed by a particular person, one has a moral obligation to report this information to the authorities for investigation. I believe *that* is a statement of what we think about morality as it applies to each of us. Naturally, we are presuming some background conditions, such as that one lives in a reasonably just society, that allegations and suspicions will be carefully investigated, that the accused will be presumed innocent until proven guilty, that the reporting person and his or her loved ones do not face serious death threats, and so on.

But suppose, to change the scenario in just one important respect, Xavier is a priest, and the “conversation” was a holy confession (or, if you prefer today’s terminology, it was the sacrament of reconciliation). Now *Father* Xavier has a completely different -- and opposite -- moral obligation. He may still urge Melvin to go to the police, or at least a good criminal defense attorney; ***yet under no circumstance may Father Xavier reveal to anyone anything about the confession.*** After granting absolution to sincerely repentant Melvin, Father’s paramount moral obligation is to maintain “the seal of the confessional” -- and would remain so even if Father Xavier himself were charged with the murder.

Here we find that a good priest has an ethical duty that is the *opposite* of what a good person in the same situation has. In this kind of matter, the ethical obligation of the priesthood is ***strongly differentiated.***

We mentioned the possibility of Melvin consulting a criminal defense attorney. If he did so, the attorney would have basically the same ethical requirement as the priest. Under attorney-client privilege, as we all know, the attorney would have to maintain the confidentiality of Melvin’s disclosure, because the defense attorney’s ethical obligation also is ***strongly differentiated.***

And if Melvin went to a psychiatrist, his conversation could not be reported to the police because of the patient-doctor confidentiality privilege. The psychiatrist’s ethical obligation requires him or her to do the opposite of what a “good person” should do, again because of ***strong differentiation.***

More formally, and here I quote from Alan Goldman's *The Moral Foundations of Professional Ethics*:

The most fundamental question for professional ethics is whether those in professional roles require special norms and principles to guide their well-intentioned conduct.

It is also the most crucial for professionals themselves and for those who attempt to evaluate their conduct, since many decisions and evaluations in this area will differ according to whether special norms are required.

We may define a professional role as *strongly differentiated* if it requires unique principles, or if it requires its norms to be weighted more heavily than they would be against other principles in other contexts.

For [strong] differentiation to apply, it must be the case that the occupant of the position be permitted or required to ignore or weigh less heavily what would otherwise be morally overriding considerations in the relations into which he enters as a professional.... The professional must elevate certain values or goals, those central in his profession, such as health, or legal autonomy of clients, or profits, to the status of overriding considerations in situation in which they might not appear to be overriding from the viewpoint of normal moral perception.

And, Goldman adds,

Judging from the most widely consulted codes of professional ethics, those within the professions tend to view their roles as strongly differentiated in the above sense. [2]

Attention is invited to the fact that strong differentiation is granted or recognized by society to certain categories of people in specific situations. The motive for such recognition varies, but fundamentally fits under the concept of general social welfare -- that society itself benefits from placing certain people, in specific situations, under moral obligations that are unusual because they differ from, or are even the opposite of, what everyone else is morally expected or required to do. For example, if Melvin the Murderer had a wife, in many jurisdictions she could not be compelled to testify against her husband about anything she may know about the crime (whether she should do so despite the "spousal privilege" is another question).

In recent years, the doctor-patient privilege has been trimmed in the United States. Beginning with the 1976 *Tarasoff* case in California, psychiatrists and psychologists, other medical professionals, social workers, and even crisis-line volunteers who hear threats to harm a specific, identified third person are legally obliged to warn that person of the threat, notwithstanding any promise to, or expectation by, a client that their communication was protected by confidentiality. Likewise, emergency room professionals, and in many jurisdictions school personnel (nurses, guidance counselors, and classroom teachers), who encounter children who report or show appearances of physical abuse are legally (and thus, implicitly, ethically) obliged to bring such situations to the attention of local law-enforcement authorities. In a growing number of jurisdictions, similar expectations are developing in matters of elder abuse.

Of course, I acknowledge the Catholic (and other) Church's assertion that the seal of the confessional is a sacred right *not* derived from secular authority. I merely note that in a despotic

society which denied the seal, priests and ministers would have a strongly differentiated moral obligation not recognized by that society. My claim is, through its legislative power, as well as in more subtle ways, society influences what individuals take to be their moral responsibilities, and some of these are strongly differentiated from what is expected of most people.

Inasmuch as I have been using the phrase “strongly differentiated,” readers may be wondering if there is a category of moral obligations that are “weakly differentiated.” And there is. “Weak differentiation” refers to the obligation to perform (or to refrain from) acts that are *in addition to* what apply to all members of society, but that are *not at odds with, or possibly contradictory to*, general moral expectations. A truck driver, for instance, has additional ethical obligations to his employer, to other drivers, and so on, but these are not surprising responsibilities. By contrast, an ambulance driver may well have several strongly differentiated expectations of his or her behavior, including exceeding posted speed limits, ignoring driving regulations (traffic lights, illegal turns, driving in the wrong lane) -- albeit with care and prudence, for the safety of the sick or injured person and the ambulance occupants.

So the questions before us are, first, does a good soldier, sailor, airman, or marine have strongly differentiated moral obligations? And second, if the answer is yes, what does that imply for the appropriate preparation, education, training, conduct, counseling, evaluation, and advisement of military personnel?

Please consider this scenario:

DUTY IN SORRYLAND

You are a colonel commanding a powerful U.S. Army infantry unit sent to provide security for humanitarian relief organizations trying to deliver food and water for those suffering from the effects of drought in Sorryland. At the moment, you and members of your unit can see across the now-dry river bed forming the border with Badland, and your troops clearly observe in Badland a small militia group rounding up members of the oppressed ethnic minority. Your radio squad has monitored apparent Badland government instructions to the militia group to kill everyone of that ethnicity.

When you report by radio to your own superiors what your unit is observing and what it has heard, you also indicate that your unit can promptly and easily intervene to save those lives with few if any expected casualties to your own forces. After a delay of about ten minutes, you are firmly directed to obey standing rules of engagement NOT to cross the border and NOT to enter Badland.

What should you do in this situation? Why?

I trust that we all recognize the duty of the colonel in Sorryland to obey orders. While we in the United States tend to accord a considerable degree of latitude, especially to more senior officers, about how much freedom military leaders have to exercise professional judgment in concrete situations, here -- primarily because of the clear, complete, and direct communication the colonel has had with headquarters (perhaps all the way up to the White House) -- the officer must not cross the dry river-bed to aid the villagers in Badland, even though the colonel and members of the U.S. infantry unit believe the villagers are in imminent mortal danger which the U.S. soldiers could easily, and at little risk to themselves, relieve.

There are many ways to *justify* the duty of obedience to orders in this case, but I shall not rehearse or even identify them. My claim is, regardless of whether we (or the colonel) can imagine reasons why, in this situation, it would be better for the Americans to stay in Sorryland, they must do so *simply because* they have been ordered to do so by military superiors who have been fully, clearly, and directly apprised of the situation. The duty of obedience would lie upon the colonel and the U.S. unit even if they felt certain that their orders were an error.

Elsewhere I have addressed how an officer might respond to what I term “an intolerable order.” I consider it the most difficult moral problem a military professional can face. So I do not underestimate, much less ignore, the anguish the duty of obedience can impose on a conscientious soldier, sailor, airman, or marine. Indeed, it is precisely *because* that individual appreciates the duty of obedience in such situations that he or she experiences a moral challenge. If one were to view obedience to orders as merely a beginning presumption, readily overridable when one’s professional judgment and careful consideration so advise, this problem would evaporate. (One is reminded here of the Duke of Wellington’s complaint: “Nobody in the British Army ever reads a regulation or order as if it were to be a guide for his conduct, or in any manner [other] than as an amusing novel.”)

So, it is because the colonel reads his order as imposing a guide to conduct -- one he sincerely judges to be a mistake, professionally and morally wrong -- that there is a difficulty.

The difficulty, I submit, is caused by *strong differentiation*. As a military professional, the colonel has a duty to obey orders, an obligation which would not exist if, say, he and a group of friends (a large group!) were on vacation in Sorryland. (Imagine a military reunion on a hunting expedition in Sorryland; a group of disciplined, well-armed private citizens might well feel morally required to intervene in such a situation to save the lives of the Badland villagers.)

In a variety of ways, military professionals have ethical obligations different from, and contrary to, what “normal” moral people have. They employ, or threaten to employ, lethal force on a massive scale for state purposes. They send others, and go themselves, into situations of grave danger, fully knowing that many will be killed and many others will be seriously wounded. They perform, or order others to perform, actions that they foresee, unfortunately and regrettably, will cause the death or injuring of innocent civilians. Even in peacetime, they engage in, and order others to engage in, very dangerous activities. In these and various other ways, military professionals do things that others would consider morally wrong if they were asked to do them.

The subtitle of this paper is, “The Bad News.” Much of what I have discussed above is familiar; so why is my claim that military professional ethics is strongly differentiated “bad news”?

First, and most importantly, if my claim is correct, individual soldiers, sailors, airmen, and marines may often face personal moral crises. No one is a bifurcated being, and no normal person is profoundly schizophrenic; each healthy person is one consciousness. When the colonel and members of our imaginary U.S. Army unit look across the border and hear the screams of the terrified Badland villagers, they cannot divide their minds into “military professional consciousness” and “normal moral person consciousness.” So they will be profoundly troubled by the conflict caused by their duty to obey orders and their desire, even compulsion, to take action to save dozens or hundreds of lives. They may be further traumatized if they must hear, perhaps even see, their worst fears for the villagers coming to pass. In general, as we understand, many of the actions that men and women perform as military professionals conflict sharply and deeply with what they have been taught, accepted, and internalized as moral obligations, requirements of every good person.

Second, if the military profession is strongly differentiated in its ethics, most discussions and guides or counsels to moral behavior are either not applicable or, worse, misleading, pointing the wrong way. Most examinations of ethical requirements are written for “normal people in standard situations,” not for specialized professionals in unique circumstances. Thus, any good practical guide about what a reader should do if she is in Xavier’s shoes, and someone who is not even a suspect

in a murder reveals that he killed the victim, would advise the reader to report this to the police for their investigation into what the reader has been told. It is extremely unlikely that any such guide would include a footnote saying, “unless you are a priest or minister who has learned this information in holy confession.” Likewise, few if any volumes of general moral counsel contain an appendix explaining the exceptions that sometimes apply to priests and other clergy, criminal defense attorneys, psychiatrists, and military professionals.

Consider the three “tests” that popular commentators on ethics propose to help one decide what one ought to do when confronting a moral quandary. They suggest you ask, “How would I feel if my decision were reported on the front page of the *New York Times* or the *Washington Post*?” Alternatively, they ask you to imagine trying to explain to your mother what you decided to do. Finally, they invite you to imagine how you will feel about yourself when you gaze into the mirror the next morning.

These may work more or less well in normal circumstances for typical men and women with well-formed characters. However, they often will not be helpful to anyone expected to use a strongly differentiated code of ethics in specified situations; indeed, they will frequently suggest exactly the *wrong* behavior.

Hence, if a *Times* or *Post* reporter were embedded with the colonel’s unit in Sorryland, the front page of the next day’s newspaper might well decry the failure of the Americans to intervene in Badland. The colonel’s decision to obey orders would appear to be most troubling -- we can see the headline now: “87 Civilians Massacred as U.S. Soldiers Watch.”

“The Mom Test” would not work much better, would it, in this or many, many other military situations? “Mom, this morning I ordered a hundred men to take a hill; they succeeded, but almost half of them were killed doing so.” And need I remind the reader of how many children of men who wore Bronze Stars or Combat Infantryman’s Badges report, “My father never talked about the war”? World War II, Korea, Vietnam ... right through to today’s returning warriors. Often those men won’t subject their own sons, who themselves have been in combat, to the Mom test.

And we know how confusing the mirror test is from the thousands, the millions, of men who have tried it, willingly or unwillingly. After killing an enemy in combat the first time, many a soldier has been deeply confused, uncertain, perplexed, by the mirror test. “I did what I had to do -- him or me -- no choice -- why do I feel so bad?”

Third, if the military profession is strongly differentiated in its ethics, this *must* be better addressed in professional military education, particularly at senior service colleges and intermediate command and staff colleges, and it *must* be recognized, acknowledged, and explained well by senior civilian and uniformed leaders, both to internal and external audiences.

The majors, lieutenant colonels, and colonels who lead American formations at the unit level need to clearly understand that “being a morally good soldier” is distinctly different from, and more difficult than, simply being a morally good man or a morally good woman. For them to understand it requires that they be taught it by educated men and women with a thorough understanding of ethical theory *and* the intricacies of military professional ethics. Well-intentioned, even well-educated, civilians who do not grasp the difference and have little real knowledge of the military profession can only confuse field-grade leaders, who most certainly deserve better from their institutions in this crucial domain of their profession.

Correspondingly, senior leaders -- from the President and Secretary of Defense to service secretaries, under secretaries, deputy secretaries, assistant secretaries, on down -- and from the Chairman of the Joint Chiefs of Staff to service chiefs and other flag and general officers -- must make clear to the American people and citizens of other nations that members of the United States armed forces, acting ethically, have moral codes that differ in some respects from our citizens’ personal standards of right behavior. That is why the Uniform Code of Military Justice, courts-martial, and the

United States Court of Military Appeals are legally distinct from the laws and courts to which most of us are subject. Internally, to everyone who wears a military uniform and obeys their orders, those leaders -- particularly those in uniform -- should pay great attention to the clarity, completeness, and effective promulgation of military professional ethics. It is, after all, *their profession; they are its recognized leaders; and few things are as important to the value and to the future of the military profession as are the ethical standards of its members.*

That is the “bad news” about military professional ethics.

Endnotes

[1] Sir John Winthrop Hackett, “The Military in the Service of the State,” 1970 U.S. Air Force Academy Harmon Memorial Lecture; reprinted in Malham M. Wakin (ed.), *War, Morality, and the Military Profession* (Boulder, CO: Westview Press, 1979), pp. 124-5.

[2] Alan Goldman, *The Moral Foundations of Professional Ethics* (Totowa, NJ: Rowman and Littlefield, 1980), pp.

Psychology and Ethical Conduct: A Primer for Military Leaders

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Leadership is, among many other things, applied psychology. Effective leaders work to understand people, because it is people who accomplish or fail to accomplish the mission. The difference between mission success and failure may therefore be found in a leader's ability to understand what motivates, frightens, comforts, rewards, or inspires his/her subordinates, and on his/her willingness and ability to act on that understanding. Psychology is one way to enhance that understanding.

"Accomplishing the mission" is not as simple a criterion as it once was, perhaps, or at least not as simple as some of us might like to think it once was. In an age in which warfare is conducted in full and almost instant public view, how the mission gets accomplished can have far-reaching tactical and strategic consequences. In fact, *how* the mission gets accomplished can determine *whether* the mission gets accomplished. There are limits placed on the conduct of military members both in and out of combat. This article is about those limits, the psychology of observing them, and the psychology of leading others to observe them.

In the West, these limits can be traced to ideas about the morality of the initiation and conduct of war, which originated in the Christian tradition. The terms *jus ad bellum* and *jus in bello* define a set of ideas about the initiation and execution of war, respectively, that date back at least as far as St. Thomas Aquinas¹. These ideas are the foundation of the international legal structure that has evolved in the West to govern international conflict. Central to this tradition are the notions of discrimination and proportionality. Force is to be applied discriminately, ensuring that risk to non-combatants is avoided or minimized; and proportionately, calibrated to achieve legitimate military ends.

Three recent developments appear to have undermined universal commitment to these principles in America. First, certain historical and political interpretations of the Vietnam War have led many to conclude that the war was not lost militarily, but politically. This narrative, like the "stab in the back" narrative embraced by many German officers after their defeat in the First World War, suggests that the military, had it not been constrained (or even betrayed) by politicians at home, would have prevailed. Those who endorse this view of the Vietnam War may harbor suspicion of constraints on military conduct. Second, in recent wars we have frequently faced enemies who are not themselves committed to the principles embodied in international law. Insurgents, guerillas, or even states that do not observe the same (or perhaps any) rules in their conduct of warfare raise the question as to what consideration they are then entitled to: for some, the answer is, less than we owe legitimate soldiers. Third, the American military is an all-volunteer force. It is demographically different from civil society, and military members have been called upon over the last several years to make sustained and substantial sacrifices, often in the form of repeated, lengthy deployments, and of course exposure to the hazards of combat. The oft-repeated refrain that military members have gone to war while other Americans have gone to the mall leads some to the conclusion that those who go to the mall have no right to impose their values (and attendant behavioral constraints) on those who have gone to war on their behalf.

WHAT DETERMINES ETHICAL CONDUCT?

If we consider accomplishing the mission in an ethical manner as an endpoint or outcome, what factors go into determining the nature of that outcome? Understanding the forces that shape such

behavior is the first step in controlling those forces, thus allowing the leader to shape a favorable outcome. So where does ethical behavior come from? Two possible answers to this question are: (1) Ethical behavior is a function of a person's character: it comes from within them and (2) Ethical behavior comes from situational factors that push all of us to behave in certain ways regardless of our "character". Thinking through these two alternatives and their ramifications will help us identify the range of factors that contribute to ethical behavior, and the actions we can take to affect the outcome. A third alternative is that our behavior is a joint product of personal and situational variables. A strong scientific tradition suggests that attempts to locate the causes of our behavior either exclusively within or outside our selves will fall short.

CHARACTER?

Most people think that ethical behavior is a matter of personal choice and responsibility. Our intuition is that when we are confronted with choices, we are (except under unusual circumstances) free to choose our course of action. The actions we take define our character: a stable and consistent pattern of responding in situations based on certain traits that we possess. These traits might include honesty, courage, fairness, and the like. The key feature of this view of ethical conduct is that traits represent internal constructs that we consult to determine our response in a variety of situations. According to this view, then, our behavior in different situations ought to be consistent with the traits that form our character. This traditional notion of ethics is sometimes referred to as "virtue ethics" and is usually traced to Aristotle².

OR THE SITUATION?

An alternate view is that ethical conduct is situational. We may think that our behavior is governed by reference to internal standards, but in reality, our behavior is driven more by external factors. The most famous example of behavior thought to illustrate this idea is found in Stanley Milgram's obedience experiments³. In these experiments, people were paid a small sum to serve as assistants in a supposed psychology experiment, in the course of which more than two thirds of them administered what they had every reason to believe was a dangerous electric shock (no shocks were really delivered) to a stranger they had met a few minutes earlier. The participants were pushed to do so by an actor wearing a white lab coat, pretending to be a scientist at Yale University. Few people, asked what they would do in such a situation (or what others would do) predicted the actual outcome. Most of us think we would remain true to our character traits, and resist the authority figure, but in fact, most of us (in that particular situation) act in ways that seem horribly inconsistent with what we say our internal principles ought to demand.

OR BOTH?

So which view is correct? There have been studies (like the Milgram obedience study) that seem to support a situationist view (though such studies have their critics) and other studies that seem to find more consistency in ethical behavior across situations, as the character perspective would expect (these studies have critics, too). But if we consider the way society views the question, it would seem that we heavily favor the character explanation.

Our legal system, for example, generally expects that our behavior will conform to the rules and principles that society has enshrined as laws over a very wide range of situations. There are instances in which situational factors are taken into account – generally those that are thought to diminish the capacity for rational thought necessary for consultation of our inner guiding traits –

and juries generally seem to be quite reluctant to excuse people on account of such factors. About the best most defendants blaming situational factors (rage, fatigue, drug or alcohol effects) can hope for is a reduced punishment. We seem to accept the idea that situations can sometimes affect our behavior, but we also seem to expect that people should, in most cases, be able to anticipate and/or resist those situational pressures.

Consider, for example, the question of whether a person is bigoted or prejudiced against gays. We might infer the existence of this trait if a person were to make demeaning comments about gay people. A person might well feel comfortable expressing such views in the company of like-minded people (or those assumed to be like-minded, such as co-workers) but refrain from doing so in other contexts, such as within the hearing of a professor at a night class at the local college. Despite the situational differences in expression, we tend to think of the person's underlying views as stable. Such contextually sensitive behavior is quite common.

But while we may think of such behavior as this simply reflecting conformity to social norms, leaving deeper views unaffected, we must also recognize that behavior can shape and change attitudes. When attitudes and behavior differ, attitudes often shift in the direction of the behavior. Humans are driven to achieve consistency between thoughts and behavior, and shifting the thought or attitude is often the only way to achieve such consistency⁴. When the military was racially integrated, soldiers' attitudes still had a long way to go, but once behavior was forced to change, the military ultimately helped lead society toward better race relations. So there is a complex relationship between our inner selves and our physical, social and cultural environment, one in which change can be brought about in both directions.

WHERE DOES CHARACTER COME FROM?

“Character” is more than the convictions we espouse. Character may be based on or rooted in convictions, principles, or ideas, but ultimately it is manifested as behavior. How we behave in situations with an ethical or moral tone will be the basis on which our character is judged by others. It is also how our actions are judged before the law. Psychologists like to think of themselves as behavioral scientists, people who apply the scientific method to the study of behavior. Some psychologists think of character as a stable pattern of responding across different situations. If we found that, for example, people who are honest in one situation are also honest in other different situations, we might conclude that this is because the person is committed to certain principles or ideas that transcend and trump the situation he/she is in. In the sense that character is revealed in what we do when no one is looking, then, character is about something within the individual.

When a citizen becomes a military member, he/she is a young adult. As a parent of two such young adults, I would like to believe that my children have developed a character that is relatively stable and sophisticated by this point in their lives. I expect them to consider their actions in terms of right and wrong, and to be able to think through difficult and ambiguous ethical problems. While I hope that their characters will continue to grow and mature over the years, I also hope that their convictions are deeply rooted enough that they will not be too easily swayed by their experiences. In short, I'd like to believe that my children have developed a stable pattern of responding in challenging situations that is consistent with my values.

If these parental hopes and beliefs are valid, then the challenge facing small unit leaders wishing to develop or change character is immense. Military members arrive at a unit with a lifetime of experience and education already behind them – they have learned to walk, talk, read, write, and have absorbed an amount of information about themselves and the world they inhabit that is staggering. They have developed from a helpless infant into a competent and capable young adult. They have done so, for the most part, by forming relationships of love and respect with their parents, teachers,

coaches, and others. A military leader comes late to the task of character development, and while he/she has some potent tools at hand, some of the work has already been done. Lawrence Kohlberg's theory of moral development⁵ assumes the potential for moral development exists throughout life, but promoting such development requires motivation, skill, and effort.

The small unit leader today is in a difficult position because the military as an institution is in a difficult position. Military culture evolved valuing the soldierly virtues: courage, obedience, and in America, the decisive application of firepower – “steel on target”. Some think the role of the military needs to shift in a direction that favors the traits a beat cop might have, which include some of the soldierly virtues but also “people skills” that have not heretofore been the main focus for soldiers. While society wrestles with this problem of what our military is and is for, the small unit leader will be left with the task of developing the right behaviors in their subordinates, even though those subordinates might well arrive at their unit with beliefs, expectations, and capabilities inherited from, and better suited to, an earlier time.

As military leaders, we demand a great deal from our subordinates. We acculturate them to immediate and unquestioning obedience in basic training, creating a world for them in which there are no gray areas: all is black or white: “Yes sir; no sir; no excuse sir!” But we also pride ourselves on having a military in which initiative and innovation are valued at even the lowest levels of the organization. As a result, we seek to develop traits in our military members which sometimes seem to conflict with one another. Knowing when the situation is black or white, and when there are legitimate shades of gray to be considered, is a real challenge for military members.

Military members who have grown up in an environment in which they have been able to safely explore their own capabilities and limitations will be best able to navigate these complicated demands. Children who are encouraged to challenge themselves enough so that they sometimes fail, and who are able to ultimately redeem that failure through persistence and effort become adults who are confident in their own ability but realistic about their capabilities. They are well-equipped to learn and benefit from their experiences. Children who have never been challenged enough to have failed at anything may lack persistence in the face of real difficulty when it is encountered, while those who have known only failure may stop trying. Developing soldiers is not raising children, but creating an environment in which soldiers can grow and develop in these same ways is vital.

Military members who have had training and experience in balancing and comparing competing perspectives are likely to be better equipped to confront the challenges of hybrid warfare in unfamiliar and hostile cultures than those who have not had such experience, or much of this sort of experience. Members who arrive with naïve views of military culture that emphasize the immediate and decisive application of lethal power, in combination with personal histories that deemphasize reflection and consideration of alternate viewpoints, pose a challenge to the leader who needs to develop subordinates capable of responding to threats rapidly, flexibly, and proportionately.

People also differ in their capacity to empathize with others and in their tendency to respond aggressively or violently when their needs are not met. Children who have been raised in an affectionate and nurturing environment are being taught that their feelings matter to their caregivers, and that their caregiver will respond to them –most effectively, in a caring but disciplined way. Children who are raised in harsh environments where their needs are neglected by their caregiver, on the other hand, often develop an inability to assess the impact of their own behavior on others and as a result may respond with inappropriate aggression when threatened or stressed. Abuse of drugs and alcohol is also more common among young adults with other behavioral issues. These factors raise the risk of unethical conduct⁶.

Finally, military members arrive at their units with different values, and with different levels of sophistication in their understanding of those values and different levels of commitment to them.

Military service does not necessarily require that individual members alter their values, but it does require that their behavior conform to the values to which our society is committed, both morally and legally. Because it is not possible to train members to anticipate every possible situation they might encounter fraught with ethical ambiguity, it is not possible to equip members with scripted “immediate action” for unique situations they are almost certain to encounter at some point. It is in such situations that we expect members to consult their understanding of Army values and reason their way to an appropriate response.

When the member arrives at that moment, he/she will carry along a lifetime of experience and development that will help determine his/her response. Some of what the member brings will be unconscious and immediate: how individuals react physiologically to stress, for example, how well they are able to absorb and process sensory information, how they perceive events as they occur. Some of what they will bring will be more conscious and deliberate: how they interpret events and attribute motivations to others. The leader stands at the end of a long line of influences on the military member, and if he/she is to maximize his/her potential to contribute meaningfully to the member’s behavior when tested, then having thought seriously about how “character” develops and what it really means will be essential preparation.

HOW DO SITUATIONS AFFECT US?

But then, maybe there is no such thing as “character”. Maybe our responses to the situations we confront are determined mostly by particular features of the situation itself. So, maybe there are not good or bad people, just good or bad situations. Perhaps surprisingly to some, this view (or milder versions of it) is not uncommon among social scientists.

The famous “obedience experiments” conducted by Stanley Milgram (mentioned above) fundamentally changed the way we think about the determinants of our behavior. The subjects in this study were “average” residents of the New Haven area in the early 1960’s, not bloodthirsty killers or evil Nazis. Yet, in certain circumstances they could be induced to commit acts that make us cringe. Even more interestingly, Milgram showed that by changing particular features of the experimental situations slightly, he could dramatically change the outcome of the study. For example, in the original experiment, subjects could not see the person they were supposedly subjecting to electric shocks. In this condition, about two-thirds of the subjects applied the maximum level of shock, labeled “DANGER – SEVERE SHOCK” at 550 volts. Nearly all the subjects applied electric shocks to some level.

In a subsequent variation in the experimental situation, Milgram had the subjects seated next to the learner, and even required the subject to hold the learner’s hand against the shock plate. In this variation, virtually none of the subjects administered shocks to the learner. So here we have two groups of people in psychology experiments. In both cases they are more or less randomly selected, and seem to be quite comparable in their characters and tendencies toward virtuous conduct. But depending on the situation, one group shocks a great deal and the other very little.

Milgram detailed several factors that affect behavior in this basic situation. The perceived status of the person running the show affects compliance: when the authority figure is perceived as legitimate, such as a researcher at Yale University, compliance will be relatively high. If the authority figure is simply a person in a suit without a title, compliance will be lower. Proximity matters. As we have seen, the closer (psychologically) one is to the victim, the less shocking there will be. Social support also matters – if there is even one other person in the room to support the subject reluctant to apply shocks, then the subject is quite likely to refuse to administer them.

The factors Milgram described can affect behavior in a matter of minutes or hours, with perfect strangers. Others following Milgram’s lead have shown that there are also social processes that

work over longer time scales in groups and organizations that can affect this kind of behavior. These include dehumanization, authorization, and routinization⁷. Dehumanizing enemies was at one time a common feature of government propaganda, even in this country, and remains so in other parts of the world. By symbolically removing an enemy from the human community, we make clear that the enemy has forfeited his/her right to the same moral considerations we might apply to ourselves. When armies were conscript forces with little awareness of international politics and little enthusiasm for military service, dehumanizing enemies by portraying them as merciless killers who “don’t value life the same as we do” perhaps operated to steel their resolve and build their motivation to serve. In today’s environment, in which interaction with civilians and the establishment of relationships of trust are essential tasks, dehumanization is counterproductive.

Authorization involves implicating higher authority in approving acts of violence. In the recent incidents involving detainee abuse, for example, it appears that at least some of the perpetrators were convinced that higher authority had approved the abuses. As in the Milgram obedience study, sometimes people can be induced to do things they wouldn’t ordinarily do if they can be convinced that an authority figure has determined that the behavior is acceptable. Soldiers have the responsibility to disobey unlawful orders, but exist in a culture in which immediate obedience is valued and disobedience is likely to be viewed as disloyalty.

Routinization occurs when behavior changes gradually and incrementally. People can be slowly acculturated to think and behave in new and troubling ways. For example, identifying foreigners by disparaging nicknames, perhaps rooted in race, religion, or ethnicity, (which also dehumanizes the enemy) is something that most of us would (hopefully) resist. But if we are suddenly placed in an unfamiliar and threatening environment in which social norms seem to permit such usage, then we might perhaps tell ourselves that it is alright to use these terms occasionally, but only to get along with the others in the group. As occasionally gives way to frequently, name-calling may give way to more serious forms of behavior, such as handling people more roughly than is necessary. Behaviors previously unacceptable, maybe even unthinkable, become routine.

These social processes are both insidious and powerful. They are especially powerful in military settings because of the tight social cohesion in most military units. Soldiers depend on one another, and conforming to the group means obtaining the benefits of full group membership and participation, which can in a combat zone be significant to survival. Such social factors are an important way in which the situation can affect our behavior, but are not the only way. These same factors are operative in other groups, such as insurgent groups.

Environmental factors such as climatic and living conditions can also affect our behavior. Extreme heat or cold, lack of access to adequate hygiene facilities, poor or repetitive food, and extreme fatigue can frustrate our needs for comfort and produce anger and resentment. Anger and resentment can be expressed as aggression, especially if such expression is socially sanctioned. Moreover, fatigue and environmental stress have been shown to reduce our ability to think clearly. Ethical decisions are complicated and difficult, and demand a level of clarity of thought that is challenging even under benign conditions. Some see military culture as endorsing a “suck it up” ethic that regards human frailty as something to be ignored and overcome, but the fact is that humans, like other systems, can indeed be operated outside their limits, but at a cost. That cost may be exacted on others with whom the soldier comes into contact, especially if the normal protections don’t seem to apply to that person.

WHAT’S A LEADER TO DO?

Considering the foregoing, what can small unit leaders do to promote ethical conduct in their units? One way of thinking about this is to recognize that if the three main determinants of ethical

conduct are the person, the situation, and the interaction of the two, then we should be specifically addressing each of these domains in our leadership behaviors. When it comes to the person, or the person's character, what specific actions can leaders take to help promote ethical conduct and prevent lapses?

KNOW THE PERSON

We must acknowledge at the outset that addressing the person is likely to take a great deal of effort and time, and perhaps expand the leader's role in new directions. The leader's task today is complicated by the fact that technological innovations and tactical requirements have conspired to increase the amount of time the soldier spends performing relatively independently. Therefore, leadership may involve less face-to-face supervision. Leaders who cannot be on the scene with their soldiers must nevertheless exert influence on their behavior.

Knowing the people in your unit is the first step in influencing them. Getting to know them accomplishes two things: it establishes a connection that facilitates a relationship of potential influence, and it identifies areas of strength and weakness from the leader's perspective. People in military units, especially those most likely to find themselves deployed in a combat zone, normally find ample opportunity to spend a great deal of "quality time" with one another, and quite naturally form strong relationships. Leaders can (and do) take advantage of these social relationships to learn about their subordinates, but with increasing rank disparity the quality of personal knowledge changes because the nature of the relationship is different. Company commanders can't (and shouldn't) know private soldiers in the same way that squad leaders are expected to know them.

Fortunately, the chain of command is also a chain of information, a chain of trust, and a chain of friendship and respect. The commander uses the chain as both a sensory and motor system: he/she receives information about the state of the unit and the nature of its interactions with the world through the chain, and sends out instructions and orders to activate and control the unit. In the area of ethical behavior, the commander can ensure that the chain as a chain of information is properly tuned to detect and transmit relevant information about unit members.

What information? The short (and less helpful) answer is, anything that might suggest that the member's attitudes and convictions about proper ethical behavior don't coincide with the commander's expectations. The longer (and hopefully more helpful) answer involves the traits that are known to be associated with the potential for inappropriate aggression and violence. Traits that merit concern include an inability or unwillingness to empathize with others; disrespect for particular ethnic or other groups, manifested in speech or action; or a history of violence or abuse of drugs or alcohol.

Acquiring such information need not involve prying or inappropriate solicitation of such information from individuals by their superiors, which itself might pose ethical concerns. But insofar as ethical decision-making is an essential element of military performance, it ought to be a prominent feature of both formal and informal training in a unit. There are formal briefings and classes on the Law of Armed Conflict, the Code of Conduct and the like. Such classes can be an efficient way to communicate a lot of information to a lot of people in a short time. But such classes usually don't result in much deep thinking, which is an important element of growth and development. They are the first step in fostering meaningful dialogue on these difficult but vital topics.

Such training can be an important step in the process of growth and development if followed by more intensive and individualized discussions of the material. Talking through case studies or ambiguous situations is a tool that can be used to both assess where troops are and to communicate expectations from unit leaders. So-called "dilemma training" involving ethically challenging

situations can be combined with role-playing or other techniques to dramatize potential problems and practice working through solutions. Leaders can then tailor their efforts to address individuals who may need assistance thinking through their own ideas and feelings and the obligations they have accepted as military members.

Gary Klein's concept of recognition-primed decision-making⁸ (RPD) offers a useful way of thinking about ethical conduct in military settings. Developed while studying the decision-making behavior of firefighters, RPD sees the decision-maker partly as an information processor attempting to rapidly assess and identify a situation based on available cues, and then initiating a pre-planned response appropriate for that situation. In ethically charged situations, relevant cues may well pertain as much to the decision-maker him/herself as to external actors. Soldiers can be coached to consider their own psychological and physical state as part of the situational awareness they bring to the decision-making process.

Commissioned and non-commissioned officers must expect to act as focus-group facilitators, coaches, and counselors in helping soldiers understand their own personal and professional ethics and those of the Army. This is a role that demands sensitivity and firmness. Ours is a volunteer force, and the uncomfortable fact is that recruiting standards have fluctuated in recent years as manning the force for two wars has become more and more difficult. When selection standards fall, the burden placed on small-unit leaders to ensure that new recruits understand and accept the ethical standards of the Army becomes that much greater. Small-unit leaders must use their chain of command to learn about the moral and ethical ideas and attitudes of military members, help to develop those ideas and attitudes in a favorable direction when possible, and use and judicial and administrative remedies available to eliminate those who cannot or will not conform to institutional expectations when necessary.

Promoting attitude change and achieving behavior change are processes rooted in art as well as in science. While we might like to think that it is enough to clearly explain the rules and demand obedience to them, the fact is that it is not always enough. Leaders command, but they must also influence. Artists express themselves through their work, and leadership is surely a deeply personal expression of who we are. Like art, leadership also demands mastery of a medium: painters must know a great deal about the materials they use, such as the effects that can be achieved with a particular shape and type of brush or a complex mixture of pigments. For leaders, that medium is people: leaders must know how their subordinates differ from one another, and what techniques and methods are most likely to produce the desired effect in them. For both, knowing how and when to apply the basic knowledge to achieve a specific purpose is the essence of the art. Individualizing leadership when possible and appropriate is not pandering or coddling, it is a sensible response to the reality that we are all different.

Just as the visual arts are underpinned by a rich science of light, chemistry, and neurophysiology, so too the art of influence rests upon a solid scientific foundation. Robert Cialdini's book, *Influence: Science and Practice*⁹ should be to the small-unit leader what Sun Tzu's *The Art of War* and Clausewitz' *On War* are to the strategist. Cialdini articulates six principles of influence that are easily recognized in sales pitches and political speeches, perhaps the most common public attempts at influence. But these principles also help to explain our individual personal interactions, and offer a valuable toolkit for the leader wishing to influence people quickly and effectively.

While it may feel undignified or even somewhat sleazy to use canned techniques to influence those who are entrusted us in a leadership relationship, it is these same principles that have produced the person who arrives at a unit (not to mention ourselves) in the first place. Many (though not all) of our beliefs and attitudes have been shaped by just the kinds of techniques described by Cialdini, applied over a lifetime by our parents, siblings, friends, teachers, and others. The small-unit leader has only a short time to achieve what others have literally had a lifetime to accomplish. The classic

elements of leadership, such as leading by example, tactical and technical proficiency, integrity, and caring for your subordinates are still the basics, but there is no shame in adding to your toolbox some of the techniques social scientists have found effective in influencing others.

CONTROL THE SITUATION

In many respects, situational factors that may influence moral and ethical conduct are far easier to deal with. Such factors fall more neatly in to the customary roles and duties of leaders than do the people-skill-intensive elements of ethical leadership more closely related to traditional notions of character and character development. Situational factors can usefully be categorized as environmental, social, and organizational.

Environmental factors include those elements of our physical situation that have the potential to affect our behavior. These include things like temperature extremes, access to adequate hygiene facilities, dust, darkness, noise, smells, and other external stressors to which we may be exposed. Furthermore, sleep deprivation, fatigue, inadequate or monotonous nutrition, and thirst create changes in our internal environment that also impose stress on us. Research has shown that crime rates in cities go up when the temperature rises: exactly why is a matter of dispute, but environmental variables do have effects on our behavior. It goes without saying that such stressors are an expected part of military life, especially in a combat zone, and that leaders should do their best to mitigate them as much as possible within the limits of mission requirements.

The cost that we incur when we fail to mitigate these stressors as much as possible is that we make it harder for soldiers to think through the complex situations they may encounter, and we make it harder for them to empathize with others. Research has shown that when we experience environmental stressors of the sort described above, our cognitive capacity to think through certain kinds of problems is lowered. One way to think of it is to consider our cognitive capacity as a finite resource: if we spend some of it on resisting the effects of environmental stress, we have less left to use on solving problems, some of which (perhaps the most difficult ones) are ethical in nature.

Social factors include both the short- and long-term processes discussed above. Leaders have the responsibility to monitor and regulate the social environment in their unit. A good example of this kind of regulation is in the restriction then-Colonel H.R. McMaster imposed on the use of pejorative terms to describe Iraqis when he commanded the 3rd ACR in Tal Afar, Iraq¹⁰. This restriction clearly was an important element in the relationship between his unit and the locals, but it is quite likely to have affected the thinking and behavior of the soldiers themselves as well. Setting clear expectations governing social interactions at all levels of command and supervision is something we already do in the military: the customs and conventions we use as forms of address (sir and ma'am) or for greeting (saluting, coming to attention) are symbolic measures we take to subtly and constantly reinforce relationships of respect and authority. A natural extension of these expectations brings others outside the unit or the military under their umbrella in an appropriately modified way that is sensitive to cultural norms and functional requirements.

Organizational factors can also affect the ethical climate in a unit. At one time our military forces were largely self-sufficient: a soldier in the combat zone would not encounter many outside the military culture. This situation has changed dramatically, and many functions once performed by the military itself are now performed by contractors. Some of these roles are purely custodial, such as base construction and support, but others are more closely integrated into mission requirements, such as interrogation and security. Contractors or government employees who are not in the military may not have the same ethical or behavioral standards that prevail in the unit. Just as unity of command is essential in operations, consistency is essential in ethical standards. It is difficult enough to apply a single set of standards in difficult conditions, but when soldiers are exposed to

multiple standards that may be inconsistent with one another, we are asking for real trouble.

Moreover, it may be the case that authority relationships are blurred when military members work alongside contractors or other government employees. Soldiers at the lower ranks who are accustomed to deferring to military superiors may find it difficult to sort out who is in charge, and military culture does not encourage raising these kinds of questions casually. Therefore, it is incumbent on small unit leaders to carefully monitor the interactions of their military members with others to ensure that they can manage the potential influences that others may be having on their soldiers. The same culture that may inhibit soldiers from questioning or challenging the contractors or other government employees with whom they have contact may inhibit unit leaders from attempting to adjust or refine relationships with outside organizations that have the imprimatur of endorsement from higher headquarters.

IS THERE SUCH A THING AS “ETHICAL LEADERSHIP”?

One could legitimately ask at this point if there is such a thing as “ethical leadership” that is somehow different from “just plain leadership”. After all, there is little in the foregoing that does not apply as well to domains other than ethical behavior. Especially when it comes to the situational factors that affect ethical conduct, leadership that promotes ethical conduct follows the same principles that have been taught for years in the Army: know your business, set the example, take care of the troops. It is when leaders are pushed farther toward the role of coach, counselor and values clarifier that something new may be added to the traditional leadership role in the area of ethical behavior.

Why might something new be required of Army leaders in the domain of ethical leadership today? What has changed? There have been two significant changes in the last few decades that make “ethical leadership” especially challenging, both involving Army culture. First, the Army has been forced to move away from a traditional focus on conventional force-on-force conflict and focus instead on hybrid warfare. Second, the Army itself has changed: the all-volunteer force is different from its predecessors.

NEW DEMANDS

The wars in Iraq and Afghanistan have forced the military establishment to confront the possibility that the future of warfare may be quite different from its past. The tug-of-war between those who would embrace this vision and transform the American military away from a Cold-War conventional warfare configuration toward a more constabulary force and those that would preserve (or return to) the *status quo ante* has emphasized the traditional and dominant role that conventional warfare plays in military culture. This cultural emphasis carries with it implications for ethical conduct. These implications flow from those features of conventional war that underlie international agreements governing armed conflict.

These features include the capacity to readily discriminate between combatants and non-combatants, and an acceptance of the principles that lethal force should be applied discriminately and proportionately. In our current conflicts (as was partly the case in Vietnam) our opponents do not observe these principles. In fact, violating them is central to their tactical approach. The challenge to conventional military culture is that the ethical traditions of the services are built on a reciprocity that no longer exists, and that reciprocity is a key element of the restraint that soldiers are expected to show in combat. The “reciprocity norm” is a basic feature of human social interaction: we expect a certain symmetry in our relations with others. It is psychologically, humanly very difficult to grant others consideration that they will not grant you, and when the stakes are victory, honor, and the very lives and safety of you and your comrades, the difficulty is intensified.

Ethicists and philosophers have struggled to adjust and adapt the principles that govern ethical

conduct in war to the forms of warfare with which we are now preoccupied: hybrid warfare. The emotional response soldiers fighting insurgents experience reveals a stark contrast between head and heart on such issues, however: while philosophers may clarify our ethical obligations, it is the leader's job to help soldiers navigate the psychological thickets of anger, fear, distrust, dehumanization, stress and even ignorance and prejudice to meet those obligations.

A NEW MILITARY

The all-volunteer force that confronts these challenges is not (demographically) representative of American civil society. Military members come disproportionately from rural and especially southern America and are disproportionately Republican and conservative as compared with the general population. Political discourse on the American left (not well represented in the military) includes themes that are congenial to discussions of ethical obligations and rights. Indeed, a defining feature of the political left for those on the extreme political right is precisely the focus on conferring rights and benefits on those who they may well regard as undeserving. Public political discourse on the extreme right tends to include themes that are not especially congenial to consideration of ethical obligations in combat. For example, lingering resentment over the outcome of the Vietnam War among some contributes to a perception that it was the political left that robbed the military of victory by placing undue restraints on commanders, connecting such discussions to a distasteful time in our past, and to a cultural and political divide that works against balanced and unemotional discussion of such topics.

In addition, as the wars have dragged on recruitment standards have been adjusted again and again, at times bringing into the services more soldiers with histories of alcohol and drug abuse, and even some kinds of crime. Irrespective of political orientation, these factors are known to predispose individuals to antisocial behavior. When exposed to the rigors of combat, it may be even more difficult for such individuals to resist the effects of the environmental stressors discussed above, and more likely that they will respond indiscriminately or disproportionately.

The cultural divide between those serving in the military and the rest of society is substantial. There is a certain sense of moral superiority among many military members, who see the military as a kind of last bastion of moral rectitude in a declining society. This sense of apartness and superiority is paradoxically reinforced by society's generally uncritical attitude toward military members and their behavior. Perhaps because of guilt over the shabby treatment accorded returning soldiers after Vietnam, or relief that the all-volunteer force obviates the need for a draft, society seems quite willing to look the other way whenever questions about the conduct of soldiers are raised. We are quite comfortable blaming generals, or politicians, or the "situation", or stress, or a host of other factors when soldiers behave badly, but woe betide the politician (or anyone else) who today falls short in the competition to show "support for the troops". Politicians on the left are unable to criticize the military, and those on the right are unwilling to do so. The result is that discussions of the military in the public square are largely one-sided, lavishly laudatory, and unhelpful to leaders attempting to enforce the rules to which society has committed itself.

Many of us believe that raising children in an extremely permissive environment is not an especially effective way to build respect for rules of conduct and standards of behavior, and there is some evidence to support this view. Without equating the men and women who serve in the armed forces with children, we can nevertheless see that similar problems may arise when individuals, and indeed institutions, are not held to clear standards of conduct: respect for the rules, and for those promulgating them, declines. By failing to treat the military as an institution fairly and realistically, society paradoxically reinforces the cultural suspicion that many military members have of society in the first place: that it is an unsteady, unreliable, and unworthy source of moral guidance. It is thus

left to the leader to do what society cannot or will not do: provide a moral compass.

THE TRANSCENDENT LEADER

Leaders, of course, also have family histories and life experiences, and are expected to endure the same hardships to which their subordinates are exposed. So what equips and enables the leader to rise above those circumstances, to be the moral compass, and to then shepherd his/her soldiers along the ethical path? The short and easy answer is leadership. Finding the longer and more satisfying answer (what leadership means) is a life's work for most of us. At least within the domain of ethical conduct, psychology can suggest a few elements of an answer.

We are all created and defined by our experience as it has sculpted and shaped the raw material that was our particular genetic inheritance from our parents and our species. We are all different to begin with, and then a lifetime of experience operates to both homogenize and further differentiate us. For some of us in most roles, for all of us in some roles, it is proper to accept who we are at face value. But for leaders, it is imperative to transcend the continuing acts of creation and recreation that are our lives. Military leaders in democratic societies accept a secular obligation to internalize and exemplify a set of values the clarification and revision of which has been a national project for the last two centuries and more.

Samuel Stouffer's painstaking and path-breaking studies of World War II veterans¹¹ established that soldiers fight more for one another than for ideological, political, or moral causes. Stouffer's analysis was conducted at a time when the United States had fielded the largest Army in its history, having drafted Americans from every corner of the country and every walk of life, and yet the experience of combat forged bonds among soldiers that transcended regional, political, religious, and ideological differences. Today's soldiers are bound together not only by their experiences in the military, as were those studied by Stouffer, but also by political, perhaps religious, and moral beliefs that are probably less different from those of one another and more different from those of the rest of us than was the case sixty years ago.

Military leaders may well be even more conservative and less diverse in their political orientation than more junior soldiers. The role of military leaders, though, demands of them that in the matter of ethics, they transcend the personal in service of the professional. Most do so with incomparable integrity, but this task may grow more difficult in the future. It seems likely that there are difficult days ahead for many military members. Military budgets will be under pressure, the outcome of the war in Iraq and its legacy are uncertain, the war in Afghanistan may grind on for years. The centripetal tendencies that tend to enhance cohesion within the military are likely to increase at the same time that the centrifugal forces that increase a sense of apartness between the military and society may grow.

Against this backdrop, military leaders must exert effective leadership to ensure that soldiers are not only trained to respond immediately and appropriately when facing threats that can be anticipated, but are also educated in the principles that underlie those responses so that they can act appropriately when unanticipated or unexpected situations arise. They must also create and sustain organizational and social conditions within their unit that will enable soldiers to resist the corrosive effects of environmental stressors and the insidious effects of social pressure. Leaders must accomplish all this at the same time that they are accomplishing the myriad other tasks leaders accomplish.

There is a sense in which ethical leadership (like all leadership) exhibits a stark asymmetry of outcome. Do it right, every day, and no one will notice. Do it wrong, even once, and disaster has struck. Leaders are accustomed to this asymmetry, and accept it as the price of responsibility and authority. What psychology can hopefully offer leaders is a set of tools that may help them create

and sustain a healthy ethical climate in their unit, facilitating a healthy exchange between person and environment that will lead to the ultimate improvement of both.

The opinions expressed in this paper are the author's and do not necessarily reflect those of the US Air Force Academy, the US Air Force, or the US Government.

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Religion as a Weapon of War: Understanding Individual and Collective Aspects of Religion and their Implications for the Concept and Practice of *Design*

by Lt. Col. Prisco Hernandez

“The Lord has given you the city! The city and everything in it must be totally destroyed as an offering to the Lord.”¹

“Believers, make war on the infidels who dwell around you. Deal firmly with them. Know that God is with the righteous.”²

Part I: Religion and Politics

Religion and “the Other”

Our purpose is to examine the human roots and social roles of religion, its adoption as a weapon of war, and the implications of this knowledge for the effective application of the concept and practice of *Design*. Although arguably all religious beliefs have been or may be used as a weapon of war to further political, social, or religious aims, this discussion will focus on the three monotheistic faiths—Judaism, Christianity, and Islam—because these religions tend to be exclusivist in the sense that they divide the world into believers and non-believers, thus creating an “us versus them” mentality. This exclusivist mentality may in turn set the conditions to justify the use of force against those who have not accepted “the truth.”

Judaism originated as the particular religion of an ethnic group—the Twelve Tribes of Israel. Throughout its history it has retained its tribal character. As such, it has not been especially keen in attempting to convert others. Rather, it has concentrated on preserving the purity of its beliefs and the integrity of its traditions against an often hostile environment.³

In stark contrast, Christianity has been a missionary religion from the beginning.⁴ As an outgrowth of Judaism it depended for its growth on converting others to its views; first, from within the Jewish community; but soon, from among outsiders—the Gentiles. Similarly, Islam has been a missionary religion from its very beginning.⁵ The missionary aspect of these religions is important because it demonstrates a desire to convert the unenlightened “other” to the true faith. This means that there is a tendency not to accept “the other” as he is but to change him for his own good. If “the other” cannot be converted, followers of missionary religions have historically demonstrated a tendency to dismiss, reject, or even attempt to destroy this “other.”

Belief, Reason, and the Individual

The beliefs and practices of a given religion, in and of themselves are not amenable to rational proof. Just as significantly, these beliefs and practices are neither amenable to rational disproof. Religious axioms are held as true through the process of belief. This process is neither rational nor irrational. It may be fairly described as supra-rational; since its object—knowledge of the absolute—and its means—perception through faith—lie beyond the scope of reason.⁶ Reason, however, does have its role in religion. Once the basic axioms of faith are accepted, reason may be used both in its inductive as well as its deductive modalities to speculate, expand, clarify, comment, question, and affirm these axioms—among other things. Reason may also serve to justify using violence and war

in the name of religious faith.

Along with a rational element, religion includes non-rational components. These include what some anthropologists have named the inherent religious nature of man. By this they mean that when human beings attain conscience of their own limitations and their own mortality, there is an internal mechanism inherent in human nature that compels us to posit a supernatural realm which provides explanations to our human paradoxes, and our quest for the absolute—including eternal values.⁷ Of course a purely religious explanation of these transcendental desires is possible—namely, that God himself has created man with the desire for the Divine implanted in his soul. This idea was expressed famously by St. Augustine of Hippo when he wrote: “...you have made us for yourself; and our heart is restless until it rests in you.”⁸ Bet his as it may, religion is a nearly universal phenomenon. This means that it will likely be a factor, in some cases a very significant factor, in situations involving national security.

Religion and Society

In contemporary American society, religious faith is mostly a personal matter. Thus, Americans find it difficult to conceive of religion as a motivating factor in warfare. However, when considered in the long historical perspective, the social dimension of religious belief is enormous. If we examine the patterns of world history, it becomes very clear that humanity in its social dimensions has been and continues to be deeply informed by religious belief. The present state of affairs that has characterized “Western Culture” from the nineteenth century onward where secularism and an attitude of indifference or hostility to religious belief prevail is atypical of human history as a whole. Even Marxism with its condemnation of religion as “the opium of the masses” failed to eradicate the inherent need for belief and instead inaugurated a period where millions practiced a kind of materialistic and godless “religion” characterized by its own dogmas, orthodoxies, heresies, and saints. On the other hand, capitalism, with its emphasis on mindless consumption and lack of any ideal other than profit and material wealth offers even less religious satisfaction than socialism. Although some Western intellectuals have famously declared that God is dead, and have accepted to live with the resulting angst, this has not been a generally accepted solution to the problems of human existence.⁹

Religion is primarily significant because it offers answers to the primordial questions of human existence. However, beyond this eschatological aim, religion provides moral and ethical norms for both individual and collective life. In addition, many religions incorporate social norms into its practices and these in turn gain an almost religious moral weight. It is this aspect of religion that is significant from the collective perspective. Many would argue that the position of women in Islam, and to a lesser degree in Judaism and Christianity, is based on cultural norms that have gained quasi-religious force. But it is important to note that others consider these norms as integral parts of their system of belief.

In addition to theological tenets, most religions, and certainly the three great monotheistic religions, have either developed or adopted a particular world-view, a cosmology, as well as an anthropology, and one or more models for social life. These form the context into which new ideas are accepted, rejected or modified by the religious tradition. Discoveries in the physical and biological sciences in particular have, historically, proved to be a challenge to religion because they have provided explanations for natural and human phenomena that do not depend on a religious world-view. The conflict between religiously-based world-views and science is greatest when the religious view adheres to a fundamentalist interpretation of scripture. An example is the continuing controversy between the theory of Evolution and some Christian groups.¹⁰

How is Religion Mobilized as a Force for War?

Religion as such is generally regarded as a force for peace. However, throughout history, it has also served as a force or even a weapon of war. As we have seen, religion is almost always a significant element in culture. In its many aspects it may pervade a given society. How then is religion, as it were, “mobilized” for war? Certain conditions must exist if religion is to be used effectively as a weapon of war.

First, there must be a community of believers who are willing to take collective action based on their common belief. Religious identity is only one among many identities that humans may possess. However, for religion to become a weapon of war, the religious identity of a group must be ranked very high among that group’s scale of values. A historical example of this is the situation that existed in the Iberian Peninsula during the Middle Ages where people identified themselves, not by ethnicity but primarily by their religious affiliation—as Christians, Muslims or Jews.¹¹ Indeed one of the commonly recognized virtues of Islam is that very seldom discriminated on the basis of race or ethnicity—although the accepted Islamic world-view is based on religious discrimination between, believer, non-believer, and “People of the Book.”¹²

Another necessary condition is that the group be affected by conditions of real or perceived oppression. Note that the key is that the group in question must perceive itself as oppressed. In this connection, perception is truly reality. It is important to observe that, although the conditions discussed are necessary for the effective use of religion as a weapon, their existence is not sufficient; that is they do not guarantee that the use of religion as a weapon will occur. They merely create this possibility. The emergence of a particular instance of use of religion as a weapon comes as the result of a human decision, or more precisely a series of decisions whose combination serves as a catalyst to this outcome.

Scripture, Tradition, and Interpretation

Religions that accept that there are certain writings that are uniquely inspired by God and thus have an inherent and eternal authority are often preoccupied with the interpretation, of these writings. The interpretation of sacred texts is one of the aspects of religion most amenable to reason. Indeed, throughout the history of the three great monotheistic faiths, religious scholars have made their name based on specific interpretations of their tradition.

Scriptural interpretation in the monotheistic religions is an enormously complicated subject that is also tied to cultural developments and the history of ideas. In general terms scriptural interpretation takes one of two forms. One of these posits that scripture is, as a minimum, inspired by God. In extreme cases it is considered as the very utterance of God.¹³

The other main interpretative option is the belief that, although scripture may be divinely inspired, it neither final nor infallible, and thus is subject to interpretation, development, and contextualization.¹⁴ Note that both these positions are hermeneutical or interpretational frameworks. They both have internal logic, so that their acceptance is a matter of belief. As such, they are not subject to rational confirmation or denial. Once either position is accepted deductive and inductive logic may be applied to its interpretation and commentary.

The first of these positions is commonly known as a fundamentalist position—referring to the belief that it seeks to retain the fundamentals of the faith. Fundamentalist interpretations exist in all three monotheistic religions. The second position is the belief that scripture is subject to interpretation.

The Problem of Inflammatory Texts

The texts of the Jewish scripture, particularly the Torah and the Psalms, as well as the Koran contain many passages where God prescribes violence against the unfaithful. Many of the Psalms explicitly invoke God's wrath upon the enemies.¹⁵ Others make use of bellicose imagery.¹⁶ (See for example the two texts from the Bible and the Koran quoted at the beginning of this study.) Obviously advocates of a fundamentalist interpretation of scripture place themselves at odds against all other competing positions; both within their own faith tradition and especially against outsiders. In purely religious terms many advocates of fundamentalism deny the possibility of salvation to those who do not accept their interpretation of their faith; at worst they may advocate violence against "the other." In its extreme, this position is one of the historical sources for wars based on religion.

Today the Salafist and Wahhabi schools of Koranic interpretation have been identified as ideological sources of the modern call for "external" jihad and the restoration of the Islamic theocracy—the Caliphate. Fundamentalist Judaism also calls for the restoration of the Temple of Jerusalem and of the territory of "Greater Israel" in the manner of a theocracy. These two positions are obviously irreconcilable, and if unchecked, would make any compromise needed for peacemaking in Palestine impossible. Unfortunately, advocates of these two positions are currently active and influential in the Middle East.

Christianity too has not been and is not free from various forms of fundamentalism. The Christian texts themselves—the gospels and the books of the New Testament—are remarkably free from violent pronouncements. Indeed, Jesus himself advocated what seems to be an extreme form of pacifism and insisted that "my Kingdom is not of this world."¹⁷ However, most Christians accept the Jewish scriptures which they call the "Old Testament" as a valid—although imperfect—revelation from God. Thus, Christians have also on occasion used these texts to justify violence in the name of religion.¹⁸ Despite this tendency, Christianity was in its origin and for over four hundred years a truly a pacifist religion that abhorred all violence as sinful; its followers choosing martyrdom over the most basic right of individual or collective self-defense.

Only with the advent of official status as the religion of the Roman Empire were Christians forced to wrestle with the concept that collective violence in the form of war, may, in some instances, be morally justified. The classic proponent of the idea of the "Just War" was Augustine of Hippo.¹⁹ This idea was developed by Thomas Aquinas and to this day is the leading Christian justification for war.²⁰ The idea of the "Just War" also serves as the basis for the modern western "humanitarian" theory of war. Despite very sharp theoretical limitations on both the justification for war and on moral behavior in war (*Jus ad bello* and *jus in bello*), Christian practice did not follow theory, and vicious wars against enemies of a different religion, unorthodox Christians, and even between Christians of the same persuasion have bloodied the course of human history.

Fundamentalism and Proselytism

The two main tendencies that facilitate the use of religion as a weapon are fundamentalism and proselytism. Fundamentalism, based on a literal interpretation of scripture, promotes a rigid, inflexible frame of reference that accentuates the differences between believers and "the other." It also promotes a literalist and inflexible mentality that genuinely believes that truth may be grasped and understood as an objective fact.²¹

Proselytism actively seeks to change "the other" through conversion. In some cases the zeal for converting the other may result in offering the vanquished "other" the alternatives of either conversion or death. These two forces have been at work for centuries in the complex relationships

between the Islamic and Christian worlds. After the “Age of Enlightenment” in the West the concept of “secular democracy” has largely replaced that of Christendom. Thus, today the conflict between religions has been transformed into one of democracy versus Islamic theocracy. Note, that until the creation of the state of Israel, the Jews have not been independent participants in Christian and Muslim wars of religion. This is because after the various diasporas they have had neither the requisite numbers nor independent political power to pursue their own agenda. Obviously, In the West aggressive proselytism of secular democracy is not only part of national agendas but many non-governmental organizations (NGOs) promoting “human rights” may also fall under this category. Rather than being viewed as a religiously neutral stance, the active promotion of democracy, a secular mentality separate from religiously-based ethics, and abstract “human rights” is viewed in many Muslim societies as an alien ideology that competes directly against Islamic moral and religious values. Democracy and the promotion of secular human rights have become for many an anti-religious “other.”

Religious Tolerance and Intolerance

Historically, religious intolerance has been much more prevalent than religious tolerance. This does not mean that individuals and groups of a different religion have always been persecuted or killed by the majority. It means that these individuals and groups have been left more or less on their own so long as they have formed a very small and inconspicuous minority. In some cases members of these groups with rare and useful skills have been accepted and even promoted within these societies so long as they provided necessary services and conformed to the prevailing social mores—including the dominant religious-social complexes.²²

Although the concept of religious tolerance is now taken as an “article of faith” by most Western democracies, it is a relative newcomer on the world scene when observed against the canvass of human history. Historically, most societies have insisted on the practice of their majority religion with toleration of other religions being limited to isolated cases and a few outsiders.²³ In Hellenistic times and during the Roman Empire many religions were tolerated, although the civil authorities normally imposed the official cult of the emperor on all citizens with very few exceptions granted. Indeed, refusal to worship the emperor became a major cause for martyrdom for the early Christians. The modern Western concept of freedom of conscience is a product of the Enlightenment and flourished only after the Peace of Westphalia put an end to the terrible wars of religion in Europe.²⁴ It is also closely associated with the gradual secularization and democratization of Western Europe and America. This perspective shows the rarity and youth of the concept and explains why it is not as generally accepted as Westerners would like by many societies.

Despite its newness and its rarity freedom of conscience and religious toleration have been embraced by the “international community” under the leadership of the West and the world media. These ideals are certainly contrary to ideas of religious absolutism. It is important to recognize that theocracy is a perfectly valid and rational alternative if one accepts a world-view which places enormous importance on a particular religious system and a society ordered around specific religious and moral values. This recognition, however, does not need justify the use of religion as a weapon of war.

Part II: Religion and Design

Recently, the US Army has recognized the need for a broader understanding of the complex environments in which it is called to operate. In response to these realities, it is currently institutionalizing a more holistic process that seeks to understand situations in greater breadth and

depth with an aim to find deeper and more durable solutions to complex problems. This process, *Design*, seeks to understand by “framing” a given situation within a context. When the situations changes, planners will “reframe” the situation against what may be a more relevant context. Practitioners of *Design* include not only the traditional military, political, and environmental factors in their analysis and synthesis, but also broader areas of human endeavor such as history, culture, society, and religion.²⁵

The process of *Design* is useful to strategic planners only if it provides models that allow for better understanding of reality and therefore allow for the purposeful modifications of this reality to their advantage. It is important to note that truly understanding the role of religion in a given situation or event goes beyond simple *rational* understanding. It includes accepting and apprehending other modes of human perception, exchange, and discourse. These modes include emotional empathy, consideration of other opinions—even those opinions who lie outside the parameters of traditional western logic—judgments, perceptions, and intuitions.

Planners tend to approach their work in a very logical, methodical manner. This methodology is best exemplified by formalized military staff processes such as the Joint Operations Planning Process (JOPP) and the US Army’s Military Decision Making Process (MDMP). A methodical approach can be very good; but not always. If planners seek to understand a human system in which religion plays a significant part they must remember the inherent complexity of the individual religious experience and its many social dimensions. Specifically, planners and thinkers involved in the *Design* process would do well to bear in mind the following thoughts regarding religion.

1. Accept the Reality of Religion. Religion is neither rational nor irrational; it is suprarational—beyond the reach of reason. However, once the basic tenets of a given religion are accepted, many religions are amenable to rational understanding and its precepts may be discussed rationally.²⁶ Moreover, a person’s or group’s religion can have, and often has had, a profound influence on individual and collective actions. Thus, a person’s or group’s religion must be accepted and recognized as a significant reality; but one that is not reducible to rational explanation alone. The acceptance that religion has its own specific category separate from logical reason is very important to the understanding of any situation in which religion plays a part.²⁷

From a planners’ perspective all religions must be granted validity, if not from the individual observer’s philosophical point of view, at least from the human perspective of the observer. Otherwise, understanding, always an elusive concept, becomes impossible. For religious persons, granting validity to another religion—“the Other”—may be a difficult emotional and/or intellectual task. For non-believers or those for whom religion is not a significant part of their psychic or emotional makeup, recognizing the reality and significance of religious belief may be even more challenging. A useful reminder for planners is this: “Even if you do not accept the tenets of a particular religion; they are real to believers.” This means that religion *is* a reality and *must* be treated as such.

2. Religion deals with Absolutes—this is its most Intractable Quality. The fact that many religions affirm knowledge of absolute truth makes them much more intractable to interactions that require moderation and compromise than other belief systems that do not pretend to know the absolute. Diplomacy requires that those who hold conflicting positions meet somewhere in a middle ground. This requires flexibility and a willingness to compromise—at least in part. However, many religious figures are revered precisely because of their zeal and their uncompromising belief. Indeed, many who are regarded as saints by their followers are viewed as fanatics by their opponents. It is important to recognize to what extent participants in a given interaction may be willing to compromise. Otherwise, much time and effort may be wasted in a fruitless pursuit of a

goal not shared by the parties involved.

3. Understand that Religion has both Personal and Social aspects. Religion is a complex concept. It has both personal and social aspects. The personal aspects may be significant when they mold the thoughts and actions of key players in the political or cultural spheres since these individuals may exercise great influence over their followers. The social aspects are even more significant because they may be influential in motivating collective actions. In many places and situations religious identity is either the most significant or one of the most significant sources of collective identity.

4. Understand that Religion consists of Theological Beliefs and Cultural Norms. The word religion encompasses a wide range of meanings and refers to more than theological concepts. It also provides moral norms for personal and collective conduct. In addition, many religions include ancillary norms that dictate patterns of behavior, dress, diet, etc. Some religious interpretations treat these with much the same rigor as the essential theological tenets; other interpretations recognize these aspects as cultural or traditional accretions which do not have the same force as theological beliefs. Since most people are not overly reflective in their day to day interactions and use of language, the complex admixture of cultural-religious traditions are not always adequately distinguished and the richness and ambiguities inherent in language only add to the problem.

When religiously inspired norms combine with cultural attitudes or mores the result may be thought of as a religious-cultural complex. An example of the impact of cultural customs may be seen in the various practices on the veiling of women. The Koran mandates that Muslim women must observe modesty in dress.²⁸ This has been interpreted variously in the Islamic World to mean the covering of the entire body as in the Pashtun *burqa*; or in the simple veil worn around the head worn by many Indonesian women.

5. Religion exists in Context with other Religions and Non-Belief. In today's world, a given religion does not normally exist in isolation from other religions or modes of thought. A religion normally exists in context. This context often shapes and influences what is emphasized in a religious tradition. When a religion or a sect within the religion is in the minority, it may take a defensive and sometimes militant attitude toward the majority faith. Conversely, members of a majority religion may decide to squelch all opposition and persecute other minority faiths. This attitude may also occur in the confrontation of modern secularism—either of the western humanist variety or totalitarian Marxism—and religious values.

6. Religion may be used as a Tool for other Purposes. As is true of all cultural constructs, religion may serve purposes other than its avowed spiritual role. Thus, it may take on political, cultural, social and other roles. Leaders of all types recognize the power of religion and leverage it to their own purposes.

7. Ethical Dimension. The use of religion as a weapon, and the defense against the use of religion as a weapon, both present challenging ethical implications. This is a complex issue for which powerful arguments may be made from many perspectives. Just as the use of medical or psychological knowledge to leverage personal or group advantage is fraught with ethical perils, so does the use of religion.

Questions that May be Asked to Clarify the Role of Religion in a Given Situation

The process of *Design* uses the concepts of framing and reframing a problem or situation in order to better understand its complexities and how it may have changed in time. When framing a problem the designer asks the questions:²⁹

What is going on? What appears to be the situation and what are the dynamics involved?

Why has this situation developed? Is religion a root cause of the problem? Is it being used as a way to garner support? Are there historical precedents?

What's the real story? Is religious motivation a principal cause of the situation? Is it a cover for something else?

What does this mean? You may ask: What does religion mean in this particular context? What religious interactions are occurring in this region/city? Why are people identifying with religion or religious leaders in a particular way? What does religion mean for the majority of the population involved? What does it mean for significant minorities? What does it mean for specific sectors of society?

If the present situation is unacceptable the process of *Design* seeks to find ways or mechanisms which will turn the situation into an acceptable one. To do this the practitioner may ask the following questions:

- What needs to change?
- What doesn't need to change?
- What are the strengths and weaknesses of the actors?
- What are the opportunities and threats?
- What conditions need to exist for success?
- Can I leverage religion to turn the situation to my advantage?
- What are the ethical implications of this line of thought?

What may we conclude from the examination of the various possible roles religion plays in human affairs and how could we use the concept of *Design* to frame and reframe problems involving religion? Historical examples from various cultural contexts suggest that all those involved in *Design* should consider the following aspects of religion:

Religion matters. As one of the most ancient, universal, and persisting individual and collective human behaviors, religion has played and will continue to play a significant role in human affairs—including issues of war and peace.

The effects of religion vary greatly. The effects of the religious factor vary greatly based on, among other things, on whether the prevalent interpretation is a fundamentalist or a more open one, the intensity of belief, the role of religion in a society or a group or groups within a society, and whether there is a central or hierarchical authority.

Words do not mean the same thing to various groups. The wide variety of interpretations of religious texts results in a wide variety of religiously-motivated behaviors. Savvy *Design*

practitioner may recommend using a particular interpretation as a way to modify an unacceptable situation or influence a particular leader or target-group. In addition, the meaning of words changes over time and also each language adds various subtle shades of meaning to a word or phrase. This may be the reason that Islam is so insistent that a translation of the Koran is not really a translation but only an approximation to the original. While not as strict, many Christian translations of the Bible must also be approved by religious leaders in order to gain legitimacy.

Relative values change over time. Even within a rather uniform religious tradition, the position of religious values in a given spiritual or social hierarchy may vary considerably. For example, even in the remarkably consistent and uniform Roman Catholic tradition the relative value of certain dogmas, devotional practices, and scriptural emphases have changed considerably over comparatively short time spans. Cultural adaptation also exerts enormous influence over the hierarchy of values and the interpretation of a religious tradition. For example, practices associated with Holy Week in an Irish Catholic context are very different from practices associated with Holy Week in a Hispanic Catholic context.

Religious tolerance may be a desirable universal value but alternative world-views should not be dismissed as irrational or less valid. The instinctive acceptance of religious tolerance as a universal value stems from the post-Westphalian Western world-view and the American experience. This view, which arose out of the desire to avoid religiously-based violence, has now become the dogma of the “international community” and the international media. Other intellectual positions hold the view that religion and religious values are so important that they override the advantages of religious tolerance. In this thinking what is at stake is the eternal salvation of the members of the community—thus the use of force to enforce religious values is preferable to freedom of conscience.

Any use of religion either offensively or defensively is charged with ethical implications. Just as the use of medical or psychological knowledge is inextricably bound with ethical decisions, the application of religious knowledge or practices to non-religious situations, and specifically to conflict and war, necessarily involves ethical choices.

Religion or even varieties of religions are not monolithic—they encompass enormous variations. This is perhaps the most often ignored or unacknowledged aspect of religion. If religious variations are not noticed, acknowledged, and understood, a *Design* practitioner may reach conclusions that do not reflect reality.

The Second and Third Order effects of religion are expressed in what may be termed Religious-Cultural Complexes. I borrow this term on an analogy from Jungian psychology to indicate the “constellation” or accretion of various attitudes, ideas and patterns of behavior around religious beliefs. These religious-cultural complexes are extremely important in understanding how religion “works” within a culture.

Finally, it is important to remember that religion is but one factor among many: When framing and re-framing it is important to determine its relative importance to other operating factors

In conclusion, everything points toward the fact that religion will continue to be a very significant factor in human affairs and that it will be used to motivate war and violence into the foreseeable future. This means that religion and the values, attitudes, and cultural practices associated with it will be significant to all those engaged in the process of *Design*.

Part III: Appendices

Appendix I: Historical Origins of Christian-Muslim Warfare

The evolution of the three monotheistic religions has created an environment in which particularly fierce wars may be waged in the name of religion. A short historical survey of their evolution explains why this has been so.

The Chosen People—Us against the “Other” What has become known as Judaism began as the religion of a group of nomadic Semites known as “The Twelve Tribes of Israel.” The tribalistic nature of their monotheistic faith, which stood in stark contrast to the prevailing polytheism, ensured the emergence of a classic “us against the other” mentality. As the Israelites became more powerful they had to fight for their existence in their wanderings through the Sinai wilderness and later they had to fight to possess the land promised them by God. The Jewish Torah describes how Yaweh was a warrior God who expected obedience to his will by his chosen people and directed his wrath against their enemies. Indeed, some of the most bellicose passages of the Jewish Scriptures record God’s injunction to slay all heathen and to avoid marrying outside the community of Israel. The bellicose nature of the Israelite religion continued through a long history of successes and defeats at the hands of various enemies. Defeat at the hands of the Gentiles was interpreted by Jewish prophets as the just anger of God when his people were unfaithful to their sacred covenant. After the deportation and near destruction of ten of the twelve original tribes, the Israelitic religion came to be known by the name of its largest surviving tribe—that of Judah.

Defending “The Christian World” The adoption of Christianity as the official religion of the Roman Empire created the first Christian commonwealth. As Christians faced the reality of a worldly state based on religion they had to come to grips with the responsibilities inherent in its defense and preservation. As far as the citizens of the Roman and now Christian state were concerned their society was “the world.” Thus, they were called to defend this world against outside barbarism. With the division and then the demise of the Ancient Roman Empire, the mantle of defender of the faith passed to the Eastern or Byzantine Empire. Despite the inevitable role of personal ambition and political motives, for centuries, the Emperor of the East was also the defender of Christendom, first against the barbarians, and after the rise of Islam, against the rival faith. When Charlemagne received the crown of the re-established Western Empire from the Pope at the beginning of the ninth century he inaugurated a new “Holy Roman Empire.” The growing disagreements and schism between the Eastern and Western Churches weakened the ancient unity of the church and caused Christendom to weaken in the face of external threats. In addition, the western emperors and the popes had many disagreements between the limits of each others’ temporal and spiritual powers.

Jihad. A survey of the panorama of world history shows that the rise of Islam introduced a new element into the dynamics of religion as a motive for war. From the beginning the Prophet Mohammed was a political and military leader as well as a religious leader. He personally used war to defend his followers and expand his realm. The Koran recognizes the need for jihad—struggle. It distinguishes between the “greater jihad”—inner struggle waged by each believer to overcome temptation and remain faithful to the will of God from the “lesser jihad”—the struggle of the Muslim community against attack from non-believers. Of the two the “greater jihad” is regarded as the most noble; but the “lesser jihad” is also deemed praiseworthy to protect the

community of believers. Mohammed saw Islam as the ultimate revelation of God that superseded both the Jewish and the Christian revelations. The Koran and the Hadith also have their share of “inflammatory” texts that are hard to explain away in merely allegorical terms since Mohammed was engaged in actual fighting against those that would destroy Islam and the Muslims. In the century following the Islamic revelation, the faithful extended the domain of Islam from India in the east to Spain and southern France in the west; from the steppes of central Asia in the north into sub-Saharan Africa in the south. Muslim armies overran the Christian territories in Palestine, North Africa and Anatolia—including three of the five oldest patriarchal sees of Christendom—Jerusalem, Alexandria, and Antioch.

Appendix II: Historical Examples which call for Framing and Re-Framing the Role of Religion

The abstract concept involved of evaluating the significance of religion in a given context may be better appreciated by using historical examples. Although more recent examples are available, the examples chosen are from a more remote past. This provides the benefits of a longer historical perspective and may also serve to dispel present-day bias. Another advantage of using historical examples is that they provide a long perspective on some of the most intractable and persisting issues that have caused religiously-based conflict.

Christians, Andalusians, and Almoravids

The importance and changing value of religious factors in the overall scheme of things may be illustrated by the changing relationships between competing groups in the Iberian Peninsula—what is today Spain and Portugal—toward the end of the eleventh century.

By the fourth century A.D. the Iberian Peninsula had evolved as one of the most civilized and settled areas of the Roman Empire. As such, its population had accepted Christianity in its late Roman form. The Germanic invasions brought the Visigoths to power. At first the Visigoth ruling minority practiced the Arian version of Christianity. They were considered heretics by the orthodox Christian majority. In time, the entire peninsula became an orthodox Christian Kingdom with a flourishing monastic culture. This situation changed dramatically when a Muslim army invaded the Peninsula in 711. These Muslims were descendants of the initial wave of conquerors that left Arabia with a zeal to spread their faith. They overran the old Roman-Hellenistic Egypt and the Christian Berber areas of North Africa. Crossing the Strait of Gibraltar, they quickly defeated the Visigoths, conquering almost the entire Iberian Peninsula and threatening Western Europe to the north.

The Muslim invasion marked the beginning of nearly eight centuries of conflict, interaction, and cultural exchanges between Christians and Muslims in the Iberian Peninsula, a process that would forever shape Spanish and Portuguese culture in a very distinct way. By the eleventh century the initial zeal of the Muslim conquerors had waned and the Crusades were still in the future. Thus, wars between Muslims and Christians were not necessarily governed by religious imperatives, they were complex affairs in which Muslim and Christians not only fought each other; but Muslims also fought other Muslims allied to Christians and Christians would do likewise—for a fee. Indeed, after the dissolution of the great Caliphate of Cordoba, Al-Andalus—the Muslim area of the Peninsula—divided into various small emirates that were continuously in conflict with each other and with the small Christian kingdoms to the north.

This complex world of power struggle and changing alliances favored the rise of independently-minded warlords who made a living out of warfare. These men would often fight to carve out large fiefdoms for themselves, but also served as commanders for various rulers. The foremost of these was Rodrigo Díaz de Bivar—known as “El Cid” from the Arabic Al-sayyid or lord. Interestingly, the figure of this warlord has been subject to varying interpretations throughout the years. He has been regarded as a “Spanish nationalist,” before there was such a thing as a Spanish nation, a champion of Christendom, a paragon of chivalry, a hero of the common man, an opportunistic warlord among other things. What is evident is that, in common with others, his primary motivation was certainly not religious but personal ambition.

Thus, although religious animosity was certainly a factor in Iberian warfare between the eighth and the late eleventh centuries, it was not cause of conflict in and of itself. But the dynamics that had dominated the situation in Iberia changed dramatically with the arrival of the Almoravids—a

group of militant Muslims from Africa.

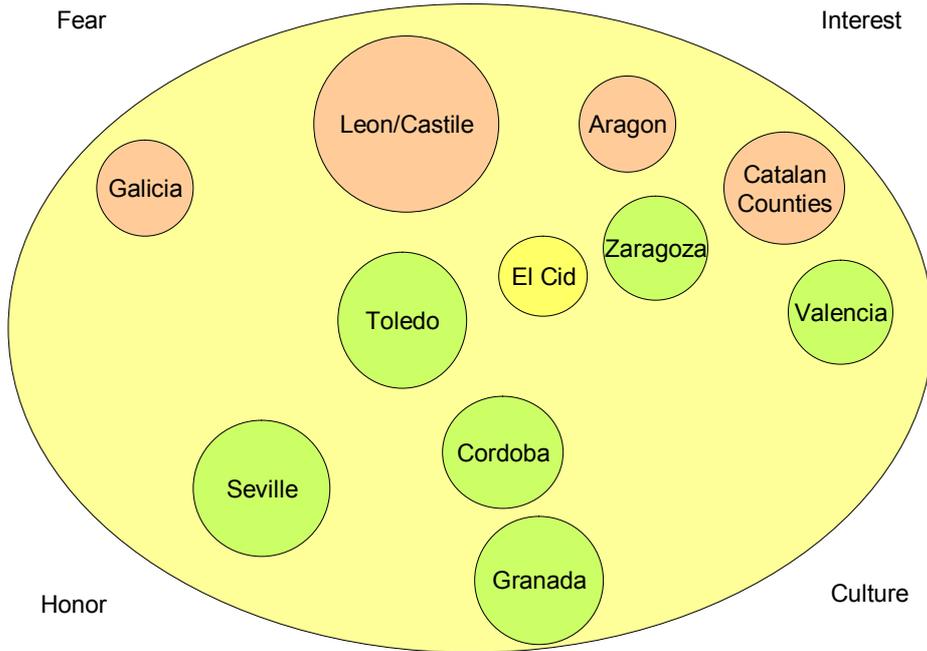
The Almoravids (al-Murabitn) were Berber tribesmen from the central and southern reaches of the Sahara. They were unified under Ysuf ben Tashufin, a devout tribal strongman, and their energies were canalized into the desire for religiously-inspired conquest—jihad. The coming of the Almoravids exposed the degree of laxity into which many of the emirs of al-Andalus had fallen. Many practices expressly forbidden in the Koran, such as the drinking of wine, pederasty, and “tolerance” for the “infidel,” were widely accepted. None of these things were acceptable to the Almoravids. Thus, the coming of a “fundamentalist” orthodoxy served to polarize a situation where religion was an important, but not the main issue of contention and elevated religion and its practice to the fundamental source of division.

From the point of view of *Design*, the new situation would call for reframing. It is important to point out that the polarization process was neither easy nor did it necessarily eliminate alliances of convenience across religious lines. Fundamentalists normally direct their anger primarily at members of their own faith deemed lukewarm or heretical. Thus, the Almoravids directed their greatest wrath against the emirs and Muslim aristocracy of Al-Andalus. The desire for self-preservation caused these leaders to either revert to more orthodox forms of behavior or ally themselves with the Christian “Other.” Similarly, Christian leaders had to put aside their personal agendas and unite against a formidable foe. For example, El Cid and the King of Leon and Castile reconciled with each other after a long period of estrangement.

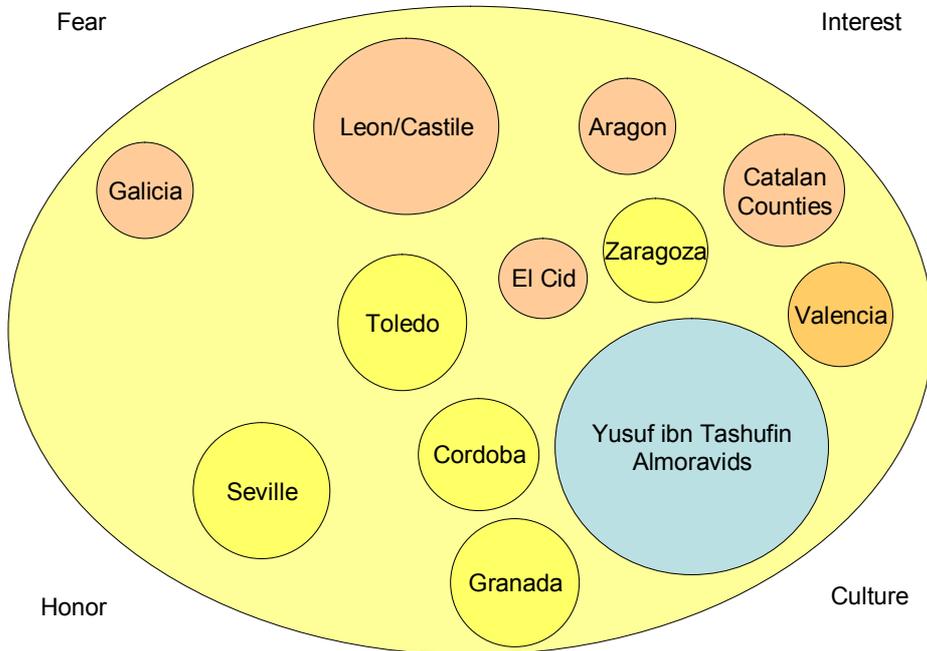
At the same other external forces were pointing toward significant changes in the prevailing cultural climate. For example, Pope Urban II was calling for a Crusade—a holy war or armed pilgrimage—to liberate the Christian Holy places from the Muslims. Thus, the religious-cultural complexes of the time pointed toward militant religious polarization which would express itself in warfare. A reframing of the changed situation is shown in the diagram below.

The pattern of polarization observed in the aftermath of the Almoravid invasions continued with the western Crusades into Palestine. The ideal of Crusade remained important in the West long after the failure of all the Crusader states in Palestine. It was present in such actions as the various defenses of Vienna against the Turks and the Battle of Lepanto. Its appeal waned only in the aftermath of the change of attitude that pervaded Western Europe after the Peace of Westphalia in 1648.

Framing the Situation in Iberia ca. 1070



Reframing the Situation in Iberia ca. 1095



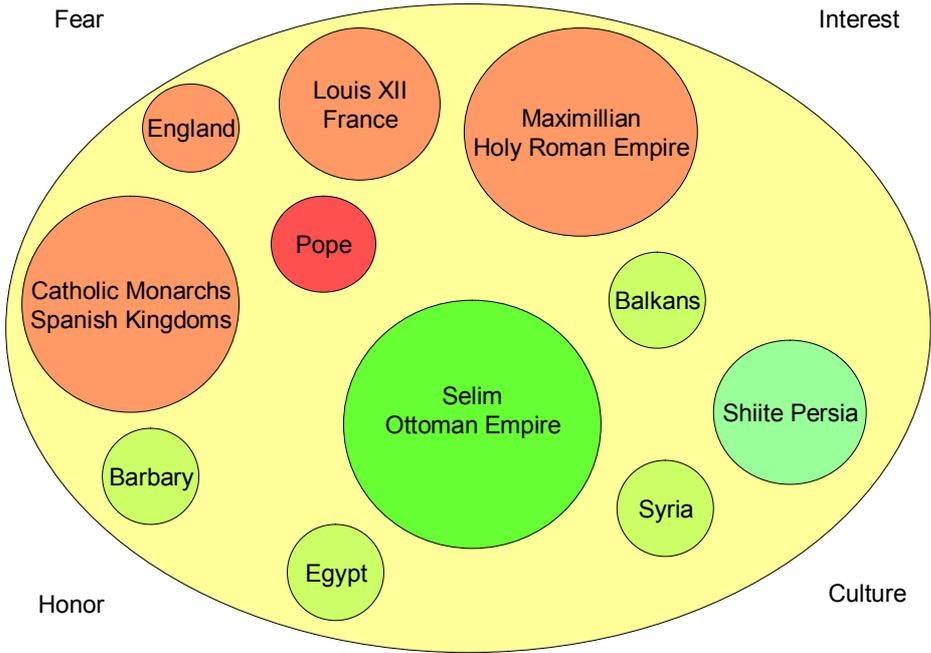
The Sultan, the Emperor, and the King

In the early sixteenth century, the religious factor played a very complicated role in the long relationships between the three leading rulers of the Mediterranean World—Charles V, King of Spain and Holy Roman Emperor, his European rival, King Francis I of France, and the Ottoman Sultan Suleyman. The conflict between these rulers occurred within a rich cultural context. Suleyman—known as “The Magnificent”—had assumed the mantle of Caliph—the successor to the Prophet. As such, he was the Paladin of Islam; a role that carried an enormous weight of authority, tradition, and expectations. As the “Sword of Islam” Suleyman would carry out his role of expanding the House of Faith against the “other.” His natural opponent would have been the Byzantine Emperor. But Suleyman’s grandfather had already destroyed this Empire and killed its ruler. The Pope had never been as powerful in the temporal world as he was in the spiritual realm and the prestige of the papacy was at a low ebb. Thus, the mantle of spiritual and temporal leadership fell naturally on the western Emperor—the ruler of the Holy Roman Empire. But at this time the Holy Roman Emperor was also the King of the newly-united Kingdom of Spain—the very kingdom that had endured and emerged triumphant after almost eight centuries of conflict with Islam.

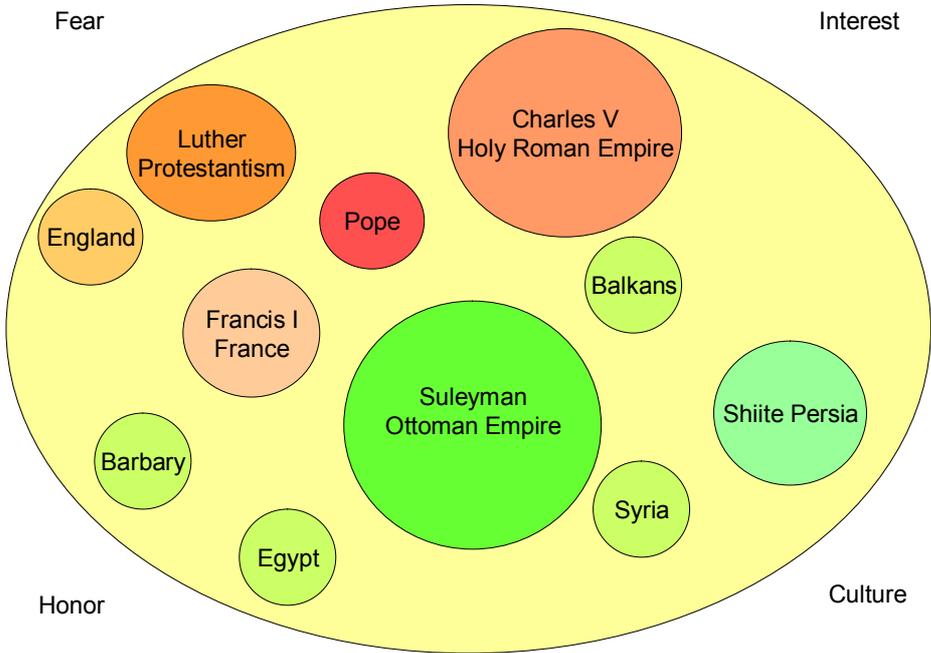
France had traditionally been the foremost western European power, but the union of the Empire with a strong Spanish state had pushed it from this position. The ambitious French King did not accept this situation. Out of desperation and political expediency he allied himself with the arch-enemy of Christendom—the Sultan.

To further complicate matters, the tension the old monolithic entity known as Christendom was rent by the dissent of Luther’s Reformation. The Protestants were willing to use force to maintain their beliefs and found political support among independent minded German princes. Suleyman, for his part had to look east over his shoulder to Shiite Persia, which the Sunni Ottomans considered as heretic, and could not devote all his attention to westward expansion. Thus, a very complex network of changing relationships emerged between the three rulers vying for control of the Mediterranean. These relationships were subject to change at any moment based on the internal problems faced by each ruler and his own personal inclinations. In the tensions and power struggle between three able and powerful rulers religion played an important role; but its relative value when compared to other influential factors tended to change according to the circumstances. This may be illustrated by the framing and reframing shown below.

Framing the Situation in the Mediterranean ca. 1500



Reframing the Situation in the Mediterranean ca. 1530



Appendix III: Glossary of Useful Terms

Absolutism—Authoritarian form of government in which power is concentrated in the hands of one person or a small group of people.

Christendom—a term used during the Middle Ages to denote the community of believers in Christ under the Roman Catholic Church; roughly equivalent to Western Europe.

Clash of Civilization—Polemical phrase used by Samuel Huntington to conceptualize the clash between large human groups which for the most part consist of related ethnic and cultural groups and including different languages on the basis of religious affiliation.

Conscience—inner psychic entity or process that allows a person to discern between moral choices.

Cultural Awareness—recognition and respect for other cultures—including the religious belief and practices of others.

Cultural Relativism—the belief that all cultures are fundamentally equivalent; there is no one superior culture.

Cultural Understanding—a deeper appreciation of the elements and the totality of a culture than mere cultural awareness reached through study and immersion in a given culture.

Culture—the totality of a human group’s collective adaptation to nature, the environment, and the psychic realities of being human. It includes, language, artistic expression, technology, philosophy, religion, and material culture

Crusades—military expeditions launched to recover the Holy Land for Christendom beginning in the late eleventh century. Later the term was extended to include expeditions against all manner of “infidels” including Muslims, heretics, and pagans.

Dar al-Islam—the “House of Islam” i.e. the realm of the faithful.

Dar-al-Harb—the “House of War” i.e. the world of those who have not accepted Islam.

Design—a holistic approach used by the US Army to understanding complex problems or situations. It is defined as “... an approach to critical and creative thinking that enables a commander to create understanding about a unique situation and to visualize and describe how to generate a change.” (*Design Issue Paper* 29 Mar 2009, p. 1-1.)

Emotion— psychic feelings or states of being; may be manifested by external behaviors.

Enlightenment—an intellectual movement that flourished in eighteenth-century Europe which promoted the use of reason and logic above all other modes of human thought and discourse. It originated the ideals that led to the development of western secular democracy.

Ethics—a branch of philosophy that deals with moral valuation and choice.

Framing/Re-Framing—concepts used in the practice of *Design* which sets parameters for the evaluation of particular situations or systems. The word refers to frame of reference or point of view.

Freedom of Conscience—the freedom to allow each person to follow the dictates of his/her own conscience without being persecuted or penalized in any way.

Heretic—a person or group that willingly deviates from established religious orthodoxy.

Holy War—a war waged specifically on behalf of God, religion, or religious aims.

Infidel—a person or group that is not faithful to a given religion. Often used for “the Other.”

Jihad—Arabic word for “struggle.” The Koran recognizes a greater or internal jihad which the believer wages against his own evil tendencies and a lesser or external jihad that may be waged to establish justice in this world or against the enemies of Islam.

Logic—a type of reasoning which requires that that conclusions be consistent with the premises of the arguments and with external facts.

Monotheism—belief in one deity.

Orientalism—the study of oriental cultures, including Middle Eastern ones, by Westerners—particularly Europeans. This study has been characterized by an implied superiority of Western culture over its objects of study.

Other/The Other—how members of a given human group view those that are outside the group.

People of the Book—according to the Koran Jews and Christians deserve special consideration since they share many of the same holy scriptures accepted by Muslims.

Proportionality—a principle that demands that methods used in warfare be proportionate to the ends.

Proselytism—the desire to bring others to the true faith. It is inherent in all missionary religions.

Relativism—the belief that there is no absolute value—all value is variable.

Religion—a complex system of belief which usually includes belief in one or more deity, ritual practices associated with the deity or deities, a moral code, and an eschatology.

Religious Absolutism—the belief that only one particular religion is true.

Religious-Cultural Complex—the accretion of a variety of religious and cultural images, symbols, traditions, and practices into a complex cultural and individual and collective psychic structures.

Religious Fundamentalism—the belief in the literal/tangible truth of religious scriptural texts.

Reason—human faculty that allows humans to connect cause and effect, make assumptions, and extract consequences from objects and situations that apply objectively.

Secularism—the separation of politics and other worldly affairs from religion.

Secular Humanism—a complex of beliefs that places great value on the individual human being and posits certain “inalienable rights” independent of any religious system.

Symbol—the visual representation of a complex idea or reality.

Taboo—a ritually forbidden act or object.

Theocracy—government based on religious principles and led by religious leaders.

Totem—a symbol of a clan or tribe. It usually has magical or mythical properties.

Treaty of Westphalia—the treaty that formally ended the Thirty Years’ War in 1648.

Values—core principles that guide a person’s ethical choices.

West/The West—the nation-states founded on secular democratic ideals and a primarily capitalistic economic model led by the United States and Western Europe.

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Endnotes

- 1 Joshua 6: 16-17 as given in *Bible: Today's English Version with Deuterocanonicals and Apocrypha*, (New York: American Bible Society, 1993), p.187.
- 2 *The Koran*, Trans. by N.J. Dawood, 6th Rev. Ed. (London: Penguin, 1997), p. 146.
- 3 “In exile, the Jews felt the harshness of the surrounding world; this sense of presence helped them to feel enveloped by a benevolent God.” Karen Armstrong, *A History of God: The 4,000-Year Old Quest of Judaism, Christianity and Islam*, (New York: Ballantine, 1993), p. 76.
- 4 “I have been given all authority in heaven and on earth. Go, then, to all peoples everywhere and make them my disciples: baptize them in the name of the Father, the Son, and the Holy Spirit, and teach them to obey everything I have commanded you. And I will be with you always, to the end of the age.” Matt. 28: 19-20.
- 5 “Therefore call men to the true Faith, and follow the straight path as you are commanded.” *Koran*, p. 340.
- 6 In this connection Rudolf Otto has identified the human capability to apprehend supra-rational objects as the feeling for the “numinous,” and the object of this apprehension the *mysterium tremendum*—the awesome mystery, which leads to the idea of God as the “wholly other.” Rudolf Otto, *The Idea of the Holy*, (Oxford: Oxford University Press, 1923), pp. 25-30.
- 7 “Indeed, there is a case for arguing that *Homo sapiens* is also *Homo religiosus*. Men and women started to worship gods as soon as they became recognizably human; they created religions at the same time as they created works of art.” Karen Armstrong, *A History of God: The 4,000-Year Quest of Judaism, Christianity and Islam*, (New York: Ballantine, 1993), p. xix.
- 8 St. Augustine of Hippo, *The Confessions*, trans. by Henry Chadwick (Oxford: Oxford University Press, 2006), p. 3.
- 9 The French revolutionary government inaugurated the reign of “Reason” and the end of official Christianity in the new Republic. Later Nietzsche declared the death of God and the dawning of the era of the Superman. Marx called religion the “opium of the masses. In this century scientific positivism and communism have capitalism has ignored or bypassed religious concerns. Philosophers such as Sartre and have attempted to construct a morality that does not depend on God. Despite all these trends religion has survived and promises to be a powerful force into the twenty-first century. Armstrong, *The Battle for God*, pp. 365-366.
- 10 “Darwin’s name has become a byword for atheism in fundamentalist circles, yet the *Origin* was not intended as an attack upon religion, but was a sober, careful exposition of a scientific theory.” Karen Armstrong, *The Battle for God: A History of Fundamentalism*, (New York: Ballantine, 2000), p. 94.
- 11 “Before calling themselves Leonese, Castilian, or Aragonese, those who fought against the Moors and who lived intermixed with the Jews, called themselves Christians Américo Castro, *La realidad histórica de España*. (Mexico City, Mexico: Editorial Porrúa, 1982), p. 25.”

12 “He [God] has revealed to you the Book with the Truth, confirming the scriptures which preceded it; for He has already revealed the Torah and the Gospel for the guidance of mankind, and the distinction of right from wrong.” *The Koran*, pp. 42-43. “The only true faith in God is Islam.” *The Koran*, p. 44. “Had the People of the Book accepted the Faith, it would surely have been better for them. Some are true believers, but most of them are evil-doers. [...] Yet they are not all alike. There are among the People of the Book some upright men who all night long recite the revelations of God and worship Him; who believe in God and the Last Day; who enjoin justice and forbid evil and vie with each other in good works. These are righteous men: whatever good they do, its reward shall not be denied them. God well knows the righteous.” *Koran*, p. 52.

13 In the Koran God speaks thus: “We have revealed the Koran in the Arabic tongue that you may understand its meaning. It is a transcript of the eternal book in Our keeping, sublime, and full of wisdom.” *The Koran*, p. 343. “Those that suppress any part of the Scriptures which God has revealed in order to gain some paltry end shall swallow nothing but fire into their bellies.” *Koran*, p. 27.

14 “Since the late eighteenth century, German scholars had applied the new techniques of literary analysis, archaeology, and comparative linguistics to the Bible, subjecting it to a scientifically empirical methodology.” Armstrong, *The Battle for God*, p. 91

15 “What my enemies say can never be trusted: they only want to destroy. Their words are flattering and smooth, but full of deadly deceit. Condemn and punish them, O God; may their own plots cause their ruin. Drive them out of your presence because of their many sins and their rebellion against you.” Ps. 5: 9-10.

16 “Then the Lord thundered from the sky; and the voice of the Most High was heard. He shot his arrows and scattered his enemies; with flashes of lightning he sent them running.” Ps. 18: 13-14.

17 “You have heard that it was said, ‘Love your friends, hate your enemies. But now I tell you: love your enemies and pray for those who persecute you, so that you may become the children of your Father in heaven.’” Matt. 5: 43-45.

18 This is true to this day as shown by Preston Jones and Cody Beckman in *God’s Hiddenness in Combat: Toward Christian Reflection on Battle*. (Lanham, Maryland: University Press of America, 2009).

19 Even when acknowledging the social necessity of the “just war,” Saint Augustine laments its violence.

“For it is the wrongdoing of the opposing party which compels the wise man to wage just wars; and this wrongdoing, even though it gave rise to no war, would still be matter of grief to man because it is man’s wrongdoing. Let everyone, then, who thinks with pain on these great evils, so horrible, so ruthless, acknowledge that this is misery.” Augustine of Hippo, *The City of God against the Pagans*, pp. 617-618.

20 “Christians can use violence when they have a duty to do so; in other words, when they are soldiers (or policemen). Such Christians respond to violence from enemies that threaten peace and order—not passively, but with force. [...] Christians fight in the army and pray for victory because they are formed by the perfect virtue of charity. Charity is the ruling virtue in the moral life.” Alexander F.C. Webster and Darrell Cole, *The Virtue of War: Reclaiming the Classic Christian Traditions East and West*, (Salisbury, Massachusetts: Regina Orthodox Press, 2004), p. 150

21 “Jewish and Muslim fundamentalists had turned their *mythoi* into pragmatic *logoi* designed to

achieve a practical result. Protestant fundamentalists had perverted myth in a different way. They had turned the Christian myths into scientific facts, and had created a hybrid that was neither good science nor good religion. This had run counter to the whole tradition of spirituality and had involved great strain, since religious truth is not rational in nature and cannot be proved scientifically.” Armstrong, *The Battle for God*, p. 355.

22 Here the author has adapted the concepts of complex and the constellation of such a complex used in Jungian psychology and applied them to a larger social context. “Some collective complexes, circling around issues of sex, religion, money, or power affect almost everyone to some degree and can lead to fierce discharges of energy, even to war, if provoked severely enough.” p. 76. Murray Stein, *Jung’s Map of the Soul: An Introduction*, (Chicago: Open Court, 1998), p. 76.

23 “... up until the 1680s, much of Europe, while religiously diverse, nonetheless had no real freedom of religion in the sense that we understand it today. Being the wrong kind of Christian could still lead to one’s death, and sometimes a horribly violent one—countless thousands were burned alive at stakes, and Anabaptists, because they believed in baptism by immersion, were often killed by drowning, in a macabre and deliberately ironic method of execution.” Christopher Catherwood, *Making War in the Name of God*, (New York: Citadel Press, 2007), p. 119

24 Christopher Catherwood, *Making War in the Name of God*, p. 127.

25 “Design enables commanders to conceptualize the operational environment. They can visualize the environment in terms of not only enemy, adversary, friendly, and neutral systems across the spectrum of conflict, but also in the context of the political, military, economic, social, information, infrastructure, physical environment and time (PMESII-PT, FM 3-0). Jack Kem, *Design: Tools of the Trade*, (Fort Leavenworth, Kansas: U.S. Army Command and General Staff College), p. 12.

26 “...expositions of religious truth in language inevitably tend to stress the ‘rational’ attributes of God. But though the above mistake is thus a natural one enough, it is none the less seriously misleading. For so far are these ‘rational’ attributes from exhausting the idea of deity, that they in fact imply a non-rational or supra-rational Subject of which they are predicates.” Rudolf Otto, *The Idea of the Holy*, p. 2.

27 “But the object of *religious* awe or reverence—the *tremendum* and *augustum*, cannot be fully determined conceptually: it is non-rational, as is the beauty of a musical composition, which no less eludes complete conceptual analysis.” Otto, *The Idea of the Holy*, p. 59

28 “Enjoin believing women to turn their eyes away from temptation and to preserve their chastity; not to display their adornments (except such as are normally revealed); to draw their veils over their bosoms and not to display their finery except to their husbands, their fathers, their husbands’ fathers, their sons, their step-sons, their brothers, their brothers’ sons, their sisters’ sons, their women-servants, and their slave-girls; male attendants lacking in natural vigour, and children who have no carnal knowledge of women. And let them not stamp their feet when walking so as to reveal their hidden trinkets.” *Koran*, p. 248.

29 These questions are formulated in Jack Kem, *Design: Tools of the Trade*, p. 12.

Strengthening the Warrior Spirit: Linking the Development of the Warrior Spirit to Soldier Resilience

by *Michael E. Haith*
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*Author's note: I was first inspired to examine and address the linkage of the Warrior Spirit with Soldier resilience as a means to combat stress and trauma while serving as the lead author for TRADOC's effort to capture the Human Dimension in future conflict. In the final draft I submitted in late 2007 which later evolved into TRADOC Pam 525-3-7 01, "The US Army Study of the Human Dimension in Full Spectrum Operations 2015-2024, I attempted to establish that linkage in the chapter on the Moral Component of Soldier Development. The approved document published in April 2008 severed that linkage by dividing the discussion of the moral component, and operational stress into separate chapters. In the follow-on publication TRADOC Pam 525-3-7, "The US Army Concept for the Human Dimension in Full Spectrum Operations 2015-2024," a much shorter summary of the earlier study, TRADOC addressed combat and operational stress in the chapter on Soldier Physical Development. Subsequent to the release of TRADOC PAM 525-3-7, TRADOC revised the triad of components that comprise Soldier and organizational development and performance from **moral**, physical, and cognitive to **social**, physical, and cognitive, marginalizing the importance of soldier character and spiritual development to the future of military profession and further separating the linkage of the moral component to combat stress injury. The major concern rests on the unfounded fear that recognizing and developing the soldier's spirit and his military character risks the appearance of endorsing organized religion and religious views. The following discussion attempts to realign these key concepts. MEH*

"We are tired of all these psychological "mumbo-jumbo" PowerPoint briefings on the Law of War, and stress and suicide prevention we get just before and right after deployments. How effective do they expect these 1-2 hour lecture type classes to be? It's a waste of time when we could be doing other more important tactical training or spending time with our families. There must be a better way to prevent violations of the Law of War, suicides and PTSD."

Infantry Company Commander, 101st Airborne Division, January 2009

The Army has an obligation to prepare soldiers to endure the stressful and traumatic experiences encountered in combat. Indeed, it must enable them to do more than endure. Their physical wounds notwithstanding, the Army must fulfill an unspoken promise that in return for selfless service and sacrifice, soldiers will return to civilian life better men and women as a result of their experiences. Developing the soldier's character and ultimately the Warrior Spirit is the most critical factor in strengthening resistance to battle stresses and trauma.

In Iraq and Afghanistan, horrific incidents of moral- ethical failure have emerged to a shocked public in addition to the debate over the efficacy of torture. Equally troubling is the alarming growth in divorce rates, substance abuse, domestic abuse, soldier suicides, Post Traumatic Stress Disorder (PTSD), soldier misconduct and other psychological casualties caused by the stresses

of deployment. Opposite sides of the same coin, these symptoms represent the collapse of the soldier's spirit. Clausewitz coined the term "friction," in his classic work *On War* to describe the physical, mental and emotional stresses of battle. He argued that no amount of training fully prepares combatants for the experiences encountered in combat.¹ Consistent with Clausewitz's concern with moral and psychological "friction," DOD and the Army have committed significant resources to implement programs addressing soldier conduct in war and the causes and symptoms of operational stress casualties—"the invisible wounds of war." Too often these programs focus on treatment, are reactive rather than preventative and consist of PowerPoint classes rather than realistic training as part of comprehensive holistic development. If the Army is to remain effective in an era of "persistent conflict" characterized by increasingly complex, and morally ambiguous situations, Army leaders at all levels must recognize the linkage of these issues, and implement a comprehensive program that integrates character, moral-ethical, mental, social and spiritual development in order to instill a strong, vibrant and resilient "Warrior Spirit" in soldiers.

Like previous conflicts, it is this "Warrior Spirit" reflected in the Army's "Warrior Ethos" and resting on superior will, perseverance and courage that leads to success in close combat while avoiding psychological collapse. Such development not only ensures our soldiers wage war honorably but also strengthens soldier psychological resilience as the most effective barrier against the paralyzing fear, trauma and adversity encountered in combat. The other positive effects are a reduction in soldier misconduct, improved competence and performance under stress, recovery, and personal growth rather than breakdown. This is the essence of the Warrior Ethos—*grounded in a soldier's refusal to accept defeat or quit*; Clausewitz's "moral elements." This effort rests primarily on the soldier's character and moral-ethical development. It is often the morally ambiguous and ethically complex experiences soldiers encounter that leads to moral and psychological breakdown; experiences they frequently carry with them long after the physical reminders of war recede.

This discussion does not argue for moral-ethical or spiritual development in a religious context although for many soldiers (and some studies suggest even most), their faith based beliefs provide the psychological armor that allows them not only to endure but to grow stronger from the experiences they encounter. This discussion will review the evolution of combat and operational stress and soldier resilience programs, and then establish the linkage of these concepts to the development of the Soldier's Character and the Warrior Spirit. Finally, this discussion will address how this expert knowledge on the moral domain of soldier development can be integrated into a holistic developmental program of soldier and leader development, and tactical training and deployment preparation.

Combat and Operational Stress²

One of our cultural myths has been that only weaklings breakdown psychologically [and that] strong men with the will to do so can keep going indefinitely.³

G.W. Beebe and J. W. Appel

The nature of war is immutable; it is a human endeavor complicated by human frailties and avarice as well as noble motives. While future conflict will evolve new methods and tools that may change the conduct of war, its essence will not change from one of destruction, injury and death. The mental and emotional wounds "caused by stress rather than steel," disable and result in death just as physical wounds do.

Combat and operational stress is unavoidable. No matter how thoroughly the Army prepares soldiers to endure the physical, mental and emotional hardships encountered in war and preparing for war, exposure to combat stress and trauma wears soldiers down and reduces their effectiveness.

Likewise, the effects are cumulative and as Lord Moran argued in reflecting on his experiences in World War I, soldiers do not have endless reserves of moral strength and courage no matter the “dwell time” between deployments; they cannot endure combat indefinitely and psychological casualties occur both from brief but intense combat as well as prolonged exposure.⁴ The U.S. Army’s definitive study of combat exhaustion in World War II confirmed Moran’s observations concluding that, “*There is no such thing as “getting used to combat.”*”⁵

For centuries dating back to Homer’s *The Iliad* and *The Odyssey*, Western observers recorded the psychological impact of battle on soldiers but only within the last century have military leaders and mental health care professionals acknowledged that psychological wounds like physical ones can result from exposure to combat. Over that period there was greater likelihood of becoming a psychological casualty than being KIA. Historical efforts to identify recruits with the “heart” of the warrior or who possess factors that predispose them to Combat and Operational Stress Reactions (COSR), were largely unsuccessful.⁶ World War II, screening efforts eliminated many potential Soldiers who later served satisfactorily without suffering from COSR. In spite of such screening, the Army suffered significant COSR casualties. While some variables associated with inability to adjust and stress tolerance have been identified over the last fifty plus years of research, no single reliable measurement has emerged with sufficient consistency to be useful.

Since the end World War II, numerous studies were dedicated to the causes, symptoms, resulting behaviors, prevention and treatment of psychological casualties. There is a vast repository of information often conflicting, on this topic that grows after each conflict. While these and subsequent efforts confirmed the existence and revealed the scope of combat stress casualties, theories on causes and prevention continue to shift.⁷ Variouslly mislabeled as *shell shock*, *old sergeant’s syndrome*, *soldier’s heart*, *battle fatigue*, and *battle exhaustion*, today the Army refers to combat stress related injuries as COSR. COSR are all the physiological and emotional stresses encountered as a direct result of the dangers and mission demands of sustained military operations and/or combat that overwhelms a soldier’s coping resources creating a sense of hopelessness and isolation. COSR can also lead to positive as well as negative behavior changes. Post traumatic stress reactions range from COSR to Acute Stress Disorder and Post Traumatic Stress Disorder (PTSD). COSR is not PTSD which is a psychiatric illness and may required prolonged treatment. COSR are temporary and soldiers can control their affects with assistance from unit leaders, chaplains and mental health care professionals.⁸

Extensive research and experience supports the current understanding of COSR and resultant behaviors identifying numerous battlefield and operational stressors. Physical stressors are environmental (e.g., weather, terrain) or physiological (e.g., sleep deprivation, dehydration, poor physical conditioning). Mental stressors include cognitive (e.g., mission ambiguity, unpredictability, complicated or unrealistic Rules of Engagement) and emotional (e.g., fear of death or injury, grief, homesickness, the requirement to kill, anger). Each soldier adapts or reacts differently to the presence of these stressors depending on the interaction of several other factors: biological factors like breathing, heart rate, and adrenalin release and regulation; battlefield factors that include the type of mission, intensity and duration; and unit factors such as morale, cohesion, leadership, and training; and finally individual factors including personality hardiness and resilience. They are interdependent and measures impacting one factor will likely impact others. The role of personality and how it influences soldiers’ reactions to stress and trauma remains controversial. Some studies find no correlation to soldier breakdown.⁹ The prevailing view of most military and combat stress experts is that combat stress casualties occur in direct proportion to combat intensity, duration and type of combat with two groups of soldiers more vulnerable: those never exposed to combat and those exposed to combat for prolonged periods.¹⁰

In OIF and OEF, Soldiers who spend a significant amount of time in proximity to the

enemy and populations are at greatest risk. Even if Soldiers withdraw into the relative safety of Forward Operating Bases, they must still venture “outside the wire” often to distant, remote outposts for extended periods. Experiencing mortal danger everyday for weeks and months is physically and mentally draining. Arguing as some have, that the current intensity of combat is unlike that of earlier wars “demonstrates a lack of appreciation of what constitutes combat in general, and ignorance as to the level of combat Soldiers and Marines are experiencing.”¹¹

Beyond OIF and OEF, a future operating environment of “persistent conflict” will likely include “Hybrid Wars” against state and non-state actors employing simultaneous combinations of warfare types across a complex range of operations to attack U.S. weaknesses while avoiding our strengths. In irregular warfare, moral ambiguity and complexity surrounds soldiers on the battlefield. The impact of moral stressors is unlikely to diminish and may even increase; imposed by the unique challenges encountered in urban and mountain operations.¹²

The characteristics of these conflicts will include asymmetric operations and 360° battlespace where all soldiers are at risk.¹³ Shadow-like adversaries employ methods and tactics the US and international community rejects designed to horrify and terrorize, invite retaliation, attack soldier morale, and undermine US and international support.¹⁴ Many argue this ambiguous conflict environment may produce greater stress because of the unpredictable nature of combat, unfamiliar roles, complicated and changing Rules of Engagement and the requirement for new, unfamiliar, and more complex skill sets.¹⁵ The leader’s challenge is to develop the soldier’s ability to overcome the stresses of combat with courage and dignity.

The Current Fight– Developing Soldier Resilience

Most Soldiers do not become psychological casualties. Stress is inherently characteristic of military service especially in wartime. Many veterans have commented that in spite of its horrors, the single most positive influence on their lives was their combat experiences and that those experiences had a positive effect on their lives afterwards. Clearly then, most Soldiers develop mechanisms to cope with stress in both training and combat, and view their experiences as positive. Yet the alarming increase in suicides, soldier misconduct, sexual assault, substance abuse, divorce rates and domestic violence often linked to adverse COSR or PTSD is an undeniable indication of the enormous strain on the force. News reports detailing disturbing stories of suffering veterans and their families due to the effects of combat related stress often with tragic consequences seem to be a daily occurrence.¹⁶ No sadder example illustrates the mental toll the current conflicts is having on our troops than the incident on 11 May 2009 when a 44-year-old Army sergeant previously recognized as deeply troubled and on his third tour in Iraq, went into the counseling center in Baghdad and killed an Army officer, a Navy officer and three soldiers ages 19, 20 and 25.

Addressing this tidal wave of mental health concerns, Senior DOD and Service leaders are taking unprecedented action to address the strain on military personnel and their families even admitting to mistakes in mental healthcare.¹⁷ Recognizing the urgent need and obligation to prevent and treat stress related injuries and illnesses, DOD and the services initiated new or improved existing treatment and prevention programs. In November 2007, DOD established the Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury and in May 2009 unveiled its Real Warrior Program to combat the stigma associated with treatment, and promote “Resilience, Recovery and Reintegration,” using communication and social networking tools, including radio, TV, and a highly interactive Web site.¹⁸ The objective is to balance prevention and treatment efforts. The Center held its first annual “Warrior Resilience Conference: Partnership with the Line” in November 2008 with international participation.¹⁹

The Army is allocating over \$100M to implement parallel mental health programs including the largest study to date with the National Institutes of Mental Health on soldier suicides.²⁰ Like DOD, the Army also increased emphasis on developing troop and family wellness and resilience by establishing the Comprehensive Soldier Fitness (CSF) Program; a holistic fitness program designed to “enhance Soldier/Family/Army Civilian performance and resiliency,” by developing five dimensions of strength; Physical, Emotional, Social, Spiritual, and Family.”²¹ While there are many definitions, FM 6-22 *Army Leadership*, defines resilience as the ability to, “recover quickly from setbacks, shock, injuries, adversity, and stress while maintaining . . . mission and organizational focus.”²² The intent of the program is to impart knowledge and coping skills in order to improve resiliency, prevent psychological stress related injuries and illness, and promote “post traumatic growth.” While not yet complete, the Army is already piloting three components of the program. In the first component, to be formally implemented in October 2009, the Army is introducing anti-stress programs in soldier Initial Entry Training as part of a “cradle to grave” soldier life cycle development program using the “the Soldier Fitness Tracker;” the second component of the CSF program. The developmental process relies on periodic on-line web based self-assessments using a Global Assessment Tool that has a series of questions in each of the five strength dimensions. The soldier alone is provided immediate feedback on each dimension linked to training programs tailored to the individual. Eventually, this guided self development will be linked to the Army Career Tracker as part of the Army’s larger self-development program. According the head of the program, BG Rhonda Cornum, an inspired choice due to her traumatic experience as POW in the first Gulf War, as individuals make periodic reassessments,

*. . . the Army will use the responses, to correlate training with those changes as a way to evaluate their effectiveness. The results will be integrated with other measures of performance and in other training Soldiers receive, so that statistically and globally, the Army can determine which training is most effective. In time, the training will be integrated in all enlisted, NCO and officer schools.*²³

Supporting this initiative, the Army is training 1500 NCO’s by the summer of 2010 to be “Master Resilience Trainers” in units on the model of Master Fitness Trainers (MRT). University of Pennsylvania’s (UPENN) Positive Psychology Center conducts the training under the leadership of Dr. Martin Seligman who pioneered the emerging field of positive psychology. Eventually, the Army will adapt the curriculum to military requirements and create an MRT school. As it relates to COSR, the concept of positive psychology turns away from the early tendency to focus on negative factors, maladaptive behavior and treatment to focus on developing positive traits that build human strengths as adaptive responses to stress.²⁴ It also incorporates the concept of post traumatic growth which argues that positive growth experiences can follow in the aftermath of traumatic events. The center also facilitates development of improved relationships, new possibilities for one’s life, a greater appreciation for life, a greater sense of personal strength and spiritual development.²⁵ Developing this ability can help soldiers and leaders improve adaptability and performance under the enormous stresses of combat.²⁶ Elsewhere, III Corps and Ft Hood opened a “Resiliency and Restoration Center” and the Army Center for Enhanced Performance at the United States Military Academy is exporting its sports psychology techniques based on cognitive psychology principles to units.

The programs remain experimental rather than proven. There is still debate on whether mental toughness can be taught in a classroom and the web services depend on voluntary soldier participation. Aside from the theoretical issues, resource requirements to implement and synchronize the CFP for thousands of active and reserve component soldiers and families are enormous and merely trying

to manage it could doom the program to failure. Finally, while there is a clear need to develop soldier resiliency, leaders must now find room for yet more mandatory training requirements on an already overcrowded plate. They already struggle to comply with many other requirements all of which are important but compete with operational training requirements. There is great danger it could be marginalized like other good intentioned initiatives that disappear through neglect and the bureaucratic weight of program administration.

We've been down this road before— Previous efforts to prevent psychological casualties

Efforts to mitigate the effects of combat stress are not new. In World War II, mental health experts examined ways to stem the rising number of US psychological casualties. Attempts to “screen” for a psychological predisposition eliminated hundreds of thousands of men from wartime service and the US Army still had one of the highest rates of “combat fatigue” in the war.²⁷ Post war studies concluded that unit cohesion, Esprit de Corps, and soldier morale were the most effective barriers to combat stress breakdown.²⁸ Sixty years of research and experience including studies of the conflicts in Afghanistan and Iraq continue to support the relationship of these factors in motivating soldiers and protecting them from psychological breakdown.²⁹

Though unit cohesion, Esprit de Corps, and soldier morale are related as a family of complex, intangible concepts, they have substantially different meanings but share common or similar psychological determinants that influence unit performance, the soldier’s will to fight, and resistance to combat stress. Morale is the Soldier’s level of motivation, fighting spirit, determination, commitment and enthusiasm for accomplishing unit missions under difficult conditions.³⁰ Cohesion is the organizational equivalent to morale, binding soldiers in a common purpose and brotherhood, while esprit de corps is the pride soldiers feel for their unit, the Army, and themselves. Dynamic and interdependent, influences that affect one will likely impact the others.

There are factors that determine the strength of these indistinct constructs and they can be positive as well as negative. Individual factors include a clear and meaningful purpose to their lives, mission and military service; self esteem and self efficacy (confidence or faith in self and training competence); a sense of belonging to the group- external esteem; physical fitness and well being, a positive self-concept and identity bonded to the unit and the Army. Unit factors include group interaction and bonding, unit performance and pride, teamwork, and shared values and standards of conduct. The glue that binds the factors into a positive force and a combat multiplier is trust, and caring, competent leadership. Trust in each other, their training and their leaders; shared experiences, values and a collective identity, buffer soldiers against the impact of combat stressors better than any other factors.³¹

Since the First Gulf War, some researchers have focused on “personality hardiness,” and Stress Inoculation (SIT) and Stress Exposure (SET) training as the means to adapt to stress and strengthen soldier resilience. Personality hardiness studies identified organizational factors (e.g., fear, boredom, and isolation) that cause stress and personality traits especially leader traits that serve as buffers and influence soldier resilience. The “high hardy” soldier has a more developed sense of purpose, feels in control of their lives, and stressful experiences provide opportunities for growth. These studies also concluded that leaders are important to developing hardiness in soldiers. Hardy persons pursue a proactive life with a more developed sense of purpose and understanding of their place in the world, greater control and work commitment, and openness to change and the challenges of life. Even in the harsh environment of combat, they can make meaning out of their experiences, see opportunities to grow and learn, and help others to do so. These studies argue that Soldiers with high hardiness levels maintain higher morale and greater resilience to traumatic stress when exposed to combat.³² SIT and SET studies stress the importance of “exposing” soldiers

to stress in training while building their adaptive coping skills in order to “inoculate” them against battlefield stress and trauma.³³ Currently, the Army’s SIT training is called “Battlemind.” This training is presented across the Soldier lifecycle and includes leader, family, and medical and behavioral health provider modules.

At the DOD’s Warrior Resilience Conference in November 2008, presenters addressed these familiar themes. An international panel concluded that improving resilience required a positive approach involving physical, social and cognitive factors that included informing soldiers on what to expect in combat, generating positive emotions like optimism and humor in trying times, regulating emotions, coping skills, social support through strong relationships with unit members, caring leadership, good relevant training, purpose and meaning and the potential for deriving positive effects from combat experiences. These same resilience factors are at the center of the positive psychology approach and the post traumatic growth concept of the Army’s new resilience initiatives now underway at UPENN.

Don’t forget how we got here– The Soldiers’ Character and “the Warriors’ Code”

Mentioned but not addressed in any detail during the conference although it was a significant focus of a minority of studies over the last 40 years, is the influence of character (most often addressed as character strengths or personality traits) and a strong moral foundation on soldier resilience.³⁴ This reflects the general attitude within the Army that character development has always been an individual responsibility. For many years, the role character and moral development played in mitigating the effects of combat stress on soldiers was conventional wisdom for commanders and civilian researchers. However, in reviewing the recent literature on the physiological, cognitive, environmental and emotional sources of stress on the soldiers in battle, there is relatively little that addresses the impact of battle on soldiers’ character and how combat attacks his moral understanding of “what’s right.”³⁵ Combat repeatedly places soldiers in the ultimate moral predicament of taking life. It is more stressful than the fear of injury or death and contributes more to psychological injury than any other factor.³⁶

Soldier character as it applies to the concept of resilience is now more frequently addressed as the presence or absence of certain key personality traits from a continually shifting list. Character in the context of this discussion is more the sum of the soldier’s collective moral identity rather than the individual piece parts of personality. Likewise, the soldier’s character more than a noncombatant’s must be deliberately shaped through internalizing unique military values that serve as a moral compass enabling soldiers to make sound ethical decisions in the moral vacuum of war; and later make sense of those experiences. In order to understand the human dimension of Army service in war, our focus cannot be limited to discreet layers of analysis that have little or no connectivity. Our understanding must be informed in large measure by comprehensive analysis of the factors that form the unique moral character of the Army expressed in the thinking and behavior of its members: their Warrior Spirit. These values are not externally imposed by decree, they are inspired and maintain from within.³⁷ This moral foundation establishes the ideal character of every soldier who volunteers for service.

While the Army’s character traditionally focused on the moral conduct of soldiers in battle, recent experience reveals that operating within these guidelines also shields soldiers psychologically. The extensive body of literature on human character and its development cannot be adequately summarized in this discussion. It is sufficient to establish that character is those moral qualities that constitute a person’s nature and shape his or her decisions and actions and is defined by “...the commitment to an admirable set of values, and the courage to manifest those values in one’s life, no matter the cost in terms of personal success or popularity.”³⁸

Before his death in 2000, Dr. Faris R. Kirkland, a distinguished combat leader, military historian and ethicist devoted much of his career as a psychologist with the Walter Reed Army Institute of Research to research and writing on ethical leadership and character as the reflection of and guardian for military culture, and as the most effective means to strengthen soldier psychological resilience. Faris argued that military character includes the ability to form strong relationships with unit members, believe in the efficacy of one moral action and rely on a unique professional military code or “ethic” to guide behavior in and apart from combat; an Aristotelian rather than a postmodern psychological construct. The consensus attitude for developing strong moral character in soldiers is primarily to prevent soldier misconduct in peacetime and war. More than a guide preventing unethical conduct, the soldiers’ character and his ethical code also enables him to persevere in battle and protect his sanity: the objective of recent soldier resilience initiatives.³⁹ Similarly, after years of treating Vietnam Veterans suffering from combat stress and trauma, Dr. John Shay concluded that the Army is a moral construct and soldiers need a credible ethical foundation consistent with this moral construct to sustain them psychologically.⁴⁰

More recently, Dr. Shannon French reached similar conclusions in her examination of the various purposes of “the Warriors’ Code.” She concluded it was an essential component of the warrior’s identity that in addition to serving as a force of restraint, the code was essential to protecting his moral psychology enabling him to make sense of the chaos and horror of combat; “Their only protection is their code of honor. . . their own protection against becoming what they abhor.”⁴¹ Character serves as a shield against the temptation to make immoral choices that will inevitably undermine a soldier’s will power and ability to persevere in battle⁴². Ultimately, it is the moral ambiguity every soldier faces and the concomitant moral choices every soldier makes that define the level of stress and trauma he will endure. Whether he possesses the resilience to recover from and grow from these experiences is a measure of the strength of his Warrior Spirit.

Strengthening the Soldier’s Psychological Armor– the Warrior Spirit

There are only two powers in the world . . . the sword and the spirit. In the Long Run, the sword is always defeated by the spirit.

Napoleon

The past 60 years of research and experience reveal consistent themes but inconsistent approaches to addressing the causes and prevention of combat stress casualties. The impact of multiple deployments on our soldiers with no predictable end in sight and an unpredictable future of “persistent conflict,” forced the military to act decisively to address both the medical and mental health care it provides to military personnel and their families. Harnessing the efforts of experts in cognitive, behavioral, and social psychology; leadership theory, philosophy and ethics, physical development, and our now extensive combat experience, the Army with DOD and the other services is renewing its historical interest in how soldiers face unimaginable hardships and still persevere to succeed in battle when reason indicates otherwise. However, in spite of the Army’s effort to develop a holistic “Comprehensive Soldier Fitness” program, these current efforts fall short; there is no integrated whole. The stated vision is to develop an “Army of balanced, healthy, self-confident Soldiers, families and Army civilians whose resilience and total fitness enables them to thrive in an era of high operational tempo and persistent conflict.”

Setting aside the importance of our families and DA civilians for this discussion, the focus of Army resilience efforts must be aimed at developing the Soldier’s “Warrior” Spirit; a larger more complex construct we seem reluctant to acknowledge. The challenge of developing the Warrior Spirit is complicated by the fact that there is relatively little understanding within the

Army of the human aspects of a soldier's spirit. Yet, it is the Warrior Spirit that motivates the soldier to endure and overcome without sacrificing his honor or his sanity. While some consider it to be a mystical force, it is certainly intangible, influenced by many factors but no less real. FM 6-22, *Army Leadership* diminishes the concept by referring to the Warrior Spirit as "the Warrior Mindset."⁴³ Unfortunately, in attempting to meticulously catalogue these factors and the skills, knowledge, and abilities that will enable soldiers to "thrive in an era of high operational tempo and persistent conflict," we have dissected the Warrior's Spirit into its component parts relegating them to a continuously changing laundry list that weakens unity of purpose, effort, and effect. It's about developing people as well as soldiers; their human spirit wedded to the Army's Warrior Ethos in order to develop an irresistible and resilient fighting spirit.

Our most distinguished leaders and soldiers past and present as well as other great captains recognized this intuitively through years of professional practice and observation. There are many examples within the American military experience that demonstrate the efficacy of superior will and winning spirit as an important but often misunderstood factor in determining victory on the battlefield. Soldiers with superior will and courage will continue to prevail in battle. Developing this Warrior's Spirit is essential because it enables soldiers to continue to prevail with their character and sanity intact. Ignoring the predominance of the Warrior Spirit ignores our experience and risks our future combat effectiveness.

Previous attempts by the Army to address the Human Spirit disappeared in practice.⁴⁴ In addition to neglect, there is significant push back by those who associate any discussion of the soldier's spirit with formal religion and fear blurring the line between church and state. Aware of this resistance, General William Wallace, the previous TRADOC Commander sponsored an examination of the Human Dimension recognizing that our preference for technological capabilities and material solutions ignored the human dimension of war. Lessons learned from recent combat experience and thoughtful reflection on the human spirit by a small group of researchers justifies promotion of the Warrior Spirit as a powerful combat multiplier as well as a critical component of force protection.⁴⁵ TRADOC's *Human Dimension Study and Concept* properly acknowledges the importance of the Warrior's Spirit by reintroducing it the Army again "for the first time."⁴⁶

Motivated by our innate human needs that include security, esteem, and belonging, the human spirit is a person's essence and the moral search for meaning; that vital animating force that guides our behavior, seeks a purpose in life, develops fulfilling relationships; and drives us to realize our potential. Development of the human spirit rests on character that is shaped by a sound moral framework, reflection, experience and mentoring. The other qualities of the human spirit necessary to fulfill these needs and to sustain the soldier in battle includes the requirement for self-awareness and self-reflection, a sense of ownership for our own development; empathy and respect for others as well as faith in our ultimate purpose, our values, our leaders, fellow soldiers, and ourselves. Collectively, these interrelated components provide direction, will, trust and hope, and "facilitate the development of a *world view*-the foundation upon which development of the human spirit rests."⁴⁷ Our worldview enables us to derive meaning in our experiences and provides direction, purpose and identity. A more detailed discussion of the human spirit is not possible here except to add that this process alone is insufficient to developing the Warrior Spirit. Every soldier who enters the Army is already moving down this path although the journey is more likely inadvertent than deliberate. To develop a strong, resilient Warrior Spirit in soldiers, the Army's must link Warrior Ethos with meaningful training and competent caring leadership.

Contained in the Soldier's Creed, the Warrior Ethos defines the expectations of every

soldier: *I will always place the mission first, I will never accept defeat, I will never quit, I will never leave a fallen comrade.* Collectively the tenets have a broad purpose; the ethos shapes the soldier's military character and guides his conduct in war. Instilling this ethos in soldiers requires more than instilling an aggressive "Hooah" attitude through competency based tactical training or by simply declaring every soldier is a rifleman first.⁴⁸ An Army cannot simply "train" its ethos. This narrow emphasis is like a sports coach's pep talk before a game intended to breathe fire into athletes; the approach is too shallow and will not endure under the demands of combat. It is also more than transmitting the Army's heritage although it is a critical component. This professional ethos must be lived by "its leaders and through them its soldiers," or they will not be an effective fighting force.⁴⁹

More than the CFA, developing the Warrior Spirit is a holistic process. Development occurs across many domains, physical, emotional, mental, spiritual, and social within the unique context of the profession of arms. "Comprehensive Soldier Fitness," "holistic fitness" and "combat fitness" are constructs that do not fully capture the necessary transformational process of developing a civilian into a soldier who internalizes the Army Values and Warrior Ethos, and possesses the Warrior Spirit. A quick review of positive psychology, CSF, "hardiness," "Battlemind," SIT and SET concepts reveals that the skills, knowledge and abilities (SKAs) promoted by these programs are important but not all the components required in the more holistic process of developing the human spirit that leads to increased resilience; optimism, self awareness, strong personal relationships and commitments, interpersonal and social skills, self efficacy, seeking challenges, etc. To be sure, they are important initiatives but they are all strands of the same rope that together with other strands contribute to developing the human spirit. Absent from these SKAs, however, is the importance of character, morale, unit cohesion, esprit de corps and the Warrior Ethos necessary to transform the soldier's human spirit to the Warrior Spirit.

Developing the Warrior Spirit over the Soldier Life Cycle: Initial Military Training

The challenge in Initial Military Training (IMT) is to integrate physical, emotional, mental, social and spiritual development into initial military training that will be reinforced later in unit and leader development training. These elements include: indoctrination and socialization; the newly introduced suite of stress management and psychological coping skills now being implemented in Basic Training; good and meaningful training; and morale, cohesion and effective leadership--in short, a comprehensive program integrating all elements of the Warrior Spirit.

Traditionally, IMT emphasizes proficiency in tactical skills, discipline, and teamwork under the assumption that this approach will protect the soldier physically and mentally. Stress has always been part of IMT as soldiers are required to successfully perform to increasingly more difficult and realistic training standards. In the past, coping with the inherent stress was the recruit's responsibility. However, without providing techniques enabling soldiers and young leaders to cope with the stress, those who did not enter service with these skills often failed, fell into a spiral that eventually led to premature departure from the Army or worse became a COSR casualty later in combat. Practice, particularly "overlearning" under realistic conditions increases self-confidence and resistance to stress. The new programs also promise to prepare future recruits and leaders to cope with stress providing knowledge of the stressors soldiers encounter, the physical and emotional symptoms, and their effects on performance, and the adaptive emotional, cognitive and behavior control strategies to reduce anxiety, maintain performance and prevent misconduct

or criminal activity. If implemented effectively, soldiers will develop confidence through graduated exposure, application, practice and deliberate feedback. Through practice under conditions of increased stress, soldiers should realize a decrease in negative feelings of fear and anxiety (“I’ll never make it through this”), and new coping skills will work better than destructive ones such as alcohol.

Currently, the Army’s “Battlemind” Training provides this framework from IMT through post-deployment.⁵⁰ Despite good intentions and some improvement in soldier resilience, the effectiveness of Battlemind is hindered by its delivery as compulsory lectures normally presented by mental health care professionals that is often not engaging to soldiers and rarely applied or reinforced. Developing Master Resilience Trainers may provide a partial solution but only integration with other training and frequent practice will enable soldiers to master these skills in an operational context.

Proficiency in tactical as well as coping skills alone is insufficient to sustain the soldier’s and the emerging leader’s self confidence, motivation and effectiveness. There is also a need to integrate moral-ethical development as a necessary compliment to the psychological coping principles now being introduced into the IMT training environment.⁵¹ Character is among the first casualties of war and strengthening the soldier’s confidence in his ability to serve honorably amidst the moral chaos of battle enables soldiers to maintain their moral as well as their psychological orientation.

IMT greatest role in building the Warrior Spirit is developing the soldier’s military character. The goal is to instill an understanding of and willingness to live by the *Army Values*, the *Soldiers Creed* and the *Warrior Ethos*. A good deal of a recruit/cadet’s time must be devoted to instruction on the Army’s professional ethos, culture and heritage in order to instill not only service pride (esprit de corps) but also expectations of performance and behavior consistent with the Warrior Ethos. When successful, the individual’s world view incorporates the values and standards of the Army. Accepting group norms is a critical objective of the IMT socialization process as the individual adopts the belief system of the Army and changes his/her self-concept to one that values membership and service in the Army. Internalization takes place at different times for recruits/cadets depending in part on their motivation for entering into military service (service vs. monetary incentives) and the role models around them. This identification with the Army’s core values and professional ethos is critical because it influences and motivates soldier behavior and performance in units, and mitigates the impact of stress.

Unit and Individual Training for Deployment

It is precisely the harsh conditions of combat that requires strengthening soldier motivation and resiliency prior to deployment through morale, esprit, and unit cohesion as well as individual and collective tactical proficiency. Absent effective group performance, the Army will not succeed in the future operational environment. In addition to developing effective, high performing units, each of these elements directly affects the development of the soldier’s fighting or “Warrior Spirit” while preventing soldier psychological breakdown. While IMT is important in developing the Warrior Spirit, the time spent in initial training is too short. Therefore, the primary location for developing a resilient Warriors spirit is within units.

Research and experience repeatedly points to the development of cohesive and competent units with high morale as the most critical factor in building the Warrior Spirit, buffering Soldiers from COSR and improving combat effectiveness. The research

that connects cohesion and soldier self-esteem with enhanced mental readiness is not speculative, ambiguous, uncertain or new.⁵² Studies over the last sixty years confirm that variations in unit cohesion rather than combat intensity most clearly differentiated the occurrence of stress casualties.⁵³ Building cohesive units requires high soldier moral, esprit, relevant training, and shared experiences. The critical factor that integrates each of these elements is competent, caring values based leadership committed to accomplishing the mission without sacrificing the Army's, the unit's or the soldier's honor.

Leaders who understand how to develop competent, cohesive units and a positive ethical command climate are the single most important thread of continuity in developing and preserving the moral character of Soldiers who possess the will to fight. Soldiers fight because of their membership in tight-knit, self-sustaining, *self regulating* and self-supporting units whose creation must be the primary objective of unit leaders. Strengthening the cohesion of the unit is the principle way to prevent unit and individual combat breakdown. Leaders who place high priority on caring for, trusting and empowering their subordinates while sharing their experiences will have cohesive, disciplined and resilient units that perform effectively in combat.

Continuing the process begun in IMT, leaders promote unit pride and self confidence within their soldiers, and clearly define the unit's mission and its relevance prior to and throughout deployment. The best means for enabling these factors is realistic, relevant collective and individual training. It is a leader's moral obligation to provide the training that enables Soldiers to endure battle both physically and psychologically. Such training is among the most important factors in developing good units as Soldiers develop confidence in themselves, their equipment, their leaders and their units. Good training can only exist within a true "learning organization," where there is open and honest assessment and feedback across all levels of unit leadership, tolerance of mistakes as the basis for cooperation and improvement, and positive reinforcement. To enhance mental readiness, good training must introduce the types and level of intensity that replicate the stress Soldiers will encounter in combat or other operations. This requires integration of the principles of emotional, cognitive and behavioral control in realistic training scenarios followed by After Action Reports, and debriefings on Soldier performance.

To be successful, character development and ethical conduct must be viewed by leaders and commanders alike as more than burdensome compulsory training. In current and future conflicts, the soldiers will be under increased public scrutiny, and if their conduct is judged as morally reprehensible it will undermine public support for their mission. This is the era of the "strategic corporal" and immoral behavior by even the lowest ranking Soldier will have a strategic impact, as witnessed by the international response to Abu Ghraib, the Haditha incident in 2005, and the breakdown in Army leadership that led to the brutal rape and murder of a young Iraqi girl and members of her family in 2006.⁵⁴ Given the critical importance of ethical behavior among Soldiers and leaders as a determinant of unit effectiveness and soldier resilience, these core principles must be integrated using more innovative approaches to military training scenarios in compliance with the current concept for soldiers to "train as you fight." Unit cohesion and soldier resilience is developed through tough realistic and repetitive training that replicates the operational environment, reinforces moral standards and provides the internal mental processes required to operate under great stress and physical hardship. Such training must receive a higher priority through integration into standard tactical training events as yet another source of realism and stress requiring moral reasoning and decision, reflection and discussion.

While live training will remain a cornerstone of realistic training for individuals and units, constrained resources and training environments will limit live training opportunities. More innovative approaches to integrating values and ethics training into realistic tactical scenarios

must emerge through increased development of complex virtual and constructive simulations as a matter of command emphasis; and not simply “shoot-no shoot” scenarios.⁵⁵ Currently, very few such simulations exist. While the Combat Training Centers have robust Live, Virtual and Constructive (LVC) training environments, these are annual training events occurring shortly before deployment. The Army must ensure one of its major objectives is the development of robust, flexible, mobile, scalable to the size of the training event and rapidly reconfigurable virtual trainers available at home station that allows soldiers and units to increase proficiency in equal or less time that they do now. The Army already spends millions on virtual technologies to train Soldiers on technical and tactical skills. Equally useful would be a suite of mobile virtual training platforms replicating the operational environment that allows commanders to immerse soldiers in situations designed to require the soldier to develop and demonstrate the social, cultural, mental, and moral ethical as well tactical competencies that build unit cohesion and soldier resilience.⁵⁶

Additionally, the leader who by example, discussion, and policies also communicates a realistic but positive interpretation of shared stressful training experiences influences the entire unit to view even traumatic events in a more positive and meaningful way. In this way, the valuable lessons of stress management are more easily understood, applied and practiced by Soldiers in operationally relevant contexts. Yet, limited dwell time between deployments and the increasing complexity of modern counterinsurgency operations pressures commanders to balance busy training schedules with family time leading them to focus primarily within their comfort zone on tactical training under the assumption that it together with a ruthless enemy are sufficient to develop cohesion.⁵⁷

Finally, and most importantly, such training enables leaders to develop and reinforce an ethical command climate and moral framework characterized by trust, respect and expectations of honorable battlefield conduct. This training also reinforces authority and the development of the soldier’s military character. A credible moral foundation builds trust, prevents atrocities and helps soldiers manage their emotions which are essential if they are to remain combat effective.⁵⁸

Trust is the most powerful source of both cohesion and mental resilience among Soldiers and the most effective way to build trust is through modeling ethical behavior. Leader moral beliefs and behavior influence their leadership style which in turn influences Soldier beliefs and conduct as well as their psychological health and readiness. Soldiers desire leaders who communicate effectively with subordinates, do not rely on coercion, deception and intimidation, tell the truth, expect the same from subordinates, and make it safe for them to do so. A study in 1993 confirmed previous conventional wisdom on the importance of values based leadership and ethical command climate in finding that commander’s beliefs and values influence subordinate psychological readiness for combat. ARI researchers determined that Commanders, who communicated the ethical framework that would characterize operations, and balanced traditional combat training with morale and general soldier well being, developed greater soldier psychological readiness than commanders who focused primarily on combat skills.⁵⁹ Subsequent studies reinforced by extensive experience also demonstrated a powerful relationship between a climate of trusted leadership and the Soldiers’ fighting spirit, morale and mental resilience.⁶⁰

Effective leadership methods have carried various labels over time; positive leadership, power down, empowerment, and decentralized leadership. They are well established concepts and contained in Army policy and doctrine on leadership, training and combat stress control. These principles have served as the foundation of Army leadership since its founding. The relationship of morale, cohesion, and command climate to stress, unit effectiveness and the role played by leaders is not mysterious. They are interdependent factors which leaders use to develop and assess the Soldier’s “Warrior Spirit.

Employing the Force

There is no more important time to sustain the Soldier's Warrior Spirit than during combat and operational deployments. The keys to maintaining combat motivation-cohesion and morale-continue to rely on prolonged and close interaction between leaders and led and a consistently applied moral framework. Leaders serve as the lens focusing battlefield, unit, and individual factors affecting cohesion into the Soldier's evaluation of the situation which determines motivation, conduct and success or failure in coping.⁶¹ The leader helps shape Soldiers' appraisal of the situation into a unified expectation by unit members amplifying or reducing the threat. If realistic and genuine, the leader's optimism will increase the unit's chances of success. Despite continued change in the shape of and technology on the battlefield, the confidence and trust troops have in their commanders at all levels is critical to the Soldiers' motivation to accomplish the mission and his success in coping with the stresses of battle.

Leaders build morale and cohesion, and sustain the Warrior's Spirit by taking care of the physical and psychological needs of Soldiers. If these needs are neglected, they can degrade Soldiers' motivation and psychological resources for coping and enduring. While physical needs must not be intentionally ignored, soldiers who trust their leaders recognize they remain secondary. There are numerous examples where resilient American soldiers overcame extreme deprivation and environmental extremes to achieve battlefield success because of their faith and trust in their leaders and each other. This is the essence of unit cohesion. The soldier's morale and ultimately his motivation are strongly dependent on his need to play a meaningful role and make a valuable contribution in the operation. Like all human beings, soldiers seek the meaning in their experiences and they will endure incredible hardship and tragedy if they can find some purpose and meaning in their sacrifices. Soldier identity and self-worth are strongly linked to this purpose and their value to the overall mission. The leader provides this clarity of purpose and value. The leader also sustains the moral framework and reinforces his expectations of soldiers, punishing incidents of soldier misconduct. This is especially important in operations of long duration where success is elusive, the unit suffers losses, the enemy employs tactics and methods violating the laws of war, and local support and support on the home front wanes. Actions designed to improve the soldier's Warrior Spirit also reduce the incidents of COSR and have a correspondingly positive impact on combat effectiveness. The two outcomes are inextricably linked. Poor performance due to a failure to prepare Soldiers and leaders for the effects of stress can exact high costs in terms of casualties and mission accomplishment and even lead to Soldier misconduct. Prolonged exposure to the demands of combat reduces unit effectiveness even when there are few physical losses.

Likewise, unit cohesion can have a dark side when cohesion is limited simply to individual and unit self interest or survival at any cost because they lose faith in their leaders or the mission. Units who operate at this level of cohesion are more likely to commit war crimes, disintegrate and suffer high rates of COSR.⁶² In these situations learning effective coping skills may only enable soldiers to rationalize unethical conduct. Revealing breakdowns in leader emphasis on moral ethical development, mental health studies in OIF discovered that even with ethical training prior to deployment, less than half of the Soldiers and Marines surveyed would report a team member for unethical conduct or believed non-combatants should be treated with respect and dignity or. Nearly a third reported they encountered ethical situations they were unprepared to address.⁶³

Tracking the evolution of leader doctrine over recent decades reveals that the essential linkage between effective leadership and unit effectiveness is weakening. Current indications from OIF and OEF indicate that leaders must improve their understanding of this interdependent relationship. In recent studies, Soldiers and junior leaders frequently perceive failures in leadership. Leaders are not effectively communicating, engage in actions

to enhance their career, are not providing meaningful or effective training, micromanaging for short term success at the expense of long term effectiveness, and fail to exhibit clear thinking and reasonable action under stress.⁶⁴

Reset, Retraining and Professional Military Education

To sustain the Warrior spirit and to help prevent COSR, soldiers need to reach closure on their experiences by honoring fallen comrades in official ceremonies while also honoring unit and individual accomplishments and acts of valor. The soldier needs to believe that: their sacrifices made a difference and are appreciated by leaders and their fellow soldiers; their experiences provided opportunities for personal growth; and they returned with their honor intact. Families also need to reconnect. Whether they remain in the Army or return to civilian life, soldiers who value their military service will adapt well to the transition and can provide testimony on the value of their experiences to others considering service in the Army. A detailed discussion of the mental health care and counseling required by returning soldiers and their families is beyond the scope of this examination except to remind us all that the Warriors Spirit is not inexhaustible and no matter the dwell time between deployments, soldiers cannot draw from this well indefinitely.

The Army must expect of its leaders the same level of expertise in developing the Warrior Spirit as it expects in developing well trained units if they are to deepen that well. The factors that promote the Warrior Spirit and unit cohesion must become a major part of officer and NCO Professional Military Education (PME) as well as IMT. The important lesson Army leaders at all levels must learn, is that past experience argues that building soldier morale and unit cohesion while preventing and controlling of stress in combatants can be a decisive factor in determining success in full spectrum operations. Victory has always been determined more by the destruction of the enemy's will to fight rather than the number of enemy KIA. This is no less valid when the objective is the moral support of the populace-ours or theirs. In addition to better mental health screening and treatment after deployment, recent results from numerous mental health assessments in OIF and OEF, suggest the path to greater soldier resiliency requires the deliberate integration into dynamic training environments beginning in IET and pre-commissioning of the principles designed to develop the Warriors Spirit. These efforts must continue in NCO and officer PME. The objective is to develop leaders who understand how to build ethical unit climates that foster cohesion, build soldier morale and provide challenging, meaningful and relevant training to produce competent and effective units, and to enhance the mental readiness and psychological resiliency of Soldiers, leaders and families alike against stresses encountered in combat deployments. This proficiency has virtually disappeared from leadership doctrine and training.⁶⁵

Conclusion

“Look into an infantryman's eyes and you can tell how much war he has seen.”

Bill Mauldin, *Up Front*, 1944

Perhaps at no time in our history have we demanded more from our soldiers and their leaders. The Army will soon enter the eighth year of a complex and ambiguous conflict set. Many soldiers and leaders have known no environment other than the “new normal” of repeated deployments with insufficient dwell time. In this operational environment, the Army would do well to remember that there is no way to truly “inoculate” soldiers against the effects of stress and trauma. The effects are cumulative and even the strongest and most resilient soldiers may reach their breaking point in some future deployment. To mitigate the

effect of stress and to extend the envelop of resilience requires developing soldiers with a strong Warrior's Spirit; a multidimensional construct resting primarily on the soldiers military character firmly rooted in Army Values and the Warrior Ethos. Army leaders are the key to this development; transforming recruits into spiritually fit soldiers through a holistic process that enables them to endure, grow, fight and return with honor.

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