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TALKING PAPER
ON
THE EVOLUTION OF THE CODE OF CONDUCT

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BACKGROUND PAPER
ON
THE EVOLUTION OF THE CODE OF CONDUCT

1. Conduct by American prisoners of war (POWs) has been a topic of discussion ever since the country's first war. In fact, during the American Revolution, our country considered it a capital crime "for those prisoners who, after capture, took up arms in the service of the enemy." (6:4) Other than having rules for treasonous acts, however, our country did not consider codifying how the personnel in our armed forces should conduct themselves if they became POWs until after the Korean War. The purpose of this paper is to acquaint you with the evolution of the U.S. Code of Conduct, a set of rules that are to be the basis for the conduct of any enlisted person (or officer, for that matter) while being held as prisoners by the enemy during an armed conflict. We will do that by discussing the experience of prisoners during the Korean War and how that experience led to the need for a specified Code of Conduct. We will then examine the conduct of Americans who found themselves prisoners of war during the Vietnam war, and what effect that experience had on the Code of Conduct. We will then take a look at the evolution Code of Conduct training after the Vietnam War. First, let's take a look at the beginnings of our Code of Conduct.

2. The Korean War was unique in America's war experience to that point in that it was the first war America had been in whereby the enemy attempted to indoctrinate prisoners into their way of thinking. If this effort were successful, they could turn the POWs against their own country. It wasn't enough to be captured and held by the enemy; POWs had to then think as the enemy did. The Communist North Koreans and Chinese frequently resorted to "mental and physical

torture, psychiatric pressures or ‘Pavlov Dogs’ treatment” in order to force a confession from the American prisoners. (6:13) The United States recognized the danger in this and decided to create a set of rules of conduct for its military personnel to be used should they become POWs, as well as “a special training program to teach American servicemen the ways and means of resisting enemy interrogators.” (6:15). On 17 May 1955, Secretary of Defense Charles E. Wilson, therefore, created the Defense Advisory Committee on Prisoners of War.

3. The Committee struggled with the provisions in what would eventually become Article V of the Code. This article, as it originally was implemented in 1955, stated, “When questioned, should I become a prisoner of war, I am bound to give only name, rank, service number, and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.” (5:43) Some felt that prisoners should be bound to give only their name, rank, serial number, and date of birth in accordance with the provisions of the Geneva Conventions of 1949; indeed, this was consistent with the wording used in the actual Conventions: “Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.” (2:—) Others on the Committee, reflecting on the intense indoctrination attempts and torture suffered by American prisoners in the Korean War, felt that would be too stringent. In the end, the more restrictive language was used. In the Committee’s report, they explained it this way:

The committee agreed that a line of resistance must be drawn somewhere and initially as far forward as possible. The name, rank, and service number provision of the Geneva Conventions is accepted as this line of resistance.

However, in the face of experience, it is recognized that the POW may be subjected to an extreme of coercion beyond his ability to resist. If in his battle with the interrogator he is driven from his first line of resistance he must be trained for resistance in successive positions. And, to stand on the final line to the end—no disclosure of vital military information and above all no disloyalty in word or deed to his country, his service, or his comrades. (6:18)

In other words, the goal was for the prisoners to give only name, rank and service number, but if under extreme torture, to at least give no information of military value to the enemy, and to be loyal in word and deed to their country. Once this issue was resolved to the Committee's satisfaction, they were ready to forward their recommendation to President Eisenhower for implementation.

4. The Committee's efforts culminated in the creation of the Code of Conduct, also known as "The U.S. Fighting Man's Code." President Eisenhower approved the Code of Conduct by signing Executive Order Number 10631 on 17 August 1955. (5:41) But the new code would not be tested in war until the United States was fully involved in a conflict with another Communist enemy: the Vietnam War.

5. The North Vietnamese and Viet Cong prison commanders and interrogators seemed to know our Code of Conduct as well as, if not better than the prisoners under their control. As a result, they made concerted efforts to induce the prisoners to compromise the provisions of the Code. In spite of all the Communists did to circumvent and compromise the Code of Conduct, it seemed to weather its first test of war rather well. However, as a result of the stories related by

the prisoners of extreme physical and mental torture, debate continued as to whether the Code needed revision, in light of our Vietnam experience.

6. In response to the growing furor over the utility of the Code in light of our Vietnam experience, a group of three former POWs studied the issue in 1974 at the Industrial College of the Armed Forces. They made a number of conclusion regarding the Code:

a. Regarding training in the Code, the study determined “that training in the Code prior to and during the Vietnam conflict was inadequate...unit training programs were mediocre, poorly supervised, and only partially effective.” (3:89) The study further found that the various Services misinterpreted and thus incorrectly trained the most controversial clause of the Code, Article V. As a result, within Vietnamese prison camps, there was “dissension among POWs and friction within the POW organization. To prevent this in the future, it is absolutely essential that one interpretation be applied and taught in all Services.” (3:90)

b. With regard to the utility of the Code in Vietnam, the study found that “the Code was of tremendous value to the POW in Vietnam. It was the military ethic by which he lived and conducted his perpetual battle against his captor’s attempts at exploitation.” (3:90)

c. The study also found that there were deficiencies in the Code. First, that “Article V of the Code was misinterpreted and misapplied by three of the four Services, to the detriment of individual POWs and the POW organization in Vietnam.” (3:92) Second, that “there [was] considerable uncertainty within the Services as to the scope and legality of the authority of the Senior Ranking Officer (SRO) in a POW situation...The SRO’s responsibility is specified in paragraph 3, Article IV, of the Code. He needs legal, unquestioned authority to carry out that responsibility.” (3:92) It’s worth pointing out here

that segregation of officers from enlisted personnel in enemy POW camps is not unprecedented, so it follows that the SRO could very well be a Non-Commissioned Officer or Petty Officer. For this reason, enlisted personnel need to be fully cognizant of SRO authority and responsibilities.

d. The primary question addressed in the study was whether or not the Code of Conduct was “a viable standard for use in future armed conflicts, or should it be changed, and, if so, how?” (3:93) The study made two main conclusions in this regard. First, that “a central military interpretation of the controversial clauses of the Code should be published by the appropriate authority in a document which is binding upon all branches of Service. This should include requirements for commonality of training among the Services.”(3:92)

Secondly, the study found that the “legality of the authority of the SRO and of the command structure of the POW organization must be established firmly and clearly, once and for all.” (3:92)

7. The Department of Defense apparently took these findings to heart. In May 1976, the Defense Review Committee for the Code of Conduct recommended a change to Article V: It would now read, “I am required [formerly “bound”] to give name, rank, service number, and date of birth...” President Carter signed the executive order that implemented this change on 3 November 1977. The Department of Defense also attacked the training problem by publishing Department of Defense (DoD) Directive 1300.7, *Training and Education Measures Necessary to Support the Code of Conduct*. This document goes a long way toward correcting many of the training deficiencies pointed out since the creation of the Code. Enclosure 2 of this directive contains specific guidance for conducting Code of Conduct training. For each Article of the

Code, it sets forth (a) a statement of the Article, (b) basic explanatory material on that Article, and (c) training guidance for Service members, depending on the various levels of probable threat to them. (4:2-2) The Air Force has implemented the DoD Directive in Air Force Instruction 36-2209, *Survival and Code of Conduct Training*. We find now that, even though the Communist threat has diminished, the possibility of torture and indoctrination at the hands of an enemy while in captivity still exists, perhaps in ways never considered by the authors of the Code.

8. The Code can still be applied even when a Service member finds themselves in the hands of terrorists, such as when Lt. Col. David Roeder found himself in the hands of Iranian extremists when they took over the American Embassy in Tehran on 4 November 1979. When interviewed for an article in the Air Force Times, Lt. Col. Roeder said that during his 444 days in captivity, he underwent “some physical abuse, was blindfolded, bound, put in solitary confinement and repeatedly interrogated.” (1:6) Lt. Col. Roeder further said “the Code of Conduct worked for him and [he] thinks that appropriate guidance, though maybe not ‘the Code,’ should be provided all military and civilians assigned to embassy duty.” (1:6) Let’s now review where we’ve been in our discussion.

9. We started by explaining how the Code of Conduct grew from our experiences in the Korean War. We then took a look at how well the Code worked during the Vietnam War, and how our experiences in Vietnam pointed out some shortcomings both in the wording and training of the Code. We then looked at how Department of Defense answered these deficiencies by rewording Article V of the Code and publishing DoD Directive 1300.7 (which is implemented within the Air Force in Air Force Instruction 36-2209), and how in today’s world the Code can apply even

when we are held by terrorists. You should now be better acquainted with the evolution of the Code of Conduct, and that the Code is the basis of conduct for **all** military personnel, officers and enlisted. The Code is a noble, living set of standards that we hold ourselves to as military professionals, and is one of the key factors in making the U.S. Armed Forces the best in the world.

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