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Mr. John Greenewald, Jr.  
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Sincerely,

BRIAN POWERS  
LCDR, JAGC, USN  
By direction

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**Evaluation of the Code of Conduct for Members of the  
Armed Forces of the United States.**

International Law Department  
Center for Naval Warfare Studies  
U.S. Naval War College  
Newport, RI 02841-1207  
USA

**NAVAL WAR COLL NEWPORT RI**

**JUN 1974**

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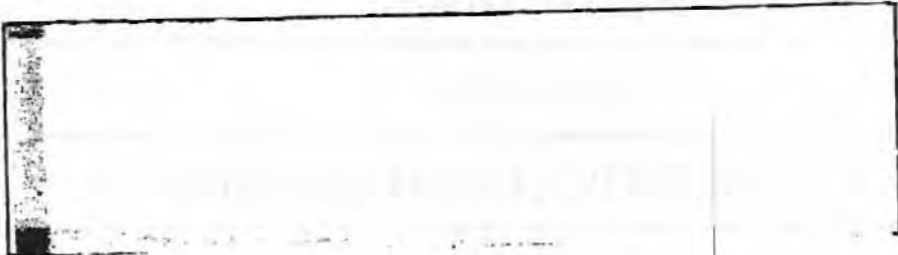
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EVALUATION  
OF  
THE CODE OF CONDUCT  
FOR  
MEMBERS OF THE ARMED FORCES OF THE UNITED STATES

by

Robert C. Oaks, Colonel, U.S. Air Force  
Kenneth W. North, Lieutenant Colonel, U.S. Air Force  
Robert H. Kjar, Lieutenant Colonel, U.S. Air Force  
William J. Tiernan, Lieutenant Colonel, U.S. Marine Corps

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## DOCUMENT CONTROL DATA - R &amp; D

(Security classification of title, body of abstract and indexing annotation must be entered when the overall report is classified)

1. ORIGINATING ACTIVITY (Corporate author) Naval War College Newport, Rhode Island		2a. REPORT SECURITY CLASSIFICATION <b>SECRET/NOFORN</b>	
		2b. GROUP	
3. REPORT TITLE Evaluation of the Code of Conduct for Members of the Armed Forces of the United States. (U)			
4. DESCRIPTIVE NOTES (Type of report and inclusive dates) Advanced Research Paper			
5. AUTHOR(S) (First name, middle initial, last name) Robert C. Oaks Kenneth W. North Robert H. Kjar William J. Tiernan			
6. REPORT DATE June 1974	7a. TOTAL NO. OF PAGES 270	7b. NO. OF REFS Numerous	
8a. CONTRACT OR GRANT NO.		9a. ORIGINATOR'S REPORT NUMBER(S)	
b. PROJECT NO.			
c.		9b. OTHER REPORT NO(S) (Any other numbers that may be assigned this report)	
d.			
10. DISTRIBUTION STATEMENT Distribution limited to U.S. Govt. agencies only: (Proprietary information). Other requests for this document must be referred to: President, Naval War College, Attn: Director, Advanced Research Program, Newport, Rhode Island 02840 <b>25 FEB 1975</b>			
11. SUPPLEMENTARY NOTES		12. SPONSORING MILITARY ACTIVITY Naval War College Newport, Rhode Island	
13. ABSTRACT The Code of Conduct was promulgated at Presidential Order 10631 in 1955 in response to incidents of misbehavior by U.S. POWs during the Korean War. Subsequent confinements of U.S. military men by communists have indicated a need to reevaluate the specific provisions of the Code and its accompanying training program. Surveys of CEA POW returnees and AF-crewmembers highlight specific problem areas. Analysis of the 11 basic provisions of the Code prompt significant recommended changes in three areas---escape, parole, and communications with the enemy.			



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Naval War College  
Newport, R.I.

EVALUATION  
OF  
THE CODE OF CONDUCT  
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REC'D  
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- Robert C. Oaks, Colonel, U.S. Air Force
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- William H. J. Tiernan, Lieutenant Colonel, U.S. Marine Corps

A study prepared at the direction of Vice Admiral Stansfield Turner, USN, President, Naval War College, and under the auspices at the Advanced Research Council, Naval War College, Newport, Rhode Island.

The contents of this paper reflect our own personal views and are not necessarily endorsed by the Naval War College, the Department of the Navy or the Department of the Air Force.

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June 1974

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PREFACE

About the authors

Colonel Robert C. Oaks was the Executive for Honor and Ethics at the U.S. Air Force Academy and a former Tactical Fighter Squadron Commander.

Lieutenant Colonel Kenneth W. North was a Prisoner of War in North Vietnam from August, 1966 until March, 1973.

Lieutenant Colonel Robert H. Kjar has extensive Personnel Management experience and a former Combat Casualty Reporting Officer in Southeast Asia.

Lieutenant Colonel William H. J. Tiernan was the Staff Judge Advocate responsible for a portion of the investigation of allegations of misconduct by certain Vietnam Prisoners of War.

The authors realized the need for a study to determine the effects of the Code of Conduct as an effective guide to behavior for U.S. servicemen. Recommendations have been made to the Air Staff, as a result of this study, and a basis for a service position on this critical, current problem has been provided.

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## CHAPTER I

### INTRODUCTION

(U) The U.S. Fighting Man's Code of Conduct was written in 1955 and promulgated as Presidential Executive Order 10631. The Order was drafted by the Defense Advisory Committee on Prisoners of War under the Chairmanship of Mr. Carter L. Burgess, Assistant Secretary of Defense (Manpower and Personnel). This Code has served as an important guide for training men for combat and possible captivity for the past 19 years. The Code as published at that time is printed below.

### THE CODE OF CONDUCT

#### Article I

(U) I am an American fighting man. I serve in the forces which guard by country and our way of life. I am prepared to give my life in their defense.

#### Article II

(U) I will never surrender of my own free will. If in command I will never surrender my men while they still have the means to resist.

#### Article III

(U) If I am captured I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy.

Article IV

(U) If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information nor take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.

Article V

(U) 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.

Article VI

(U) I will never forget that I am an American fighting man, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

(U) PURPOSE OF CODE

The Code was a government response to the adverse publicity that stemmed from several instances of misbehavior by U.S. Prisoners of War (PWs) in North Korean PW camps. It was an attempt to formalize the standards of conduct expected of U.S. combat troops on the battlefield and especially in the prison camp. Such standardization was aimed at clarifying for the man what his country expected of him in the stress-laden environment of the prisoner of war camp. The committee believed that such clarification would help the individual resist the type of exploitation that was practiced by the Communist captors in Korea.

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(U) The Code of Conduct was not envisioned as a new set of standards but as a capsulization of the laws, customs and traditions that had served as standards of military conduct throughout the nation's history. It was not intended to stand by itself as an independent constraint. Subsequent experience has shown that the Code must be a reflection of what the American people and their political representatives expect from Prisoners of War as well as a reflection of military expectations. Political and cultural attitudes determine, to a large degree, what levels of discipline and obedience will be enforced in the military services.

NEED FOR REVIEW

(U) In the 19 years since the formalization of the Code of Conduct, the U.S. has fought a prolonged war during which several hundred men were held as PWs. Numerous other U.S. citizens have also been detained by various Communist captors.

(U) These detentions provide an opportunity for a reevaluation of the Code of Conduct and its serviceability as a meaningful guide for behavior for both the fighting man and the captive. Both the returnees from the PW camps in Hanoi and the crew of the U.S.S. Pueblo have expressed their attitudes toward the Code of Conduct and have surfaced areas of conflict.

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(U) In response to the extensive news coverage of the PW release from Hanoi, Air Force Combat Crew members who might be the PWs in some future conflict have formed their own opinions of the worth of the Code of Conduct as a guide to PW behavior. Unprosecuted allegations of misconduct have further affected people's confidence in the Code and their willingness to live by its precepts.

(U) The Communist captor's continuing policy of prisoner exploitation raises the question of the adequacy of present Code of Conduct provisions and training. These exploitative efforts have seriously jeopardized the concept of "benevolent quarantine" which evolved after hundreds of years of prisoner mistreatment. This concept (which is the basis of the Geneva Conventions) provides the PW with some assurance of security and survival.

(U) Before any successful evaluation of the Code of Conduct can be completed, however, a set of objectives for the Code must be proposed and defined. These objectives will provide the criteria by which specific Code provisions, present or proposed, will be judged.

(U) In addition to meeting certain functional objectives, the Code of Conduct is aimed at influencing men's behavior, men of widely varied backgrounds and points of view. The Code must be understandable and meaningful for the 18 year old rifleman as well as for the 45 year old wing commander.



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PURPOSE OF STUDY

(U) The purpose of this evaluation of the Code of Conduct is to make recommendations for specific structural and conceptual changes where necessary.

METHODOLOGY OF STUDY

(U) This study will first examine the prominent problems associated with the Code of Conduct. These problems range from misunderstandings about the legal status of the Code to questions of to whom and when it applies. The historical and legal background of Prisoner of War treatment will then be discussed. While several good historical reviews have already been written, it is desirable to have ready access to background information relating to the specific proscriptive and prescriptive provisions of the Code of Conduct.

(U) A set of proposed objectives is included to enable discussions on the Code to focus on specific goals. Following the acceptance of objectives, the specific provisions of the present Code can be analyzed in the light of how they serve the objectives. From this analysis recommendations for specific changes will be made.

(U) The emphasis of this study will be on the role of the Code as a valid guide to combatant and PW behavior. Consequently, considerable attention has been given to the

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attitudes of returned PWs and potential PWs. Two surveys were conducted to sample these attitudes. One was sent to all U.S. Air Force, Navy and Marine Corps personnel who were released from Southeast Asia prison camps in early 1973. A second survey was sent to over 6,000 Air Force Combat Crew Members to determine their attitudes toward the Code of Conduct.

(U) Interpretations of the Code of Conduct have generated considerable controversy. Material is now available to aid in the solution of many of the traditional problems pertaining to the Code. This study is intended to provide such a solution.

## CHAPTER II

## DEFINITION OF PROBLEM

(U) There are several areas of conflict relating to the U.S. Fighting Man's Code of Conduct which will be discussed in this chapter. Generally these problems relate to ambiguity regarding what the Code is and to whom it applies; a lack of objectives for the Code; and how the Code is perceived by those who tested its concepts in the PW camps in Southeast Asia and by those most likely to live by it in the future. Only when these problems are understood and these questions answered can the basic provisions of the Code itself be evaluated in terms of how they support the agreed upon objectives.

LOSS OF CONFIDENCE IN CODE

(U) The primary purpose of the Code of Conduct is to influence the behavior of American fighting men in combat and captivity. It will only serve this purpose as long as a majority of these men feel that the Code is a useful, valid statement of proven principles. The problems of vague objectives, uncommunicated expectations, undefined relationships and unprosecuted violations have seriously deteriorated the confidence of PW returnees and Air Force Combat Ready Crew members in the Code of Conduct.

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(U) A majority of the PW returnees feel that various aspects of the Code of Conduct should be changed or clarified (Appendix 1, Questions E20, E21, E22, E25, and E28). Eleven percent of the Combat Crew members feel that the Code of Conduct is unnecessary (Appendix 2, Question 44). These levels of dissatisfaction and skepticism document a serious problem that must be corrected by either revised concepts or a revitalized training program, or both.

WHAT IS THE CODE?

(U) The military experience in Vietnam has highlighted the confusion that has existed regarding the Code of Conduct. The original report of the Secretary of Defense's Advisory Committee on Prisoners of War, which contained the Code of Conduct, was written in a forceful language prohibiting certain actions as well as emphasizing the man's subjection to the Uniform Code of Military Justice upon his release.<sup>1</sup>

(U) Early Code of Conduct training gave the firm impression that the provisions of the Code of Conduct were binding legal obligations which would be used as standards for the judgment of a man's conduct upon release. The Code was used as a training device which summarized many of the country's expectations of behavior for military men in

1. U.S. Department of Defense, POW: The Fight Continues After the Battle, The Report of the Secretary of Defense's Advisory Committee on Prisoners of War, August 1955, pp. 17-23.

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general and prisoners of war specifically. Unfortunately the relationship of the Code of Conduct to Uniform Code of Military Justice enforcement procedures was not made clear in the training.

(S) Many of the Vietnam prisoners of war entered their captivity with the firm understanding and conviction that they would be punished for any violations of the Code of Conduct.<sup>2</sup> Upon their release the PWs found that in fact the Code of Conduct was not going to be enforced. Many have been frustrated in that those who did not even attempt to live by the spirit of the Code were treated as heroes along with the tougher, more resistive men. The feeling prevails that those who did seek to live by the Code were betrayed by the "traitors" who did not.<sup>3</sup>

(S) The decision not to prosecute men accused of misconduct in North Vietnam prison camps highlights the difficulty of holding men responsible for their actions. This decision took into account the suffering the men had already experienced, the difficulty of proving a prison camp case in court, and the political climate at the time of release. Nevertheless it further degraded confidence in the Code of Conduct.

2. Code of Conduct Message File, Homecoming Special Report No. 53, 282331A, 27 March 1973, Headquarters 7602d Air Intelligence Group, (AFIS) Fort Belvoir, VA. CONFIDENTIAL

3. Code of Conduct Message File, Marine Homecoming Debrief No. 2 R241509Z, March 1973. CONFIDENTIAL

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(S) To prevent the further generation of unrealistic expectations and to increase confidence in the value of the Code, it is imperative that the exact status of the Code of Conduct be agreed upon and clearly promulgated in training.

WHEN DOES CODE APPLY?

(U) Another aspect of the Code status question was highlighted by the Pueblo incident. From the House Armed Services Committee investigation it became evident that there was a serious question in the minds of the Pueblo detainees whether the Code of Conduct applied to them since there was no declared state of hostility between the U.S. and the Peoples Republic of Korea. This confusion apparently caused some weakening of the efforts of some of the crew to abide by the precepts of the Code.<sup>4</sup>

(U) These questions of definition must be answered before the Code can be expected to serve as an effective guide to behavior for the American fighting man.

LACK OF OBJECTIVES

(U) A meaningful review of any program, policy or document requires a set of clearly defined objectives. These objectives become the criteria by which the success or value of the product can be judged. Worthwhile objectives must be

4. "Pueblo - What Went Wrong?" Armed Forces Journal 106: 9-10 August 9, 1969, p. 9.

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specific and to some extent measurable. There currently exists no statement of objectives for the Code of Conduct. Until such a statement can be agreed upon, questions cannot be answered regarding the suitability of the present Code.

(U) These objectives must describe a standard of behavior for the PW, a standard which is in consonance with the expectations of the American people. Training programs must be designed to reflect these national expectations so that a man may enter combat with a clear understanding of how he ought to behave if captured.

(U) It is imperative that this description be a realistic set of goals rather than be so idealistic as to be unattainable. While very idealistic exhortations often inspire men to greater heights than more pedestrian statements might, the isolated, stressful environment of the PW camp lacks the moderating influence of normal society. The inflexible, stringent demand can become an impossible yardstick by which a man measures his daily failures. The present Code sets very high standards with the apparent hope that they will inspire men to reach for its lofty goals. If the goals are not attainable then either depression or disinterest may displace inspiration. In looking for a valid moral guide in an atmosphere of isolation and great stress, it is important to have standards that are less equivocal and more attainable. When a man's sense of personal worth is likely to be

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very low already, it does not seem wise to burden him with a set of ideals so exalted that they cannot be reached by the average well-trained man.<sup>5</sup>

(U) The average potential PW must perceive the Code of Conduct as being a reasonable set of standards which will enable him to survive, resist and return with honor from a captive state. It should reflect for him what other good men have been able to achieve in similar situations. The Code of Conduct should also set the tone for what PWs expect of each other and of their country.

(U) The first step in addressing Code of Conduct questions is the development of objectives and accompanying expectations for the principal parties involved.

#### COMMON TRAINING

(U) To simplify the collection and analysis of necessary information only the Air Force aspect of the Code of Conduct problem is discussed in detail in this study. However, the Code is a joint service problem that must be solved jointly. The test of the Code takes place behind the barbed wire of the captor's PW camps where the men of all services must live together and support one another through an effective organization for the achievement of their goals. Thus,

5. James L. Binder. "Measuring Up to the Code," Army, 1973, p. 4.



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they all must have a common, compatible understanding of the meaning of the Code of Conduct. This has not been the case in the past.

(U) Military Historian S.L.A. Marshall was asked to evaluate the services' training with respect to the Code of Conduct and resistance training. He was convinced that the training program was very nonstandard. He recommended that all instructor training be conducted at Stead Air Force Base with its fine experimental laboratory (now located at Fairchild Air Force Base). The Army and Navy, however, rejected this recommendation.<sup>6</sup>

(U) Marshall felt that problems stemmed from the implementation efforts of the services and not from conceptual weaknesses in the Code. While he was particularly critical of the Army and Navy programs, he saved his harshest words for the Office of the Secretary of Defense. The responsibility for standard, effective training could only be discharged by OSD, he said, and "that office simply winked its eye and left the problem to Heaven."<sup>7</sup>

(U) The achievement of a common understanding is seriously complicated by the diverse approaches of the separate services.

6. S.L.A. Marshall, "The Code and the Pueblo - Some Questions and Answers," A.F. Space Digest, July 69, p. 75.

7. 7. Ibid., p. 76.

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## CHAPTER III

## HISTORICAL BACKGROUND

## TREATMENT

MURDER, ENSLAVEMENT, RANSOM

(U) The Prisoner of War problem is as ancient as the phenomenon of war itself. In primitive times prisoners were simply executed or enslaved without any thought that the captive had special rights. Even with the humanitarian standards of the Renaissance stating that it was illegal to do greater harm in war than the objective warranted, under certain circumstances it was permissible to take the lives of prisoners, the number to be killed to be determined by the amount of punishment deserved by the enemy.<sup>1</sup> A century later captives might be enslaved, but generally ransom and exchange were advocated. Prisoners were the personal property of the individual captor or organization fighting unit, though important prisoners were taken over by the sovereign and ransomed at a scale of prices fixed by custom.<sup>2</sup>

1. Dr. Robert F. Futrell, Prisoner of War: The Historical Background As Contained in U.S. Department of the Air Force, The Report of the Air Force Advisory Committee on Prisoners of War - 1963, p. 2. SECRET.

2. William E.S. Flory, Prisoners of War: Study in the Development of International Law, (Washington: American Council on Public Affairs, 1942), p. 14.

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(U) With the emergence of modern nation states came the concept that war was a conflict between states rather than individuals. The Treaty of Westphalia in 1648 provided for the release of prisoners without ransom, marking the end of prolonged enslavement among Christian nations. Prisoners did, however, continue to be ransomed during hostilities until the last ransom cartel between France and England was signed in 1780.

PROTECTIVE RULES

(U) Rules began to evolve with regard to prisoners and their interrogation in the eighteenth century. In 1748, Montesquieu wrote that war gave no right over prisoners other than to prevent them from doing further harm by securing their persons.<sup>3</sup> In 1762, Rousseau wrote that war was a relation of state to state in which individuals were enemies only through accident, not as men but as soldiers.<sup>4</sup> The right to kill existed only as long as soldiers were armed, and as soon as they surrendered they became ordinary men.<sup>5</sup>

(U) In this country although humane conditions of confinement, care and parole were mutually recognized by the

3. Futrell, p. 3.

4. Ibid.

5. Ibid.

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American colonial armies and the British armies during the war for independence, the fate of the prisoners varied. An estimated 20,000 American Prisoners of War died on British prison ships.<sup>6</sup> Some prisoners escaped, others were exchanged by cartels while still other Continental Army soldiers became turncoats and joined the British.

(U) During the Civil War a step backward was taken in the treatment of prisoners, as in the confederate prison at Andersonville and the union prison ships. But nevertheless an even greater awareness of the need to define standards of care and conduct of Prisoners of War emerged.<sup>7</sup>

#### VARIOUS CONVENTIONS

(U) In 1874 the Congress of Brussels established the rights of prisoners in a declaration signed by 15 nations. While none of these nations ratified the agreement, it did pave the way for the Hague Convention of 1899 and 1907, which established the recognition of certain humanitarian principles. The 1907 Hague Convention led to the Geneva Conventions of 1929 and 1949. The Hague and Geneva Conventions all undertook to address some of the problems created by war and to provide guidance for the treatment of prisoners.

6. Futrell, p. 4.

7. The first complete compilation of a Code for humane treatment of Prisoners of War during the Civil War by General Lieber. See American Instructions, 1863, by Lieber in Appendix II of Herbert C. Fooks, Prisoners of War, (Federal-ebert, MD.: J. W. Stowell Printing Co., 1924), p. 237.

The 1949 Geneva Convention contains the basic principles relating to Prisoners of War found in the earlier agreements. The Hague Convention of 1907 stated that Prisoners of War must be humanely treated.<sup>8</sup> Humane treatment of Prisoners of War is now a matter of customary international law and supposedly accepted as such by all the nations. The drafters of the Geneva Convention of 1949 accomplished a significant step forward in general humanitarian law. The attitude of the International Committee of the Red Cross was summarized on page 10 of the Commentary on this Convention:

(U) From the Hague Regulations to the 1929 Convention, from the 1929 Convention to the present Convention, the "law of Prisoners of War" has thus made considerable progress. It is no exaggeration to say that Prisoners of War in present and future conflicts are covered by a veritable humanitarian and administrative statute which not only protects them from the dangers of war, but also ensures that the conditions in which they are interned are as satisfactory as possible. Obviously rules as detailed as these were drawn up primarily with a view to lengthy conflicts, such as the last two world wars; but they also have the tremendous advantage of defining, in practice and in relation to certain specific circumstances, the position of the human being as such in the present day international system.<sup>9</sup>

8. Regulations, Hague Convention IV, 1907, Article IV cited in Fooks, p. 337.

9. "The Prisoners of War Problem," (Washington: American Enterprise Institute for Public Policy Research, December 1970), p. 3.

(U) The Conventions spell out in detail the rights that should be afforded the prisoners by the detaining state, but they do not specifically prescribe the conduct a state may expect of its own fighting men after they become prisoners. Also, the Conventions set forth responsibilities for the prisoners such as Article 17:

(U) Every Prisoner of War, when questioned on the subject, is bound to give only his surname, first name and rank, date of birth, and Army, regimental, personal or serial number, or failing this, equivalent information. If he willfully infringes on this rule, he may render himself liable to a restriction of the privileges according to his rank or status.

(U) The 1929 Geneva Convention was in existence when World War II began, but neither Japan nor the Soviet Union had ratified it and both countries largely ignored its provisions for the protection of Prisoners of War. Germany, which had ratified the 1929 Convention, did not apply it to Russian prisoners. However, between the United States and Germany, both of whom ratified it, its requirements were generally observed.<sup>10</sup>

#### COMMUNIST EXCEPTIONS

(U) Following several meetings after the war ended, a diplomatic conference was convened in Geneva in April 1949

10. U.S. Congress, House, American Prisoners of War in Southeast Asia, 1971, Subcommittee on National Security Policy and Scientific Developments of the House Committee on Foreign Affairs, 92d Congress 1st Session, p. 482.

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by the Swiss Federal Council as the depository of the 1929 Conventions. Fifty nine states were officially represented by delegates with full powers to discuss the procedures. These sessions ended on August 12, 1949, when the draft was submitted for approval. By February 12, 1950 all states represented had signed the Conventions. However, government ratification was required before the Conventions were to become binding. At the outbreak of the Korean War on June 25, 1950, the United States, Communist China and North Korea had not ratified the Conventions (in fact, it was not until 1957 that the United States ratified the Convention). While the Communist bloc nations now pay lip service to the 1949 Geneva Conventions they have all taken exception to Article 85. Article 85 reads as follows:

(U) Prisoners of War prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.

(U) In the recently concluded conflict in Indochina, North Vietnam based its refusal to afford American Prisoners of War "Prisoner of War" status on its reservation to Article 85. North Vietnam asserted that the Geneva Convention does not protect American military men who are shot down and captured in North Vietnam because these men are "criminals" subject to punishment according to its laws. The reservation that the North Vietnamese submitted to this article stated that:

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(U) The Democratic Republic of Vietnam declares that Prisoners of War prosecuted for and convicted of war crimes or crimes against humanity, in accordance with the principles established by the Nuremberg Tribunal, will not enjoy the benefits of the present Convention as provided for in Article 85.<sup>11</sup>

#### KOREAN WAR

(U) The Korean War began on 25 June 1950. Before its termination on 27 July 1953, one and one-half million Americans went to fight. Of these, 7,190 were captured by the enemy, but only 4,428 survived the treatment of the Communist prison compounds. Over 38% of the American PWs did not return. That was the highest PW loss rate for any American war.<sup>12</sup>

(U) Inhumane treatment, torture and execution began for Americans captured in Korea with the so called "death marches" to the prison camps. Many prisoners never survived these marches. Once in the camps, the facilities, food and treatment were inadequate. Medical care, when available, was poor. The harsh climate added to the ordeal of the prisoners who were not provided with the minimum standards

11. Howard S. Levi, "Maltreatment of Prisoners of War in Vietnam," Boston University Law Review, Summer 1968, p. 327.

12. Lieutenant Colonel Michael Patrick Murray, USMC, "Historical Analysis and Critical Appraisal of the Code of Conduct for Members of the Armed Forces of the United States," a study prepared at the U.S. Naval War College, Newport, R.I., June 1973, p. 8.



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of treatment required by either the 1929 or 1949 Geneva Conventions. The small and seldom-provided favors of mail, tobacco and candy were usually offered as bribes or withheld as a form of punishment. Only a few relief packages were ever received by the PWs and the Red Cross was not permitted to visit the camps. Interrogations, attempted indoctrination, and mistreatment to obtain information were the order of the day for American prisoners in Korea. As a result of this experience the United States learned a great deal about mistreatment of prisoners.<sup>13</sup> The harsh, inhumane treatment contributed to the high rate of PW collaboration in Korea.

(U) What were the communists seeking that caused them to ignore the Geneva Convention and to subject United Nations prisoners to such brutal, inhumane treatment? Interrogators demanded detailed biographic information on the individual prisoners and their families as well as military information, such as identity of their unit, data on training programs and performance data for aircraft. They also sought bacteriological warfare confessions from air crews and conducted communist indoctrination.

(U) What success did the communists have? Of the 263 Air Force prisoners practically all filled out personal history

13. "The Prisoner of War Problem," (Washington: American Enterprise Institute for Public Research, December, 1970), p. 16.

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questionnaires; most gave unclassified military information; and 25 percent of Air Force prisoners captured during 1952 confessed:

to having carried out BW missions over North Korea, China and even Russia. In the summer of 1952, when the program was particularly intense, the Chinese got confessions from approximately 50% of Air Force men captured. Even at the height of this program, only certain prisoners were selected for BW interrogation.<sup>14</sup>

(U) Throughout history to World War II, the Prisoner of War was primarily exploited for intelligence type information. World War II showed the first efforts at indoctrination for political and propaganda purposes. With the Korean War came a highly successful psychological warfare program, which received substantial support via Prisoner of War exploitation. The reaction of the American public was one of dismay, shifting from concern for the welfare of the PWs to concern for their questionable behavior while they were interned. It is unfortunate that the American public was not made more aware of the fact that the treatment received by most Korean PWs led to their questionable behavior while they were interned. There are some things a man will just not die for. Nevertheless, the Korean War had ended and the conduct of prisoners in that war pointed to the need for guidance through a code compatible with the principles of our form of government.

14. Futrell, p. 31.

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(U) As a result of the Communist interrogation and indoctrination successes in Korea and the accompanying adverse publicity, the Defense Department began looking for ways to improve the determination and commitment of the fighting man.

#### CODE OF CONDUCT DEVELOPMENT

(U) Throughout the Korean War there had been conflicting opinions on PW communications with the enemy. The Air Force approach was that PWs should be instructed to attempt to evade an interrogator's questions by claiming poor memory and giving vague and indefinite replies, while the other services felt that the most effective interrogation resistance training was a thorough indoctrination in a single line of resistance based on name, rank, serial number and date of birth (NRSD) only.

(U) In October 1953, the Air Force appointed a working panel comprised of representatives of six Air Staff agencies to resolve the Air Force position regarding conduct of its personnel in the event of capture.<sup>15</sup> The panel report contained four sections which dealt in some detail with the problem of resisting enemy interrogation; resisting efforts

15. S.L.A. Marshall, "The Code and the Pueblo, Some Questions and Answers," Air Force and Space Digest, July 1969, p. 74-76.

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to extract confessions; resisting conversion to communism; and surviving in a PW camp.

(U) Then in 1954, the Secretary of Defense appointed an all-service commission to study the problem of proper training for conduct in captivity. However, this group was finally dissolved because it failed to reach agreement on the NRSI issue.<sup>16</sup>

(U) Since the services could not reach a common agreement and because the nation was concerned with PW performance in Korea, the Defense Advisory Committee was appointed to draft the Code of Conduct.

#### BURGESS COMMITTEE

(U) The Defense Advisory Committee on Prisoners of War, with Mr. Carter L. Burgess (ASD) as chairman, was appointed by the then Secretary of Defense, Charles E. Wilson, on 17 May 1955. Mr. Wilson directed the Committee to work towards the development of a Code of Conduct along with recommendations for indoctrination and training in preparation for future conflicts.

(U) In a letter to President Eisenhower on that same day, Mr. Wilson stated it was important to national security to provide military members with every means ". . . to oppose the techniques of physical, mental and moral

<sup>16</sup> U.S. Department of the Air Force, The Report of the Air Force Advisory Committee on Prisoners of War - 1963, p. 60-64. SECRET.

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persuasion employed by nations within the Soviet orbit to advance the ends of communism in war and during the period of international tension."<sup>17</sup> It appeared that international conventions were not going to provide any protection for the rights of captured American fighting men when signatories to these conventions chose to ignore them. In view of the stark realities of the communist position, something was needed to prepare American fighting men for the grueling days that faced them should they become prisoners in a communist compound. Mr. Wilson's memo to Mr. Burgess directed the committee not only to develop the "rules," but to make recommendations for the indoctrination and training of the military forces.<sup>18</sup> There was ample evidence that many Korean War PWs, knew neither what to expect nor what was expected of them. The Burgess Committee commented at length on the problem of false confessions, and stated that it ". . . is unlikely the communists will abide by the spirit of the Geneva Convention in a future war and forcing false confessions will continue to be a favorite practice."<sup>19</sup> The Committee pointed out that the communist's efforts to

17. Letter from Secretary of Defense to President Eisenhower advising of appointment of Defense Advisory Council, 1 May 1955, as cited in Murray, p. 2.

18. U.S. Department of Defense, POW: The Fight Continues after the Battle, The Report of the Secretary of Defense Advisory Committee on Prisoners of War, August 1955. p. 37.

19. Ibid., p. 17.

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obtain germ warfare confessions were common during the Korean War.

(U) With this background and the studies of Korean War PWs, the Burgess Committee set out to draft a Code of Conduct for American fighting men. As General J. E. Hull, U.S. Army (Ret.), noted in his comments as Vice Chairman of the Committee:

We did not undertake our task lightly. We view the prisoner problem as one of national concern and cannot, in all good conscience, advocate or adopt any conduct in opposition to the basic tenets which support our great nation.<sup>20</sup>

The Code of Conduct was designed to ". . . provide our fighting forces with a standard of conduct direct from the Commander-in-Chief. It was designed to aid the fighting men in the future, if ever they fall into an enemies' hands, in the fight for their minds, their loyalty, and their allegiance to their country."<sup>21</sup>

(U) On 17 August 1955, President Eisenhower issued Executive Order 10631 which implemented the committee's recommendations and promulgated the, "Code of Conduct for members of the Armed Forces of the United States."

(U) Department of Defense Directive 1300.7, 8 July 1964, directs that training in the Code of Conduct be initiated

20. Defense Advisory Committee Presentation to the Secretary of Defense, 29 July 1955, as cited in Murray, p. 15.

21. Ibid., p. 11.

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without delay upon entry of any individual into the Armed Forces and continue throughout his military career.

(U) The Code provides no penalties, is not definitive in terms of offenses, and it leaves to existing laws and judicial processes the determination of personal guilt or innocence in each individual case.<sup>22</sup>

SERVICE CONFLICT CONTINUES

(U) But the Code of Conduct did not stop service controversy over rules for communicating with captors. Service opinion differs over whether Article V permits training in responses beyond NRSD. The current controversy began in January 1963, when CINCPACFLT in a message to the CNO challenged the Air Force interpretation of the Code of Conduct. Navy pilots had attended the Air Force survival school at Stead AFB, Nevada, and received training in a "second posture of resistance to interrogation." They stated that their training was in direct conflict with the Navy interpretation of Article V, since Fleet Survival Schools teach "NRSD only."<sup>23</sup>

22. G. S. Prugh, Jr., "Code of Conduct for the Armed Forces," Columbia Law Review, May 1956, p. 676.

23. U.S. Department of the Air Force, An Historical Review of the Evolvement of Policy and Doctrine Pertaining to the Code of Conduct, Headquarters, USAF Analysis Program for Southeast Asia Prisoner of War Experience, Report No. 700/BA/BC.EH-1, 14 December 1973, p. 2. CONFIDENTIAL (hereafter cited as Air Force Report No. 700/BA/BC/EH-1).

AIR FORCE POSITION

(U) From their experience Air Force leaders took the position that any policy which recommended NRSD only as the prisoner's sole defense against enemy interrogation and exploitation was unrealistic, and unnecessarily exposed vital security information to compromise and disclosures through failure to recognize the fact that this policy has not worked in past wars.<sup>24</sup>

(S) NRSD only has been ineffective in practice. During World War II less than three percent of aircrew personnel were able to limit communications with their captors to NRSD, and only a few Korean War PWs were able to stay within this limit. However, out of 224 Air Force PWs in Korea, 38 had received training in responses beyond NRSD. It is of considerable significance that all 38 were able to protect the classified information they possessed, none signed bacteriological warfare confessions, and none committed acts which made them liable for punitive administrative action on their return.<sup>25</sup>

(S) ARMY, NAVY AND MARINE CORPS POSITION. These services initially felt that Article V was intended to permit only a single line of resistance, NRSD, and that training a man

24. The Report of the Air Force Advisory Committee on Prisoners of War - 1963, p. 94.

25. Ibid.



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to fall back when interrogated and give information beyond NRSD weakens his will to resist. They contended that it is unreasonable to place a military man in a position of having to evaluate his answers to an interrogation under very trying conditions.<sup>26</sup> The main difference between these positions was the judgement as to the wisdom of officially advocating a voluntary departure from NRSD.

(U) After the Pueblo crew returned from North Korea with accounts of maltreatment, forced confessions, and resistance to exploitation, the services reexamined their positions and drew closer together.

#### POST CODE OF CONDUCT EXPERIENCE

##### THE PUEBLO

(U) On 23 January 1968, the USS Pueblo was seized by hostile North Korean forces. The ship was boarded in international waters beyond the North Korean 12 mile limit and both ship and crew were taken to Wonsan, North Korea.

(U) The Pueblo was a Navy electronics surveillance ship collecting intelligence data on communist submarines, radar emissions, and radio traffic.<sup>27</sup> The ship was minimally armed, unescorted, and rescue support was not available.

26. Ibid.

27. U.S. Congress, Senate, "Communist Treatment of POW's," Judiciary Subcommittee to Investigate Administration of Internal Security Laws, (Washington, D.C.: U.S. Government Printing Office, 1972), p. 1.

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(U) After the ship was moored, the captain, Commander Lloyd M. Bucher and 82 crew members were taken ashore to begin what was to be 11 months of harsh captivity in the hands of the communist captor.

#### Communist Exploitation

(U) Little attempt was made by the North Koreans to extract intelligence information from the Pueblo crew. The seizure of the ship with most of its classified electronic equipment, cryptographic devices and publications largely intact apparently gave the communists all they needed and made crew interrogation unnecessary. Instead, the primary North Korean objective was obtaining written "confessions" to the violation of North Korean territorial waters by a U.S. ship. In subsequent efforts, the Koreans expanded their propaganda program to news conferences, films and broadcasts by the Pueblo crew.

(U) As detainees, Commander Bucher and most of his crew were immediately subjected to severe duress and harassment reminiscent of the Korean War. They were isolated, beaten and threatened with death if they did not sign confessions. Mock executions were used to attempt to intimidate Commander Bucher.<sup>28</sup>

28. Thomas E. Wolters, "The Code of Conduct -- Its Relevancy and Validity: 1955-1970," A thesis prepared at the U.S. Naval War College, Newport, R.I., 14 April 1971, p. 51.

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(U) After continued torture and threats to kill all members of his crew starting with the youngest man, Commander Bucher signed the confession. "Subsequently all officers and several crew members were forced to 'confess' to the intrusion."<sup>29</sup>

(U) While being aware of the Code of Conduct proscription, Commander Bucher defended his actions by saying that he felt his men's lives were at stake and were more valuable than his signature on a scrap of paper containing nothing but obvious lies and propaganda.<sup>30</sup> In addition to their participation in press conferences, broadcasts and film presentations throughout captivity, the crew members were required to insert propaganda statements prepared by the North Koreans into letters written to family, friends, and U.S. political figures.<sup>31</sup> In an effort to discredit these acts the crew members endeavored to include disguised comments which would condemn the statement as propaganda. They also attempted to include gestures in films and conferences that would indicate that the individual performing the act was not participating of his own free will. After the initial interrogation period which lasted about a month and a half, the harsh treatment tapered off, and the

29. Murray, p. 133.

30. U.S. Senate, "Communist Treatment of POW's, pp. 17-19.

31. Murray, p. 134.

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detainees lived an unpleasant but not unbearable existence until repatriation.

(U) The United States Government obtained the release of the Pueblo crew by signing an official apology admitting espionage and violation of North Korean territory.<sup>32</sup> On 21 December 1968, the officers and crew of the USS Pueblo were released to United States control at Panmunjom.

The Pueblo and the Code of Conduct

(U) The Pueblo incident offered the first real opportunity for evaluation of the Code. While Vietnam fighting had been going on since 1964, information about the fate of American PWs would not be available for several years to come. This test of the Code surfaced significant questions that concerned the applicability of the Code to the men of the Pueblo and their understanding of their obligations.

(U) The Pueblo incident and the subsequent government inquiries exposed a very confusing picture regarding the applicability of the Code of Conduct. The opinion held by some crew members, investigators and legislators, was that the Code was applicable only under declared wartime conditions. Had that been true, the Pueblo crew would not have been obligated to live by the Code while in the status of

32. U.S. Senate, "Communist Treatment of POW's", pp. 17-19.

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"detainees."<sup>33</sup> Korea had been at "armed peace" since the Armistice of 1953. Since a state of war did not exist at the time of the Pueblo capture, some held that the Fighting Man's Code was simply not applicable. This view was not shared by the Secretary of the Navy and other members of the CNO Staff who declared that:

. . . the Code of Conduct applies to all members of the armed forces who are held in hostile confinement regardless of the 'status', but only as a guide line for their Conduct<sup>34</sup> and not as a basis for punishment.

#### Code of Conduct Training

(S) The general confusion about the Code that existed in Congress and among some military leaders also existed among the men of the Pueblo. Their general knowledge of the Code was limited and they were unprepared to counter the North Korean's sustained interrogation efforts. While virtually all crew members had been exposed to the Code of Conduct, only two had received Navy Survival, Evasion, Resistance and Escape (SERE) training.<sup>35</sup> The Code was posted aboard ship but was not included in any ship training program.<sup>36</sup>

33. U.S. Congress, House, Inquiry Into the USS Pueblo and FC121 Plane Incidents, Special Subcommittee on the USS Pueblo, 91st Congress, 1st Session, March and April 1969, p. 940. (hereafter cited as the Pike Committee).

34. Ibid., pp. 941-943.

35. Murray, p. 148.

36. Ibid., p. 147.

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As the Pueblo was being taken into Wonsan, Commander Bucher did recall enough of the Code's admonitions to remind all hands over the intercom system of the requirement to give only name, rank, serial number and date of birth when questioned.<sup>37</sup>

(U) Despite this, every crew member, when subjected to interrogation and the rigors of prison life, acceded to the demands of the captor. The lack of instruction on how to withstand intense exploitation and duress made the crew members easy prey to captor efforts. During testimony before the Court of Inquiry most Pueblo crewmen considered the Code of Conduct to be valid and within reasonable limitations, applicable to them.<sup>38</sup>

#### THE VIETNAM WAR

(U) The return of the Prisoners of War from the Communist prison camps in Southeast Asia in early 1973 gave a second opportunity to evaluate the Code as a useful guide to PW behavior.

(U) From December 1961, when the first American serviceman was killed in action in Vietnam, until March 1973, when the United States military involvement in Vietnam officially

37. Hear Admiral Daniel V. Gallery, USN, (Ret.), "The Pueblo Incident," (Garden City, N.Y., Doubleday & Co., Inc., 1970), p. 71.

38. Ibid., p. 148.

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ended, America's longest and most devious war was fought. It is not the purpose of this study to comment on the pros and cons of that war nor to judge the action of any individual PW held by the North Vietnamese. The main thrust of this section will be to briefly describe the normal treatment American PWs received and their responses to that treatment. Comments on extreme treatment or actions by PWs not typical of the group will be made only when the group was affected.

(U) An important distinction between the Korean War PW and the Vietnam War PW should be pointed out here. Aside from the Code of Conduct training most Vietnam War PWs had received, in Korea, most of the prisoners were enlisted men, generally low in rank, and many of them poorly educated.

In Vietnam, conversely, the majority of our Prisoners of War were commissioned officers, college graduates, and highly skilled and trained. In short, they were superior individuals who had gone through the rigors of technical aviation training that you cannot get entirely passively. It isn't dished out. They had to participate in it and be responsible for it.<sup>39</sup>

(U) The North Vietnamese never recognized American captives as Prisoners of War with rights as specified in the 1949 Geneva Convention. They, in fact, referred to the "detainees" as criminals and charges of war crimes persisted throughout the war. The Geneva Convention Card

39. Dr. William F. Mayer, "What are the Rules for American Captives? The Code of Conduct." U.S. News and World Report, April 16, 1973, pp. 39-40.

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carried by all American military forces in Indochina was taken away by the North Vietnamese immediately after capture and destroyed with the warning, "You have no rights here, you are a criminal and will be treated as one." They lived up to that promise. Treatment was brutal and inhumane.

Rights under the GPW did not exist and no amount of protest was to soften the captors in their attitude. In fact, persistent protest and even the phrase, "I am a Prisoner of War, not a criminal," brought punishment to the protestor.

(U) It became painfully obvious immediately after capture that the training received in combating communist interrogation techniques was going to be put into practice. A genuine test of the Code of Conduct was at hand. William N. Miller, a psychologist at the center for Prisoner of War Studies in San Diego, California, advises that "the shock of capture is about the most overwhelming, stupendous experience that can happen. No one who has not been totally at the mercy of other human beings can understand it. It brings out a feeling of helplessness and then a fantastic apathy."<sup>40</sup> While it is doubtful that anyone who has not been a prisoner in a Communist camp can fully understand or appreciate the problems associated with that existence, the following should give the reader a better understanding of that life.

40. Murray, p. 265.



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(U) American confinements varied from nine years, as in the case of Major Floyd Thompson, to a few weeks for B-52 crews. The treatment these men received over those years will be discussed in two segments, pre-1969 and post-1969, since conditions changed considerably in the fall of 1969.

TREATMENT 1964-1969:

(S) Most Americans captured by the North Vietnamese received their initial interrogation in the field, prior to internment in Hanoi. The initial confrontation with the captor is perhaps the most critical time in the life of a PW. The first questions that go beyond NRS D are put to the PW at this time. These initial questions may seem innocent enough to this lonely individual who finds himself in a strange and frightening environment. "What is your name, rank, organization, base and target?" It would be so easy to answer these simple questions and get this session over with, when refusal will bring promised punishment. But will this session end that simply? Or will compliance bring more questions and label the captive as cooperative for future interrogation. The man who showed a firm resistance posture to any demands beyond NRS D at this initial interrogation was beaten and tortured for answers. Little interest was shown in the accuracy of answers. But by his refusal to answer, simply because he was asked or threatened, he started building his reputation with his captor as a

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"diehard." This is not to say the diehard would be left alone in the future with no demands made on him. However, the overwhelming guilt feelings that accompanied the captive who cooperated (for whatever reasons) were felt by the resistor to a much lesser degree. In most cases, future demands on the diehard were less than those made on the more "cooperative" man. The prisoner who gave into captor demands when punishment was only threatened found it very difficult to "turn it off" when the demands stopped being so simple. He was marked by the captor and called upon time and time again.

(U) Intense Interrogation Period. After the initial field interrogation, which usually lasted only as long as was required to arrange transportation to Hanoi, the majority of prisoners found themselves in "Heartbreak Hotel," Hoa Lo Prison, Hanoi, for a period of a few days to a few weeks. This period was spent in complete isolation with little or no food or water for the first 72 hours. The interrogation started immediately with questions on tactical military information. Most of these questions were either unclassified or the prisoner did not know the answers; e.g.s, "What shot you down?" "What is your unit?" "What type aircraft did you fly?" "What was your target for tomorrow?" Refusal to answer brought beatings and torture.

(S) There were many forms of torture employed by the North Vietnamese, but the most common technique and perhaps the most effective used was the "ropes." The victim's wrists were put in cuffs behind his back with the cuffs tightened to their limit. Ropes, wire or nylon cord was fastened to the ankles and drawn through the cuffs as tightly as possible. Then ropes were secured to each arm just above the elbow and tightened as much as possible, sometimes cutting through the skin and dislocating the shoulders. The arms, from the elbow down, were without blood circulation and rapidly swelled and became discolored. The pain, while intense, was not as effective as the fear that if blood was not restored to the forearms soon, gangrene and loss of both arms would result.

(S) The North Vietnamese showed surprisingly little interest in military information. They demanded answers to their questions, although they were extremely naive and easily lied to. (U) It was not until after a day or so of military interrogations and associated torture or other punishment that the major object of the North Vietnamese exploitation appeared and remained with the PW for years to come - propaganda.

(S) The unit that was responsible for American PWs is indicative of their major interest - The Political Department of the NVN army. When the interrogator was satisfied with

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responses to military questions, he brought out his favorite subject. The PW was told he must confess his crimes against the Vietnamese people, condemn his government for waging an aggressive war and write about the determination of the Vietnamese people to fight for their "freedom." It was at this point that the PW had to muster all the courage, conviction and loyalty in him and resist to the "utmost of his ability." In the propaganda arena, the captor was not naive and easily lied to. Demands stopped being so seemingly simple. Now the captor knew exactly what he wanted and how to get it. The captive knew there could be no rationalization or lying now. He was being told to condemn his government, praise the enemy, make a false confession and put his signature to it for the world to see. Many felt they would die before complying but soon found out, if they had not already done so, that the captor would not let them die before "breaking." The captor was prepared and willing to pull out all of his "tricks" to break the PW.

(S) The methodical application of physical pain, with its accompanying psychological effects, eventually reduces a man's physical stamina until he becomes incapable of sustaining any more punishment, at which point his will to resist breaks. Stopping short of complete breakdown, while important in some cases to physical survival is difficult to judge and control. It may be both wise and practical to

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recognize that the captor can make his victim comply, but there is a difference between recognizing that the captor has the means to do so and using this knowledge as justification for starting out by complying. During the initial interrogation phase, each PW established his reputation with the captor.

(S) The deep guilt felt by a man when he learns he is not "tough" enough to have what it takes, is the most depressing experience in his new life. However, it is important for his future in this new environment that he realizes that broken once does not mean broken forever. He must win back his will to resist exploitation and convince the captor that he is not a puppet.

(U) Confinement Phase. After the demoralizing and physically exhausting experience at Heartbreak Hotel, prisoners were moved to a permanent PW camp to begin the long, humiliating confinement phase. The new arrival was greeted by a camp office and informed that he would follow all camp regulations or be severely punished. The regulations varied from time to time but essentially were as follows:

(U) All U.S. aggressors caught red handed in their piratical air attacks against the DRV are criminals. While detained in this camp, you will strictly obey the following:

1. All criminals will obey all orders from the Vietnamese officers and guards. Those who fail to do so will be severely punished.

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2. All criminals will bow to the officers, guards and Vietnamese in the camp. You must show a polite attitude at all times to the officers and guards.

3. All criminals will truthfully answer orally or in writing any questions, or do anything directed by the camp authority.

4. Criminals are strictly forbidden to communicate with each other in any way.

5. Any criminal who attempts to escape or help others to escape will be severely punished.

6. Criminals who follow camp rules and show a good attitude by concrete acts and report all those who break the camp regulations, will be rewarded.

(U) Food during this period was barely enough to sustain life. Huge weight losses were common and all PWs were soon in a weakened physical condition. Water was rationed, resulting in constant thirst. Sanitary conditions were deplorable, with dysentery running through whole camps. Medical attention, except for the most severely injured was nonexistent. Along with torture, withholding of minimal aid to the sick and injured was used to secure a biographical sketch or other information from the PWs. Many PWs filled out a fictitious biography to receive badly needed medical aid only to find out they would have done just as well without it. Most were to learn the human body has amazing self-healing qualities.

(U) Interrogations continued on a regular basis with indoctrination attempts to try to convince the PW that his

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future was in the hands of the North Vietnamese and that a "proper" attitude and cooperation would determine his fate. The PW was closely scrutinized by the interrogator, looking for weaknesses and diminishing faith.

(U) During the solitary living phase, communication with other PWs was vital for morale, organization, and mutual support. The captor went to great lengths to prevent PW communications from eroding the effects of solitary living by severely punishing those caught communicating. The North Vietnamese soon learned, however, that their prisoners well realized the necessity to communicate and despite the punishment, the PWs continued to invent more ingenious ways to do so, refusing to be intimidated.

(U) Organization was slow in coming during the days of solitary confinement, but as PWs were put together in 2, 3, and 4 man cells, the techniques were improved. With camp-wide communications, policies and guidance developed, and the chain of command was established.

(S) When the captor realized that the Senior Ranking Officer (SRO) was setting policy for other PWs which conflicted with the captor's goals, large scale communication purges took place. SRO's were tortured for defying camp orders, and PWs were tortured for communicating with them. A major benefit of communicating with others during this period was not only receiving SRO policy, but encouraging

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each other. When a PW did give in to threats, he was encouraged to renew his resistance by the other PWs. The PWs soon learned that each man's ability to take punishment physical and mental, varied. This realization resulted in understanding and encouragement rather than condemnation. Psychiatrist William E. Mayer showed considerable insight on this subject when he commented:

(U) Now what the Code of Conduct really boils down to is a statement about commitment to other people and commitment to principle, and about not making compromises. These are pretty basic values, which lie at the heart of much of our free society. I think the effect of them was to strengthen the men's determination to remain loyal to one another to interact with each other as much as they possibly could. As one major indication, I haven't seen any evidence among the recent returnees that they have come back with a rather guilty feeling that they had let each other down. . . a feeling that was common among the Korean prisoners. . . or that they had let their country down, either.<sup>41</sup>

(S) There were of course individuals who, for one reason or another and to varying degrees, disassociated themselves from the group and chose to ignore SRO policy. When any individual violated the Code of Conduct and SRO policy knowingly and refused to accept the guidance and direction of others, morale of the group suffered.

(U) Pride. There are many factors contributing to an individual's ability or desire to resist exploitation.

41. Ibid., p. 40.

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Training in, and an understanding of the Code, controlling fear, belief in war aims, sense of duty, and responsibility are only a few. But in the early days of captivity, when men were tested alone, suffered alone and resisted alone, pride, more than anything else, drove men to endure torture, despite the knowledge that the breaking point would come. This strong desire for self-respect and for proving oneself to oneself is ingrained in all men, but to widely varying degrees. One example should illustrate this point. Colonel James H. Kasler, USAF, was brutally and relentlessly tortured for three days to meet with a delegation. For three days he refused. When asked by his interrogator, "who knows you are resisting," Kasler replied, "nobody." When asked why he was resisting, Kasler replied, "for myself."

(U) Morale. The captor made every effort to keep the PWs morale as low as possible. Constant humiliation, insults of U.S. leadership, exaggerated U.S. war defeats, restricted communications between families and abusive treatment, were just a few of the techniques used. Whenever news from the outside world was received through the captor, it was always bad. The PWs became so adept at "reading between the lines" of the news that the Voice of Vietnam (Hanoi's official radio program) was at one time discontinued to the PWs for 18 months.

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Early Release:

(S) There was perhaps no bigger blow to PW morale, however, than PWs themselves accepting early release. When these men accepted parole, leaving behind seriously sick and injured and long-term PWs, morale not only suffered, but the PWs felt their reputation had been tarnished. It was inconceivable to the group that an honorable release, prior to a negotiated settlement, was possible on NVN terms. This tactic was perceived as the ultimate propaganda tool. One group of parolees made a taped broadcast to the PWs claiming PWs were "criminals" whose fate was in the hands of NVN; that they had been well treated by following all camp regulations; and that the remaining PWs should repent their crimes. A firm, explicit "no early release policy" was developed by the various SROs after the first three PWs were released in 1968. However, nine more PWs were to accept early release or parole while several others who were offered parole refused.

(U) Delegations. The parade of delegations to Hanoi from all over the world including the U.S. affected more than just morale. Many PWs were brutally tortured to meet these delegations and respond to their questions with a rehearsed script. Some PWs were so badly beaten, that by the time they submitted, they were in no shape to meet with even a communist delegation. The thought that American PWs were

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tortured to force them to meet with American delegations was repulsive. Later in the war, a few anti-war PWs voluntarily met with delegations which included such people as Jane Fonda and Ramsey Clark, former U.S. Attorney General.

#### PW LOSSES

(U) Of the 1300 Americans missing in action, many died in their aircraft, during the parachute landing, at the hands of uncontrolled villagers, or of serious injuries after capture. While the figure will never be known, there can be little doubt that many Americans died as the result of the brutal torture inflicted by the North Vietnamese interrogators. Some refused to go one step beyond NRSD, while others were inadvertently killed while being "taught a lesson." Many with serious injuries were left to die. Not one returnee was an amputee; they were apparently deemed not worth saving. Then there were those who died mentally, and years later died physically. Continuous beatings and years of isolation reduced some to mere vegetables. These men were eventually removed from any contact with the group, and did not return home after the war. They were reported as having died in captivity by the North Vietnamese.

(U) During the pre-1969 captivity, PWs were locked in cells with no windows and little ventilation for 23 hours a day with inadequate clothing and no activity. All exercise and conversation with other Americans occurred within this cell.

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The much photographed volleyball games and outside exercise were not to come to the group until years later. The PWs faith and stamina were put to the test during this period and the results allowed these men to come home with honor. By comparison, the remaining years were no more than a waiting game. While very few PWs won any individual battles with their interrogators, the group as a whole defeated them at their game, and the years that followed were a live and let live existence.

POST-1969 CAPTIVITY

(U) In the fall of 1969, the treatment of the PWs started to improve. Ho Chi Minh died in September 1969, the U.S. administration actively protested the treatment of PWs, the National League of Families vigorously campaigned for better treatment of PWs, and the little known plight of the PWs was brought to the attention of the world. Also a dead or half-living political hostage (which is what the PWs were beginning to feel they were) was of little value to the North Vietnamese at the negotiating table. But for whatever reasons, the long overdue improvement in living conditions did begin at this time. The change however was a slow, cautious one and isolation and selected beatings remained a common form of punishment.

(U) In November and December of 1969, all PWs for the first time were allowed to write a six-line letter to their

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families. Some men were given letters from their families at this time that had been written 18 months earlier. Most PWs were allowed out of their cells for one or two hours a day but were still not allowed to see or communicate with PWs from other cells.

(U) In the summer of 1970, a new PW camp was opened on the outskirts of Hanoi. This camp offered improved living conditions. Cells were well ventilated with eight to twenty men per cell. Conversation was allowed with men from other cells when the camp officials found they could not stop it without boarding up the windows. It appeared this camp was to house all the PWs in North Vietnam as new compounds were completed. But the day after the U.S. raid on Son Tay Prison (a great morale boost), all PWs in this new camp were moved back to Hanoi to Hoa Lo Prison - the French-built maximum security prison which contained "Heartbreak Hotel."

(U) It was at Hoa Lo Prison that the PW organization was to formally designate itself the "4th Allied POW Wing," with Air Force Colonel John P. Flynn as the Wing Commander. A Wing Headquarters staff was set up, and each cell block containing 30 to 50 PWs, was designated a squadron with the senior officer in that cell block accorded the full authority and responsibility of a squadron commander. The Wing motto was "Return With Honor" and policies formulated by the staff were oriented toward this goal.

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(U) Organized protest of the previous bad treatment and PW demands for improved treatment of all PWs caused the North Vietnamese to meet with the PW leaders and negotiate these issues. As an example, PW church services, complete with choir, were forbidden by the North Vietnamese. They viewed any organized activity as a "political meeting" and a threat to camp security. However, after several weeks of discussing their views the camp authorities backed down, and PW church services continued on PW terms until release. Organized educational classes were viewed by the North Vietnamese in the same manner, and this issue concluded with the same results.

(U) Morale took its biggest jump during the B-52 bombings in December 1972. For the first time in these long years the PWs felt the end was truly in sight. The North Vietnamese took no reprisal action against the PWs, as might have been expected during the 1965-1969 period. It was the firm conviction of most PWs that the North Vietnamese also felt the end was in sight.

(U) When the end finally came, many PWs found it hard to believe. Hopes had been raised and dashed too often. There was no "dancing in the cells." The years of inhumane treatment and resultant bitterness had left their psychological scars. Going home to a new life would mean adjustments

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perhaps as great for many as adjusting to prison life. For many the adjustment still continues.

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CHAPTER IV

LEGAL BACKGROUND

STATUS OF THE CODE OF CONDUCT

(U) Subsequent to the termination of hostilities in the Korean War, the question arose as to whether United States prisoners in that conflict had conducted themselves in accordance with the high professional standards expected of American fighting men. The question was primarily prompted by three factors: the unusually high mortality rate suffered by our PWs during this period of captivity;<sup>1</sup> the number of returnees who were accused of misconduct while prisoners of war;<sup>2</sup> and the refusal of repatriation by a group of enlisted men.<sup>3</sup> These circumstances generated considerable public criticism of the inability of United States military men to withstand the rigorous conditions of captivity imposed upon them when captured by the North Korean

1. Out of a total of 7,190, 38 percent or 2,730 died in captivity. This was a higher prisoner death rate than in any previous war. Biderman, March to Calumny, McMillan Co., New York (1963), p. 91.

2. Out of the approximately 4,500 surviving Korean War POWs 565 were questioned concerning misconduct. Of these 14 were actually brought to trial but only 11 were convicted. Report by the Secretary of Defense's Advisory Committee on Prisoners of War 7(1955), p. 25.

3. "Misconduct in the Prison Camp," 56 Columbia Law Review, p. 734.



and Chinese Communist forces.<sup>4</sup> This vocal segment of public opinion alleged that the affluent American way of life was directly responsible for creating an endemic weakness of spirit in the country's youth which Armed Forces' training programs failed to correct.<sup>5</sup>

(U) At the same time that the moral quality of the United States serviceman was being thus questioned, it was recognized that such rules as did exist concerning PW conduct consisted of several random and unrelated declarations.<sup>6</sup>

(U) As a result of these considerations the Code of Conduct was developed to provide a single, clear, and usable statement of the rules regarding captivity.<sup>7</sup> The Code of Conduct reflected "the principles and foundations which have made America free and strong and the qualities which we associated with men of integrity and character."<sup>8</sup> The Defense Advisory Committee report also noted that with respect to the adverse publicity resulting from the Korean War

4. See generally, Kinhead, In Every War But One, New York (1959).

5. Biderman, p. 2.

6. Prugh, "The Code of Conduct for the Armed Forces," 56 Columbia Law Review, p. 686.

7. Ibid., p. 687.

8. POW The Fight Continues After the Battle, Report of the Secretary of Defense's Advisory Committee on Prisoners of War, August 1955; p. v.

that much of it "was due to lack of information and consequent misconceptions. . . ."9

(U) While it was generally recognized that the Code of Conduct enunciated an inspirational set of professional standards for the guidance of the serviceman in combat and captivity, and also provided a uniform basis for structuring training programs, there did not appear to be unanimity with respect to the question of the enforceability of this Code per se. Having been promulgated by an executive order from the Commander-in-Chief, the Code of Conduct was understandably clothed with the aura incident to a military command from the highest level of authority. If the Code did in fact carry the status of a lawful general order, failure to comply with any of its provisions would be punishable as a violation of Article 92 of the Uniform Code of Military Justice. For several years, however, the question remained somewhat academic due to the absence of a testing conflict, although one comprehensive legal analysis did opine that the possibility existed that "certain specific provisions may be mandatory."<sup>10</sup>

(U) The occurrence of the Pueblo incident in 1968 and the proceedings of the Court of Inquiry which followed the return of the Navy personnel involved in 1969, raised the

9. Ibid., p. vi.

10. Prugh, p. 707.

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question officially within Congress and the Navy Department.<sup>11</sup> After some confusion, the Navy Department in July, 1969, declared that the Code of Conduct "is a professional and inspirational document rather than a penal code" and that "failure to live up to the full extent of its obligations is not a criminal offense."<sup>12</sup>

(U) Some of the confusion which existed concerning the legal force of the Code of Conduct may be attributed to certain language set forth in a Defense Department Directive published in 1964. This directive, which provided guidance for structuring Code of Conduct training programs, referred to the document as "a binding military obligation."<sup>13</sup>

(U) In addition to the Pueblo generated legal position which the Navy Department declared, the Air Force in a policy letter dated 12 February 1969, stated that the Code of Conduct was not a vehicle for enforcement of a Prisoner of War's obligation to his country and his fellow prisoners.

(U) The official uncertainty which had surrounded the legal status of the Code of Conduct was reflected further in the minds of United States Prisoners of War in Vietnam.

11. JAGN testimony before the Pike Subcommittee of 28 April 1969; Hearings, p. 1067.

12. JAGN letter to Pike Subcommittee of 30 April 1969.

13. DOD Directive 1300.7, 8 July 1964, paragraph IV, B.2.

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Responses to a questionnaire from former Vietnam prisoners indicated that approximately 38 percent believed that the Code of Conduct was a legally binding document (Appendix 1, question E-18).

(U) There is little doubt that the general consensus of legal opinion which ultimately declared that the Code of Conduct was not a criminal or penal code per se, was based in part at least on the evolution of military case law subsequent to the promulgation of the Code of Conduct. Military judicial tribunals have been traditionally circumspect in determining the legal requirements of a document to qualify it as a lawful general order. Accordingly, it is unlikely that a criminal charge, lodged as a violation of the Code of Conduct under the provisions of Article 92 of the Uniform Code of Military Justice, could withstand judicial scrutiny in view of the current state of the case law on the subject.<sup>14</sup>

(U) Having concluded that the Code of Conduct is not legally enforceable per se, it would be a serious error to conclude that, accordingly, it serves no useful purpose. The instructional value of this document is immense. It provides an easily understood declaration of inspirational principles which serves to strengthen the fighting man's

<sup>14</sup>. United States v. Tassos, 18 U.S.C.M.A. 12, 39 C.M.R. 12 (1968); United States v. Koepke, 18 U.S.C.M.A. 100, 39 C.M.R. 100 (1969).

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resolve to perform his duty in accordance with the best interests of his country. It also furnishes a bond of common understanding among those who are unfortunate enough to become Prisoners of War and serves as a resource for resistance to exploitation.<sup>15</sup> It is also a reflection of legally binding obligations found in the UCMJ.

(U) In addition to these attributes, the Code of Conduct serves as public statement of the national values and ideals which the American serviceman is sworn to protect even at the cost of his own life.

(U) Not only does the Code of Conduct accurately reflect much of the nation's military heritage, it constitutes a personal creed, which, through training implementation, can instill the desire to survive captivity in each individual serviceman. It has often been remarked that the life of a Prisoner of War is hard. Moral courage can, in such circumstances mean the difference between life and death. A "Code of Honor" is a vital aid in mustering the inner strength required to endure and conquer the often subhuman rigors inflicted upon the fighting man by combat and capture.

(U) In addition to providing the individual inspiration needed for survival, such a Code promotes group discipline.

15. In a recent survey of Prisoner of War returnees from North Vietnam, 80 percent indicated that the Code of Conduct was a useful resistance tool. See Appendix I, Question 27.

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History has consistently demonstrated that in the prison camp discipline saves lives.

INTERNATIONAL LAW (GPW)

(U) For several hundred years nations of the world have strived to agree upon and codify rules of warfare designed to restrict or eliminate that suffering and bloodshed which is not directly required by the war aims of parties engaged in armed hostilities. Included in these efforts was an attempt to formulate a list of conditions pertaining to the treatment of Prisoners of War.

(U) The emergence of the humanitarian approach toward the treatment of Prisoners of War began during the middle part of the 17th century. Generally speaking, at that time the status of a Prisoner of War began to be viewed as one of "quarantine."<sup>16</sup> Having been rendered hors de combat, the prisoner's period of detention came to be considered as necessary only to prevent his further participation in the war and to weaken the enemy. This principle declared further that Prisoners of War should be subject only to such restraint as is required to preclude their escape.<sup>17</sup> The evolution of the philosophy that prisoners should be treated

16. Prugh, Ibid., pp. 681-682.

17. Flory, Prisoners of War, Washington, D.C. 1942, p. 41.

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honorably and humanely was in stark contrast to previous practices which considered prisoners as personal property subject to slaughter or enslavement.

(U) The thrust of the Geneva Conventions, in addition to ensuring humane treatment for prisoners, is to preserve a legal status for the captive. While in a state of captivity, the Prisoner of War retains his citizenship and allegiance to the protector country. Nevertheless, he is subject to the laws and regulations of the detaining state which are not inconsistent with the protections provided by the conventions.

(U) Consistent with the status of quarantine is the principle that Prisoners of War should be transferred to neutral countries until the cessation of hostilities or directly repatriated in instances where serious illness exists. As indicated earlier, the only stipulation operative with respect to the release of prisoners was that they could not participate further in the hostilities.

(U) The philosophy of the "quarantine" prisoner status was initially recognized as "customary" or "common" international law, although it was incorporated in some unilateral rules and bilateral treaties, until the middle of the 19th century when an international conference in 1864, produced the Convention of Geneva "for the amelioration of the conditions of wounded soldiers in the field, regardless of the

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flag they served."<sup>18</sup> Over the years several similar conferences followed, each making various contributions toward the overall objective of defining and codifying the laws of warfare.<sup>19</sup> These efforts culminated most recently in the approval of the Geneva Convention of 1949 by some 59 nations of the world.<sup>20</sup> One of the four conventions approved by the conference was the Convention Relative to the Treatment of Prisoners of War, hereinafter referred to as the GPW.

(U) In 143 separate articles the GPW set out in considerable detail the rights and protections which should be accorded to Prisoners of War. Included in its text are provisions for international agencies to act as coordinators and inspectors for ensuring that the treatment of prisoners complies with the international standards in question.

(U) Although the GPW represents an admirable achievement in man's struggle to protect the unfortunate individual who becomes a Prisoner of War, it should be recognized that strict observance of this form of law must ultimately rest

18. Flory, p. 21.

19. Among the codes and agreements which resulted were the Brussels Code (1874); the Code of the Institut de Droit International (1889); the Hague Convention (1899); the Hague Convention (1907); the Convention of Copenhagen (1917) and the Geneva Convention of 1929. Flory, pp. 19-23.

20. This number has now risen to 125, Hearings, American Prisoners of War in Southeast Asia, 1971, p. 37.



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upon the good faith of the parties concerned. In the absence of any form of international enforcement sanction, save perhaps world opinion, any given nation's compliance with the body of rules must largely depend upon its interpretations of how the rules are to be applied in any particular situation. Unfortunately history indicates that belligerents are frequently inclined to interpret international law to serve their own immediate purposes rather than the long range general interests of the international community.

(U) Of particular interest in this regard was the attitude of some of the signatory countries toward the provisions of Article 85 of the GPW. This Article states that "Prisoners of War prosecuted under the laws of the detaining power for acts committed prior to capture shall retain, even if convicted, the benefits of the present convention." As stated in the previous chapter, communist bloc countries uniformly made reservations to this Article. The following excerpt is an illustration of these reservations:

(U) The Union of Soviet Socialist Republics does not consider itself bound by the obligation, which follows from Article 85, to extend the application of the Convention to Prisoners of War who have been convicted under the law of the Detaining Power, in accordance with the principles of the Nuremberg trial, for war crimes and crimes against humanity, it being understood that persons convicted of such crimes must be

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subject to the conditions obtaining in the country in question for those who undergo their punishment.<sup>21</sup>

(U) Although the GPW states that "a Prisoner of War shall be subject to the laws, regulations and orders in force in the armed forces of the Detaining Power. . .,"<sup>22</sup> the conditions under which judicial and disciplinary punishments may be imposed are carefully circumscribed. At the time these reservations were made by the communist nations to the provisions of Article 85 concerning precapture conduct, it was recognized that they could be utilized as vehicles to provide some legal justification for avoiding compliance with the conditions enumerated in the GPW. Despite the fact that since 1949 no Prisoners of War have been convicted by the communist countries as war criminals, the treatment of such prisoners by the North Koreans and Chinese during the Korean War and by the North Vietnamese during the Vietnam hostilities confirmed previous suspicions that those regimes would not hesitate to rely on the "war crimes" exception to Article 85 as an explanation for declining to

21. 6 U.S.T. and O.I.A. 3316, T.I.A.S. No. 3364.

22. Ibid., Article 82.

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afford Prisoners of War the protections conferred by international law.<sup>23</sup>

(U) It should also be noted that although North Korea was not formally bound by the Geneva Conventions when the Korean War began, that government did indicate its intention to abide by its provisions. North Vietnam agreed to the Geneva Conventions in June, 1957, while the United States ratified them in August, 1955.<sup>24</sup>

(U) Despite the recognition to the conventions, in both instances the Communist countries denied that the GPW applied to American Prisoners of War. The reasoning advanced in support of their positions generally alluded to the contention that all United States prisoners were war criminals and therefore not legally entitled to the protection prescribed by international law. The North Vietnamese position in this regard was more clearly articulated than that of the North Koreans due to the longer period involved, but neither country permitted the International Committee of the Red Cross,

23. Much documentation exists to confirm the fact that the North Koreans, Chinese and North Vietnamese considered United States Prisoners of War to be war criminals. Obtaining "confessions" to war crimes through coercion were common practice during both of the conflicts in question. The same techniques were also utilized by the North Koreans during the captivity of the crew of the USS Pueblo in 1968. See Hearings, American Prisoners of War in Southeast Asia, 1971.

24. The United States was also not a party to the treaty at the time of the Korean War but United Nations Forces were instructed to observe it. Hearings, p. 489.

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(I.C.R.C.) which had the responsibility for ensuring compliance with the terms of the Convention, to enter their country during the conflicts. The North Vietnamese maintained that because there had been no declaration of war, the Americans were not entitled to treatment in accordance with the precepts of the Convention even though the I.C.R.C., in 1965, declared that the GPW was fully applicable in the Vietnam conflict and that all parties were obliged to adhere to its terms.<sup>25</sup> The North Vietnamese had also alluded to violations of the Geneva Accords of 1954 by the United States introduction of arms into South Vietnam, as legal grounds for refusing to recognize captured United States personnel as bona fide Prisoners of War.<sup>26</sup>

(U) Most authorities on international law consider the legal arguments advanced by the North Vietnamese, denying that the GPW applied to United States prisoners, as specious and transparent.<sup>27</sup> Article 2 of the GPW provides that the convention is applicable "to all cases of declared war or any other armed conflict which may arise between two or more of the parties to the Convention, even if the state of war is not recognized by one of them."

25. American Bar Association Journal, January 1, 1971, p. 489.

26. Hearings, A.P.W.S.A., 1971, p. 8.

27. ABA Journal, pp. 489-90.

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(U) As a logical extension of their dogmatic approach to the question of the legal status of United States prisoners, the North Vietnamese at one time in 1966 paraded captured American servicemen through the streets of Hanoi and announced that these men were to be tried for crimes against humanity as "criminals" and "air pirates." That these threats were not in fact carried out can most likely be attributed to an outcry of world opinion which condemned vehemently the action contemplated.

(U) In the absence of trials and convictions with the attendant due process afforded accused prisoners by the convention, the claim of the North Vietnamese that all American prisoners were criminals per se, is totally lacking a credible legal basis. As one publication has observed: "There is no civilized precedent for a claim that prejudges all captives as criminals and denies protected Prisoner of War status to them from the beginning without a hearing."<sup>28</sup>

(U) Although the North Vietnamese consistently insisted that the GPW did not apply to its captives, they nevertheless maintained that all such captives were treated humanely.

(U) With the return of some 566 United States Prisoners of War from North Vietnam the true story of how they had been treated during their incarceration came to light. The

28. Special Analysis, The Prisoner of War Problem, American Enterprise Institute, December 28, 1970, p. 23.

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treatment accorded the American prisoners by the North Vietnamese was discussed in the preceding chapter. At this point, it need only be said that the North Vietnamese blatantly ignored the provisions of the GPW whenever it suited their purpose to do so.<sup>29</sup>

(U) Another incident which testifies to the proclivity of the Asian communist nations to ignore international law pertaining to the treatment of prisoners, can be found in the cases of the officers and the crew of the USS Pueblo.<sup>30</sup> While this captivity situation can be distinguished from both the Korean and Vietnam wars on the grounds that at the time the Pueblo was captured a state of armed conflict between the parties did not exist, the treatment accorded the captives in question was, at the very least, another instance of flagrant violation of the spirit of the GPW. The nonexistence of a state of war between the United States and North Korea in 1968 certainly could not be used as legal justification for the imposition of the physical torture and inhumane deprivations applied to the prisoners as a means

29. There is abundant published evidence from the returnees themselves that the communists used such techniques as torture, isolation and denial of medical treatment to obtain "confessions" and other propaganda statements from United States prisoners. Such treatment is expressly forbidden by the GPW.

30. Hearings, Inquiry into the USS Pueblo and EC-121 Plane Incidents.

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for extracting "confessions."<sup>31</sup> Grim testimony to this brutal treatment, which is now plentiful, serves to reinforce the conclusion that the North Koreans have not accepted their declared adherence to the convention and its principles in good faith.<sup>32</sup>

(U) The previous paragraphs have described the evolution of a large block of international law for the protection of the PW. It is important now to review what the U.S. military law holds with respect to PW behavior.

#### MILITARY LAW

(U) With rare exceptions, prior to the Korean War prisoners of war charged with acts of misconduct during captivity were tried under those provisions of the civil law which relate to the offense of treason.<sup>33</sup> To some extent the lack of precedent for prosecuting such offenses in trials by courts-martial, can be explained by reference to an observation made in 1920 by a recognized expert on the subject of military law. In one of his noted works, Colonel Winthrop

31. Some available publications describing this experience are: Armbrister, A Matter of Accountability (1970); Bucher, Bucher: My Story (1970); Gallery, The Pueblo Incident (1970); Schumacher, Bridge of No Return: The Ordeal of the USS Pueblo (1970).

32. Misconduct in the Prison Camp, pp. 717-18.

33. See generally Captain J.W. Loane IV, "Treason and Aiding the Enemy," 30 Military Law Review 42.

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stated that: "treason as such is not an offense properly cognizable by a court-martial."<sup>34</sup> In discussing this opinion, later scholars have argued that the deliberate emphasis placed on the phrase "as such" by Winthrop was intended merely to distinguish the civil form of treason from what has been referred to as "war treason."<sup>35</sup> All have agreed, however, that differences in the elements of proof required for these two forms of treasonable crime render them easily distinguishable.<sup>36</sup>

UCMJ

(U) The military version of treason can be traced to Articles 45 and 46 of the Articles of War of 1874. While these provisions of military law were seldom relied upon for the prosecution of acts of prisoner of war misconduct, the World War II experience convinced the U.S. Congress that they should be reexamined with a view toward incorporating their substance in the new code of military justice which was being considered in the late 1940's. Essentially, the experience in question consisted of a few prosecutions for and many reports concerning collaboration with the enemy and

<sup>34</sup>. Winthrop, Military Law and Precedents 699 (2d ed. 1920).

<sup>35</sup>. Loane, 74.

<sup>36</sup>. Note, Misconduct in the Prison Camp, pp. 782-783.



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related acts on the part of U.S. prisoners of war.<sup>37</sup> In some respects this was a somewhat novel experience in that much of the misconduct alleged to have occurred was directly related to efforts on the part of the enemy to utilize prisoners in propaganda activity.

(U) Article 104. In any event, the military version of the offense of treason was specified as Article 104 when the Uniform Code of Military Justice (hereinafter referred to as the UCMJ) was approved in 1950.<sup>38</sup> Article 104 reads:

Any person who -

- (1) aids, or attempts to aid the enemy with arms, ammunition, supplies, money or other things; or
- (2) without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly; shall suffer death or such other punishment as a court-martial or military commission may direct.

(U) Article 105. In addition to incorporating the offense of military treason into the UCMJ, the Congress went a step further and also included another punitive article dealing directly with prisoner misconduct which adversely affects other prisoners. Article 105 provides:

(U) Any person subject to this chapter who, while in the hands of the enemy in time of war - (1) for the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to

37. Ibid., pp. 720-21.

38. 10 USC secs. 801-940.

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law, custom or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or (2) while in a position of authority over such persons maltreats them without justifiable cause; shall be punished as a court-martial may direct.

(U) Jurisdiction.

Another provision in the UCMJ which was motivated, at least in part, by one of the few prisoner of war misconduct trials following World War II, dealt with the question of jurisdiction of the person. In the case in question the accused was tried and convicted by a court-martial for the maltreatment of other prisoners while he was a captive of the Japanese.<sup>39</sup> The conviction was subsequently overturned on review on the grounds that the defendant had been tried after his release from the service and accordingly, that the court-martial lacked jurisdiction.

(U) In order to prevent recurrence of such a situation, the Congress sought to extend jurisdiction of courts-martial to individuals who had committed offenses while in the service but who had been released prior to discovery of the crime. Inasmuch as most criminal acts were also punishable under the civil law, however, this reservation of jurisdiction

39. United States ex rel. Hirshberg v. Cooke, 336, U.S. 210 (1949).

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was restricted to offenses which were peculiarly military and not cognizable in the civil courts.<sup>40</sup>

(U) This provision was of particular concern with respect to PWs who could be subject to allegations of misconduct during captivity, since in many cases they would be eligible for release immediately upon their return. But the efforts of the Congress went for naught in this instance since the U.S. Supreme Court held the provision to be unconstitutional in 1955.<sup>41</sup> As the situation now stands, former PWs who have been returned to civilian status after repatriation, are not subject to trial by courts-martial for offenses committed while captives.

(U) Procedure. In considering the procedural problems created by the returning PW who is suspected of prisoner misconduct but who is also eligible for immediate release from the service, it must be recognized that it is not necessary to convene or conclude a trial by court-martial prior to the date when the term of obligated service in question is due to expire. What is required is the initiation of

40. UCMJ, Art. 3. (a) provided that "... no person charged with having committed, while in a status in which he was subject to this chapter, an offense against this chapter, punishable by confinement for five years or more and for which the person cannot be tried in the courts of the United States ... may be relieved from amenability to trial by court-martial by reason of the termination of that status."

41. Toth v. Quarles, 350 U.S. 11 (1955); see also United States v. Wheeler; 28 CMR 212 (1959).

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"action with a view to trial," such as filing of charges. In any case in which such action is accomplished, the termination of the PW's period of service is suspended until completion of the judicial proceedings.<sup>42</sup> This provision does not eliminate all procedural problems, however, since in most instances extensive investigative effort is required before charges can be drafted and sworn. Additionally, other steps that would satisfy the test of "action with a view to trial" such as confinement, would be wholly inappropriate in many of these cases.

(U) The procedural dilemma described did in fact occur in 1973, following the repatriation of the PWs held by the North Vietnamese. Eight enlisted PWs in that group, all eligible for release from the service, were suspected of misconduct. As a result, a frantic effort on the part of military legal officers and investigative personnel was required in order to document the accusations and gather evidence so that charges could be preferred before the release from the service of the individuals involved. The effort was successful and sworn charges were preferred against this group in May 1973. The charges were ultimately

<sup>42</sup>. Manual for Court-Martials, U.S. (1969 Rev.) par 11.d., pp. 4-3.

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dismissed by the Service Secretaries concerned, however, and the personnel accused were released shortly thereafter.<sup>43</sup>

(U) Statute of Limitations. Another jurisdictional limitation which bears on the PW misconduct situation is contained in Article 43, UCMJ.<sup>44</sup> This provision limits the time allowed for prosecuting certain offenses. More serious offenses must be tried within three years from the date of the commission of the crime. Others less serious must be tried within a period of two years. A few of the offenses considered most serious, however, are expressly excluded from this Statute of Limitations. Among the latter are mutiny, murder and aiding the enemy.

(U) Also expressly excluded from the time limitations prescribed are periods in which an accused is in the hands of the enemy. Essentially, this means that for a PW accused of misconduct (other than that involving "aiding the enemy") the time limitation would begin to run not from the time the offense was committed during the period of captivity but from the time of his return to the U.S. In view of this exclusionary provision, the Statute of Limitations in the

43. One of the eight in this group, however, took his own life while on convalescent leave after the charges had been preferred but prior to the time when they were dismissed.

44. 10 USC 843.

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UCMJ does not pose any unusual procedural or jurisdictional difficulties for the prosecution of PW misconduct offenses.

(U) General Application. Having discussed the two punitive articles which are specifically directed toward the more classic PW misconduct offenses and some of the most pertinent procedural and jurisdictional provisions in the UCMJ which bear on this area of concern, some brief comments should also be made regarding the general applicability of the UCMJ to the prison camp environment.

(U) It is clearly recognized that the U.S. PW is not subject to being disciplined under the UCMJ while a captive.<sup>45</sup> In that instance he is subject only to the discipline and regulation of the detaining power.<sup>46</sup> It is likewise equally clear that upon repatriation he is subject to trial by court-martial for any offenses alleged to have been committed while detained. What is unclear is whether the PW may be held accountable upon his return for all conduct considered in violation of the UCMJ which occurred while he was in a captive status. While there is some precedent to the effect that he may not be held responsible for some offenses such as neglect of duty or breach of discipline, the more modern view does not appear to favor such limitations.<sup>47</sup>

45. Note, Misconduct in the Prison Camp, p. 715.

46. As decreed by Articles 82-88 of the GPW.

47. Note, Misconduct in the Prison Camp, 715.

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(U) The general rule is that the PW's legal status as an active member of the armed forces is not altered by his captivity. While a prisoner he continues to accumulate all the benefits of his position such as pay and allowances and accordingly it logically follows that his service obligations likewise continue with the exception of those obviously precluded by his captive status. Generally speaking, he should be considered legally responsible for all violations of the UCMJ committed while in PW status.

#### RELATIONSHIP BETWEEN COC, UCMJ AND GPW

(U) In considering the legal status of the Prisoner of War it is necessary to have some understanding of the relationship between the Code of Conduct, the Uniform Code of Military Justice and the Geneva Conventions. While these three documents do not constitute an exclusive description of the conditions and obligations, both legal and moral, which pertain to the Prisoner of War status, most authorities would agree that taken together, they provide the basic structure for judging the actions of the three main actors in the prison camp environment, i.e., the detaining power, the protecting power and the PW himself.<sup>48</sup>

#### COMPARISON OF LEGAL STATUS

(U) The GPW, having been duly ratified by the U.S. Senate, became part of the law of the land in accordance with the

<sup>48</sup>. Note, Misconduct in the Prison Camp, p. 713.

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provisions of Article VI, of the Constitution of the United States.<sup>49</sup> As indicated earlier in this chapter, the Code of Conduct does not enjoy the stature of law but is merely advisory and instructive in nature. Accordingly, where conflicts exist between the GPW and the COC, the former must be accorded priority.<sup>50</sup>

(U) The Uniform Code of Military Justice is part of the domestic law of the United States. The UCMJ is primarily concerned with the establishment of a military legal system which is penal in nature in that it proscribes certain conduct as harmful or socially undesirable; provides penalties for the commission of such offenses; and prescribes the procedures legally permissible for bringing those offenders subject to its authority to account for their actions. While the Code is not a legally enforceable document per se, much of its substance is subsumed in the punitive articles of the UCMJ. The portions of the Code prohibiting collaboration with the enemy, for example, fall within the purview of

49. U.S. Constitution, Article VI, in pertinent part provides: ". . . all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

50. See generally, Smith, "The Code of Conduct in Relation to International Law," 31 Military Law Review, January 1966, p. 85.



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Article 104. This complimentary relationship will be discussed in more detail later. At this point it is sufficient to note that the provisions of the Code of Conduct are enforceable to a great extent though not completely, through the UCMJ.<sup>51</sup>

(U) The UCMJ, as mentioned earlier, does apply to the prison camp environment although for obvious reasons, it cannot be enforced until an offending PW is returned.<sup>52</sup> While the GPW is also full applicable in the PW camp environment, its enforceability during the period of captivity is a matter within the discretion of the captor nation. The United States permitted international inspection agencies such as the I.C.R.C. to monitor conditions under which its captives were detained in both the Korean and Vietnam conflicts. Unfortunately, neither the North Koreans nor the North Vietnamese permitted such inspections, and hence

51. Ibid., p. 89.

52. The imposition of disciplinary measures by the internal PW organization or members of its community although not without historical precedent, is expressly forbidden by Article 96, GPW. See also Prugh, "Code of Conduct," Columbia Law Review, p. 702.

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their failure to observe the provisions of the GPW went largely unreported.<sup>53</sup>

(U) As a practical matter, the only law that is sure to be enforced in the prison camp community is the domestic and military law of the captor nation.

CONFLICTS BETWEEN COC AND GPW

(U) Inasmuch as in the U.S. the GPW is the law of the land, provisions of the COC which are contrary to or inconsistent with that body of law, should be eliminated. This should be accomplished not just for the sake of consistency but to remove significant conflicts in the minds of fighting men regarding what is expected of them if they become PWs.

(U) One such source of inconsistency that should be addressed concerns that provision of the Code which counsels PWs to ". . . continue to resist by all means available."<sup>54</sup> In the absence of further qualification this guidance could be construed to impose upon the PW the duty to engage in acts which would jeopardize the implementation of the protections

53. This conclusion does not take into account the obvious exception since international war crimes tribunals take place only when there is a decisive winner(s) and loser(s). Recent United States experience in Korea and Vietnam excluded the use of this technique of enforcement of international law.

54. Code of Conduct, Article III.

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and benefits conferred by the GPW. While resistance to exploitation is expected, desirable and entirely consistent with the GPW, unprovoked and unnecessary acts of aggression such as assaults on guards, wanton destruction of property, etc., simply for the sake of being resistive, would be contrary to the spirit of the GPW. More importantly, irresponsible and needless resistance could result in the general denial of tolerable life support conditions for all PWs to a given situation.<sup>55</sup> At the very least, it would appear desirable to modify the standard in question to ensure that it is not misunderstood and misapplied.

(U) It is recognized that the concept of carrying the fight into the prison camp is designed to foster the type of fighting spirit that will assist a PW in surviving the rigors of captivity. If taken too literally, however, such an attitude could prove to be counterproductive to the ends it is designed to achieve. Accordingly, training programs should make every effort to point out that in situations where the captor nation is observing the "benevolent quarantine" philosophy prescribed by the GPW, useless acts of aggression on the part of PWs may not only violate the spirit and purpose of the GPW, but may also result in the loss of its protections.

55. Smith, p. 94.

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(U) Also of concern is the question whether the "escape" provision of the COC should apply to medical and chaplain personnel. Although the GPW recognizes the legitimacy of the duty imposed by the Code to attempt escape, it specifies that medical personnel and chaplains "while retained by the detaining power with a view to assisting Prisoners of War, shall not be considered as Prisoners of War."<sup>56</sup> In view of the special status conferred on such personnel by the GPW, it would seem logical that by reason of their vocations, they should be exempt from the duty of escape imposed by the Code. The value of the medical and spiritual assistance which they can provide to the prisoner community would appear to outweigh any advantages that might accrue to their being able to effect an escape.<sup>57</sup>

(U) The foregoing discussion of a few instances where potential conflicts exist between the Code of Conduct and the GPW is by no means exhaustive. It was included merely to emphasize that the Code should be interpreted and structured so as to be as compatible as possible with the spirit of the GPW. To do less would be to ignore the fact that the GPW is the law of the land.

(U) THE UCMJ AND THE CODE OF CONDUCT. As already alluded to, much of the Code of Conduct is enforceable through the

56. GPW, Article 33.

57. Smith, p. 98.

punitive articles set out in the UCMJ. A clear understanding of this relationship should serve to reassure those who might otherwise be inclined to complain that the usefulness of the Code is impaired by virtue of the fact that it does not enjoy the status of law in and of itself.

(U) Surrender. Article II of the Code of Conduct declares that the fighting man will never surrender while he still has the means to resist. In cases where suspicion may exist as to whether surrendering to the enemy was in fact accomplished under honorable conditions, several provisions of the UCMJ may be applied to test such circumstances. Article 85, UCMJ expressly provides that "any member of the armed forces who, without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom permanently; . . . is guilty of desertion;" Article 99, UCMJ, states that any such member who "shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend. . . shall be punished by death or such other punishment as a court martial may direct;" and lastly, Article 100, UCMJ provides that any person "who compels or attempts to compel the commander of any place, vessel, aircraft, or other military property, or of any body of members of the armed forces to give up to an enemy or to abandon it, or

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who strikes the colors or flag to an enemy without proper authority, shall be punished. . ." From the foregoing, it is clear that the "no surrender" provision of the Code of Conduct is not without legal force and effect.

(U) Other Offenses. As discussed previously, Articles 104 and 105, UCMJ, provide enforcement authority for many of the provisions of the Code of Conduct including resistance; action harmful to other prisoners; and aiding and communicating with the enemy. The duty to obey lawful orders as prescribed in the Code is expressly enforceable by application of Articles 90 and 92 of the UCMJ, while the Code's requirement that the senior PW take command would most probably also fall within the purview of that portion of Article 92 which includes sanctions for being derelict in the performance of duty. It should also be noted that an officer's failure to assume the responsibility imposed upon him by his rank and seniority may be punishable under Article 133 which concerns "conduct unbecoming an officer and a gentleman."

(U) Having mentioned several provisions in the UCMJ that support the Code of Conduct it is well to point out one instance which the Code must be considered purely advisory. The Code enjoins the PW to accept no parole; there is no provision in the UCMJ or other domestic law which carries a similar prohibition. As a result, even though the no parole policy is widely recognized and accepted, the absence

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of a legal sanction for such conduct precludes the imposition of punishment for violations.<sup>58</sup>

(U) As regards the legal standing of the Code of Conduct it may be concluded that the major provisions are supported by provisions and legal sanctions of the UCMJ. The following section will describe how these sanctions have been applied.

#### ENFORCEMENT

(U) The documented history of judicial proceedings against U.S. PWs for misconduct while in captivity prior to the Korean War is very scant. In those few instances where criminal proceedings were instituted almost all the individuals concerned were prosecuted under the civil treason law.<sup>59</sup> Following the Korean War, however, circumstances combined to create an atmosphere in which some prosecutions by courts-martial were undertaken.

#### KOREA

(U) Already noted, the North Korean/Chinese communist coalition refused to recognize captured Americans as PWs

58. The possibility exists that such an act could be charged under Article 134, the general article, as conduct prejudicial to good order and discipline but chances of this approach being successful are highly dubious. This is especially true considering recently successful attacks on the constitutionality of the general article.

59. One exception was the Hirshberg case. See note 39.

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entitled to the protections of the GPW, and the captives were accorded harsh and illegal treatment.<sup>60</sup>

(U) The techniques of exploitation applied by the communists to the PWs were designed to coerce divisiveness and disloyalty. These measures included the physical and mental abuse of prisoners to obtain "confessions" and disloyal statements for use as weapons in the propaganda war. While the use of these techniques was not entirely novel in the history of warfare, their application by the Asian communists on such a large scale, presented the United States with a problem after repatriation was accomplished for which there was little precedent.

(U) Although information on the extent of the communist efforts to exploit U.S. PWs for propaganda purposes was limited to a few intercepted radio broadcasts and articles appearing in communist newspapers, returning PWs provided such a volume of accusations against fellow PWs that defense officials soon became sensitive to the problem. The initial

60. Reference is made to the "death marches" to reach one of the 20 permanent encampment sites after capture. These forced marches without adequate rest, food or medical attention were responsible for a large percentage of the deaths of U.S. PWs in Korea. Note Misconduct in the Prison Camp, p. 726. In this regard it should also be recognized that the North Koreans were not organized and equipped to handle the large number of captives who fell into their hands subsequent to the Chinese entry into the war in October 1955. The sub-zero weather conditions prevailing at that time also contributed heavily to the high prisoner mortality rate during these journeys. Thirty-eight percent (2,730 out of a total of 7,190) perished in captivity. See Biderman, March to Calumny, p. 95.



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interrogation of returnees was primarily intelligence gathering; however, the discovery of adverse information soon resulted in a further unprecedented investigative effort which in some cases involved the examination of as many as 2,000 PW statements.<sup>61</sup>

(U) Despite these efforts, only a few cases were referred to courts-martial.<sup>62</sup> This resulted in part from the immediate release from the service of 1,600 returnees, 211 of whom were later considered to be suspect enough to warrant further investigation, and was partly attributable to the thoroughness with which other potential cases were evaluated. With respect to the latter aspect of the situation, a special board was created for the review of all potential PW disciplinary cases. In addition, the office of the Secretary of Defense insisted on clearing all cases prior to their being forwarded to field commanders for possible judicial action. The Board reviewed 82 out of 215 cases involving suspected offenders who were still subject to court-martial jurisdiction. The remainder had been investigated by a Special Counsel but were not recommended for consideration by the Board. Out of the 82 cases reviewed by the Board, 47 cases were finally approved by the Secretary of Defense

61. Prugh, "Justice For All RECAP-K's," Army Combat Forces Journal, November 1955, p. 17.

62. See Note 2.

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for forwarding to various field commanders to be reviewed with a view toward further action. Of this group, 14 were ultimately tried by courts-martial.<sup>63</sup>

(U) Evidentiary Difficulties. Several difficulties of proof were inherently peculiar to the prosecution of individuals for offenses committed while in North Korean PW camps. The most obvious one was the lack of access to the situs where the offense allegedly occurred. The reconstruction of criminal offenses which had taken place thousands of miles away, without the benefit of reference to physical evidence at the scene, while not impossible, was certainly made more complex by having to rely solely on memory testimony. This was especially true in instances where a particular offense was alleged to have taken place many months prior to the investigation of the incident. In cases where the occurrence of the offense is remote in time, access to the situs is generally helpful in refreshing dimmed recollections.

(U) Also related to the lack of access to the scene was the difficulty of corroborating confessions and discrediting defenses that alleged duress or coercion. It is understandable that many a PW who made a disloyal statement either in writing or in a propaganda radio broadcast should have claimed that he was "forced" to the action in question

63. Note, Misconduct in the Prison Camp, p. 737.

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by his captors. Inasmuch as the law does recognize individual duress as a defense where the pressure applied includes the threat of immediate and impending death or serious bodily harm,<sup>64</sup> it was often difficult if not impossible to overcome such a defense because the alleged application of such duress rarely occurred with other PWs present. Plentiful evidence existed to confirm that the North Koreans were not reluctant to use brutality to accomplish their objectives. The challenge to prove that the act alleged did in fact occur while refuting the claim of coercion as a defense was usually an impossible one for the prosecution.

(U) The defense of general as opposed to individual duress was generally rejected in the PW misconduct trials by courts-martial which took place after the Korean War. This defense contended that the general conditions of captivity were so stressful as to deprive the PW of mental responsibility for his conduct. Even though this defense was rejected, when it was raised the prosecution was required to produce evidence of the sanity of the accused at the time the alleged offense was committed.<sup>65</sup>

(U) Another evidentiary problem that must be anticipated in PW misconduct cases has to do with the credibility of

64. Ibid., p. 769.

65. Ibid., p. 771.

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witnesses. Experience after Korea showed that former PWs who had suffered lengthy periods of captivity with the hardships and deprivations attendant to that status, were inclined to permit their emotional feelings to overcome rationality in drawing conclusions from factual circumstances. This phenomena, discussed at length in psychological studies of the subject, has been referred to as being "fence crazy" and in various other ways.<sup>66</sup> In any event, the appearance of this condition, usually accompanied by a haziness of memory, frequently prompted lengthy and vigorous attacks on the credibility of prosecution witnesses in the post-Korean trials.<sup>67</sup> Such attacks were overcome in some instances by the sheer weight of numbers. The prosecution was able to produce several witnesses whose testimony was collectively consistent with respect to critical facts in the case. In many other cases, it can be assumed that the lack of such buttressing testimony was a decisive factor in determining that prosecution was not a feasible course of action.

(U) Another area which posed considerable problems for those individuals charged with the responsibility of ascertaining whether sufficient evidence of misconduct existed

66. Segal, "Initial Psychiatric Findings of Recently Repatriated Prisoners of War," 3 A.M.J. PSYCHIAT. 363 (1954).

67. Note, Misconduct in the Prison Camp, p. 779.

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in the case of suspected Korean War PWs, was the elimination of inadmissible hearsay evidence. As in any tightly confined community, the word spreads quickly in the prison camp environment. Consequently, many PWs who have only "heard" that a particular PW was voluntarily collaborating eventually came to regard the allegation as a fact. This type of hearsay-based conclusion is frequently reinforced by repetition of the allegation in addition to related observations which may appear to be circumstantially incriminating. The task of piecing together first-hand or eyewitness testimony from large numbers of PWs, each of whom has only some limited knowledge concerning a particular act or acts of misconduct by another PW, is indeed a formidable one. As a result, it is often impossible to construct the evidentiary mosaic needed to prove a PW misconduct offense.

(U) The foregoing brief discussion concerning problems of proof in PW misconduct cases is offered as at least a partial explanation as to why only 14 Korean War PWs were eventually tried although 215 cases involved accusations serious enough to warrant investigation by a specially appointed counsel.<sup>69</sup>

#### VIETNAM

(U) Several factors can serve to distinguish the Vietnam War PW situation from that of the Korean War PW. The

68. Ibid., p. 737.

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primary differences concern length of time in captivity, age and education of the PW, and the numbers involved (566 versus 7,190). Despite these distinctions, however, the techniques utilized by the North Vietnamese to exploit their U.S. captives bore considerable similarity to those exercised by the North Koreans and Chinese.

(U) In the same vein, the difficulties apparent in proving allegations of PW misconduct during the aftermath of the Korean repatriation were also evident upon the return of U.S. PWs from North Vietnam.

(U) The problems involved in overcoming the defense of "individual duress" were readily apparent in the case of Marine Sergeant Jon M. Sweeney, the only Vietnam PW to be tried by court-martial for misconduct while a prisoner. Sweeney was charged with desertion in the face of the enemy and with willingly cooperating with the enemy by making taped propaganda broadcasts while a prisoner. His trial resulted in acquittal. He defended on the grounds that he acted only out of fear of immediate death or serious injury.<sup>69</sup>

(S) While Vietnam PW interviews reflected that a small number of prisoners may have voluntarily cooperated with the enemy's exploitative propaganda efforts, most of this

69. Lieutenant Colonel M.P. Murray, "Historical Analysis and Critical Appraisal of the Code of Conduct for Members of the Armed Forces of the United States." Unpublished Study, U.S. Naval War College, Newport, R.I., June 1973, p. 231. SECRET.

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group recanted after October 1969, when treatment began to improve markedly and the PW organization became more effective. In a few instances, however, it was alleged that certain PWs continued to cooperate voluntarily with the enemy right up to their release dates.

(U) The Peace Committee. One such group, referred to as the "peace committee," was located at a camp called "the Plantation." It consisted of eight enlisted men, five Army and three Marines, who shared three relatively large rooms.

(S) It was clear that the members of the committee enjoyed privileged status in the camp. They were provided several amenities denied to the other PWs such as extra food, fruit, beer, candy, double rations of cigarettes, and freedom to remain outside their cells from 0500 to 2100 while all others were granted only one hour each day. They were permitted to wear western style clothes while all other PWs were forced to wear prison pajamas, and they were given sightseeing trips to Hanoi.

(S) It became apparent to the other PWs in the camp that this group was voluntarily cooperating with the enemy. This conclusion was based not just on the special treatment: the group was emotional and enthusiastic in making propaganda tapes which were broadcast throughout the camp. They made model airplanes which the guards used for target practice.

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They also refused to recognize the policies and the authority of a PW organization formed by the senior officer in the camp, an Air Force colonel.<sup>70</sup> In one instance they were disrespectful to a captain who ordered them to cease cooperating. Shortly after the incident occurred, the captain was put in solitary confinement where he remained for approximately the nine months.

(S) The Air Force colonel concerned, Colonel Theodore Guy, filed sworn charges against this group a few months after repatriation had been effected. The investigatory effort which preceded the formal charges was extensive. The evidence adduced, however, was less than overwhelming. Although a pattern which emerged clearly indicated that the group had been the recipients of special favors and that they had been cooperative, it was difficult to establish clearly exactly who had done what and when. Even in the instance where one of the group had responded with an obscenity to the order of the captain, it was unclear which member of the group had been directly responsible and, although the punishment which the captain subsequently received could easily be circumstantially inferred to be a result of the confrontation in question, there was no direct evidence to establish this relationship.

70. Ibid., p. 228.

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(U) In this connection it should be mentioned that, regardless of the prohibition in the Code of Conduct against accepting special favors, there is no sanction in the law which permits punishment for such conduct unless it can be linked to wrongful communication or to acts done to the detriment of other prisoners.

(U) Even though the "state of the evidence" was not such as to indicate that, if trials by court-martial resulted, conviction would be a foregone conclusion, several military attorneys regarded it as sufficient to establish at least a prima facie case. Ultimately, however, the decision not to prosecute these individuals was announced by the Department of Defense (although the accuser, Colonel Guy, did not withdraw the charges).

(S) Officer Misconduct. In another instance two high-ranking officers, a Marine lieutenant colonel and a Navy captain, were accused of misconduct while captives in North Vietnam. In a letter to the Chief of Naval Personnel dated 30 March 1973, the senior ranking naval PW alleged that these two officers "overtly and purposely incited newly arriving prisoners to violate regulations [established by the PW organization], and, . . . informed on fellow prisoners for violations of North Vietnamese prison camp regulations, to their detriment."<sup>71</sup> It was also generally alleged in this letter

71. Ibid., p. 230.

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that the conduct of several other officers was also highly questionable. As a caveat, however, the letter also noted that a portion of the information upon which these accusations were based had been "reported to me in my position in the prison camp command structure. . . ."

(S) As in the case of "the peace committee," an extensive investigative effort was undertaken by Marine and Navy judge advocate personnel into these allegations of misconduct. The results of this effort substantially confirmed the general accusation that several officers had voluntarily cooperated with the enemy's exploitative propaganda program, and that the two officers specifically accused of actively aiding in the indoctrination of new prisoners had in fact been guilty of such conduct.

(S) Although not the subject of a specific inquiry, it was widely believed by the PW community that, with perhaps a few exceptions, the twelve PWs who were released early (in four groups of three each, beginning in 1968) had been thus rewarded for cooperative behavior towards the enemy. This opinion was not based on conjecture alone. One of the groups of three had made a tape which was broadcast in the prison shortly after their departure. The substance of this tape contained statements to the effect that the trio felt that the camp regulations had been easy to follow; that they had been treated fairly by their captors; and that all PWs

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were war criminals answerable to the North Vietnamese for their acts of aggression. Other PWs who had been approached as potential early releasees indicated that before being eligible, certain conditions had to be met such as making an apology, requests for amnesty, or agreeing not to return to the war. Additionally, of the last group of three, one's mother and another's wife had journeyed to Hanoi with members of an "anti-war" group to accept their release. However, when questioned after their return as to why they had been selected for release out of order, these men generally indicated that their selection had been a random one.

(S) In spite of the fact that, from a legal point of view, the evidence available on the issue whether the two officers singled out had in fact actively attempted to sway new PWs over to the communist cause, was more than sufficient to warrant taking these cases to trial, decisions at the highest levels in the Defense Department were to preclude any judicial action. This precedent effectively terminated further investigative effort with respect to other allegations of PW misconduct in North Vietnam.

(S) Dismissal of Charges. Many PWs who, often at the cost of considerable pain and suffering, did their utmost to live up to the spirit of the Code of Conduct while in captivity, have expressed the opinion that the failure of the government to attempt to hold accountable those who

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flagrantly violated these standards, was a betrayal of the faith and loyalty which is demanded by the Code. This sense of frustration has been aggravated by the knowledge that many of those suspected of misconduct are now holding responsible positions in the service while others have been honorably retired with full benefits and honors.

(U) In this connection, it should also be noted that a formal Court of Inquiry in the case of the Pueblo recommended trial by court-martial for the captain, Commander Bucher, and another officer, and a letter of admonition for the ship's executive officer, Lieutenant Murphy, for dereliction of duty.<sup>72</sup> However, on May 6, 1969, the Secretary of the Navy dismissed all charges. One explanation given for this action was that "They have suffered enough and further punishment would not be justified."<sup>73</sup>

(U) The action taken in the Pueblo case illustrates the public sentiment which historically prevails when the issue arises whether PWs should be punished for misconduct in the prison camp. Even though the revelations of PW misconduct in Korea produced loud criticism regarding the quality of the American fighting men, when it came down to punishment for PW misbehavior, public opinion was opposed to or

72. Ibid., p. 151.

73. Ibid., p. 153.

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apathetic towards such action.<sup>74</sup> This sentiment was even more pronounced following the repatriation of the Vietnam PWs. Understandably, public disenchantment with the U.S. involvement in Southeast Asia contributed heavily to this reluctance to prosecute.

(U) Another major factor which no doubt influenced the decision not to press forward with disciplinary action was the risk of tarnishing the positive public relations impact of "Operation Homecoming." It provided a joyous occasion for nationwide television audiences. The fact that some of the returnees may not have conducted themselves honorably while prisoners was the kind of news the public did not want to hear.<sup>75</sup>

(U) The foregoing brief analysis of why the decision was made not to enforce the Code of Conduct concept of accountability after the Vietnam War, is admittedly conjectural.

74. Biderman, March to Calumny, p. 222. A Gallup Poll showed 75 percent of the people had heard of germ warfare confessions, 30 percent favored some form of punishment, 61 percent opposed punishment, and 19 percent had no opinion.

75. The publicity accorded to the charges made against the eight enlisted members of the "peace committee" and the two officers referred to was generally "played down" by the media, presumably due to lack of public interest. Enthusiasm for proceeding further with the charges was also dampened when one of the three Marines involved with the "peace committee," Sgt. Abel Cavanaugh, committed suicide after the charges were made public but before they were dismissed. His wife appeared on a nationwide TV broadcast and accused the Defense Department and Colonel Guy of being responsible for his death.

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Most would agree, however, that Defense Department and other Administration officials were very sensitive to the fact that the public would not react favorably to drawn out PW court-martials which would focus attention on such issues as the legality and morality of the U.S. involvement in Southeast Asia. Such arguments against prosecution, however, are of little consolation to those PWs who survived "with honor" only to find that those who had not, received the same treatment upon their return.

(U) It has been ascertained that some administrative measures were taken against some PW personnel who were seriously suspect. One of the two officers mentioned earlier with regard to allegations of cooperating in the indoctrination of new PWs, was denied a promotion and forced to retire. Both officers involved were also censured for their conduct by the Secretary of the Navy<sup>76</sup> and the enlisted personnel in the group of eight who desired to reenlist were denied the opportunity.

#### CONCLUSION

(U) The enforcement of the Code of Conduct concepts has not been impressive. This failure cannot, however, be attributed to deficiencies in either the Code or the UCMJ. The decision not to vigorously pursue allegations of PW misconduct via the judicial process should be recognized

<sup>76</sup> Review of Returnees Comments on the Code of Conduct (U).

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as a political determination largely reflective of the prevalent "they have all suffered enough" syndrome. Restoration of the fighting man's faith in the Code of Conduct for the future will depend to a considerable extent on what steps are taken to assure potential PWs that the law will be enforced if Americans ever become PWs again.

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## CHAPTER V

### OBJECTIVES OF THE CODE OF CONDUCT

(U) To realistically determine the objectives of the Code of Conduct and aid in the development of these objectives, the needs and drives of the parties involved must be examined and understood.

### CONFLICTS IN THE PRISONER OF WAR ISSUE

(U) The captive or Prisoner of War becomes a party to a conflict within a conflict, a complex three-way stress system in which existence is at best only endurable. The principals in this conflict, the captor nation, the protector nation and the PW, all have powerful needs which drive them to counter courses of action. These needs must be understood before a viable, effective guide to PW behavior can be codified.

### CAPTOR NEEDS

(U) In modern times a Prisoner of War is an asset to the captor. He is more than a lost combatant for the opposition. He is a potential source of tactical and strategic intelligence, a ripe propaganda plum, a source of labor and a useful political hostage. And all of these needs can be served for the price of room, board and barbed wire.



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(U) Intelligence. The PW has traditionally been an important source of intelligence. A poll of units in the 12th Army Group in Europe during WWII showed that 25 to 50 percent of their intelligence came from PW sources. One division estimated that 90 percent of its information came from PWs. Both German and Japanese PWs were valuable sources of command post locations, gun positions, front lines, reserve assembly areas and artillery concentrations.<sup>1</sup>

(U) Each PW, depending on his rank, position and experience, has some information of potential value to the captor. Unit commanders have access to classified plans, logistic and equipment information of obvious value. Less obvious is the value of the vast amounts of unclassified, general information possessed by every rifleman, mechanic and seaman. From this information obtained by a skilled interrogator, the trained intelligence expert is able to build a detailed mosaic displaying troop dispositions, tactics, equipment and supply strengths and weaknesses and training levels. A PW tells a story by just his physical appearance. The captured 14 year-old Viet Cong chained to his machine gun does not have to talk to be of intelligence value. And every piece of intelligence is of some value to the captor.

1. Albert D. Biderman, March to Calumny: The Story of American POW's in the Korean War, (New York: The MacMillan Co., 1963), p. 230.

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(U) Immediately after capture each PW will very likely be interrogated regarding tactical questions. This type of information is highly perishable and the captor will be in a hurry to obtain it. Strategic intelligence is not so perishable and the PW will more likely be taken to a permanent camp and subjected to prolonged, intense interrogation if the captor feels that significant strategic information is known.

(U) Propaganda. The advent of mass communications has given a new dimension to the value of the PW. When coupled with the ideological struggle such as exists between communism and capitalism the propaganda front can carry greater weight than the military front. The PW then become a prime piece of propaganda property.

(U) Former PW Rear Admiral James B. Stockdale summed up the situation clearly:

(U) In Vietnam the American POW did not suddenly find himself on the war's sidelines. Rather he found himself on one of the major battlefronts - the propaganda battlefront. Our enemy in Vietnam hoped to win his war with propaganda. It was his main weapon. Our captors told us they never expected to defeat us on the battlefield, but did believe they could defeat us on the propaganda front.<sup>2</sup>

2. Rear Admiral James B. Stockdale, USN, "Experiences as POW in Vietnam," Naval War College Review, Vol. XXVI, Vol. 4, January-February 1974, p. 2.

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(U) The North Koreans used the USS Pueblo for the same purposes. The 82 men of the Pueblo were used for political leverage.<sup>3</sup>

(U) PW centered propaganda is broadcasted across a wide front. It is used to destroy morale and will to fight of other PWs and enemy fighting forces. The collaborative statements of PWs in Korea and Vietnam were effective morale depressants. On the other hand, there is no indication that they had any effect on the prosecution of the war.

(U) Closely tied to PW propaganda is indoctrination. In Korea, the Chinese Communists spent considerable effort to obtain converts to communism. This is a basic tenet of their philosophy and they could not see a large captive audience available without working to influence them ideologically. Ninety-seven percent of the PWs in Korea were subjected to heavy indoctrination efforts including movies, recordings, group study, lectures and communist literature. Fifteen percent of the PWs were asked to carry on communist activities after their release.<sup>4</sup>

3. Carl F. Schumacher and George C. Wilson, Bridge of No Return: The Ordeal of the USS Pueblo, (New York: Harcourt Brace Jovanovich, Inc., 1971), p. 3.

4. Julius Segal, "Factors Related to the Collaboration and Resistance Behavior of U.S. Army PWs in Korea," HUMRRO Technical Report No. 33, (George Washington University: December 1956), p. 6.

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(U) PW propaganda statements are used to stir up turmoil and discontent on the enemy home front. Right up until the release of PWs in early 1973 there was national agreement and debate over the North Vietnamese treatment of U.S. prisoners partly because prisoner statements had clouded the issue.<sup>5</sup> PW anti-war statements also fed the fires of anti-war sentiment within the U.S.

(U) Communists have made extensive use of PW propaganda to strengthen the will of their own people and armies. It is difficult to assess the impact of a particular statement or picture on this audience. While a confession of germ warfare may be scoffed at by most Americans, it serves to reinforce previously held convictions in the minds of those who have only heard derogatory information about the U.S.

(U) The final target of communist propaganda has been the uncommitted or third world people. One of the first indications of the communist use of the PWs as propaganda tools was manifested in August 1950. At that time Jacob Malik, USSR delegate to the U.N. Security Council, issued a statement claiming that he had received a protest to the U.N. involvement in the Korean War signed by 39 captured U.S.

5. U.S. Congress, House, American Prisoners of War in Southeast Asia, 1971, Subcommittee on National Security Policy and Scientific Developments, 92nd Congress, April 1971, pp. 390-391, 499-511.

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officers. This clumsy attempt previewed what was to become a refined Communist technique.

(U) Again it is impossible to determine the success of these propaganda efforts. Biderman quotes surveys and world public opinion polls to support his contention that the germ warfare statements by U.S. pilots in Korea and other statements by the exploited PWs, were not believed by the people around the world. Polls in Germany, France and Italy showed that only four to nine percent of the people believed the reports and they were people who were initially oriented toward communism. Even in Communist China itself, there is some evidence that the Communists had difficulty establishing the validity of the reports.<sup>6</sup>

(U) On the other hand, Segal in his study of collaboration and resistance behavior in Korean PW camps, contends that through the exploitation of PWs, the North Koreans increased the credibility of their propaganda and decreased U.S. ability to influence neutral nations. It is impossible to gauge the effect of a single PW's activities because the potency of propaganda itself is difficult to measure. All PWs are potential propaganda tools and the damage to our nation by exploitation of any one man may be considerable.<sup>7</sup>

6. Biderman, p. 76-79.

7. Segal, pp. 19-20.

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(U) Political Hostage. In pre-Korean conflicts, the PW was a liability because of his demand for food, security and shelter. However, in the Korean War, the Powers U-2 incident, the Pueblo incident and the Vietnam War, the Communists have used PWs as political hostages to attempt to exercise control over the protector nation or over other PWs. The high U.S. regard for the life of a single PW makes it susceptible to this type of exploitation because it would act to save a single man, whereas the communists would not respond to such PW leverage. You cannot expect to obtain a kidnap ransom from a pauper who intended to abandon his child in the first place.<sup>8</sup>

(U) The Vietnam War is the classical example of the political power of the PWs. Their recovery became the main lever to pry the U.S. out of the war.<sup>9</sup>

(U) In 1966, the North Vietnamese declared that they would try U.S. pilots as war criminals, and paraded them through the streets of Hanoi. This gross disregard for the provisions of international law failed miserably in that it tended to unify feelings against the North Vietnamese.

8. U.S. Department of the Air Force, Code of Conduct Lesson Plan: Exploitation S-V80-A-CCP-S-IG, Headquarters 3636 Combat Crew Training Wing, Fairchild AFB, Washington, 21 January 1972, p. 7.

9. Hearings on American Prisoners of War in Southeast Asia, 1971, p. 510.

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Such anti-war parties as the Pope, the U.N. Secretary General and U.S. Senator Frank Church issued strong protests against the trials. When the failure became evident, Ho Chi Minh cancelled the trials.<sup>10</sup>

(U) In 1969, PW treatment improved, in part because the North Vietnamese had come to appreciate that the PWs were of much greater value to them alive and healthy than in a persecuted state. They also recognized the pressure for more humane treatment that was building in the international community. In mid-1970, they moved the PW question to the top of their negotiations list. One U.S. diplomat stated that "The prisoners are the single weakest point in our negotiating position. We want those men back and Hanoi knows it."<sup>11</sup> Meaningful negotiations are difficult when the opposition has complete control of such a critical question.

(U) The success of the North Vietnamese in using the PWs for their political and propaganda purposes will increase the likelihood of PWs being used for these purposes in future conflicts, especially with communist countries. The current trends of kidnapping and terrorism in political

10. Richardson, pp. 57-58.

11. Hearings on American Prisoners of War in Southeast Asia, p. 510.

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revolution also reinforce the inclinations of those who would seek to gain political goals through the use of hostages.

(U) The plight of the PW depends to a large extent on the needs of the captor and his willingness to use the PW to help achieve those needs. History provides little encouragement to those who look for restrained and humanitarian action by detaining powers.

#### PROTECTOR NEEDS

(U) The protector nation's needs are important in the PW question but much less deterministic in influencing PW treatment. They are more likely to be reflected in how the man was trained prior to capture and how successful the captor will be in his political hostage efforts.

(U) Generally it can be said that the protector nation's needs are to thwart the captor as he works to achieve his goals. The PWs intelligence value to the enemy must be minimized by careful control of the dissemination of classified information to persons vulnerable to capture. Certain levels of compromise must be assumed when knowledgeable people are captured.<sup>12</sup> Training must be provided which prepares the potential PW to counter the probable intelligence, propaganda and indoctrination exploitation efforts of the enemy.

12. Biderman, p. 188.



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(U) There are no obvious answers on how to minimize the influence of political hostages. Appropriate counter-plays vary drastically from conflict to conflict and must be the subject of sophisticated political research.

(U) The political hostage power of the captor is directly proportional to the protector nation's need to achieve the release of the PWs. The North Vietnamese considered their own men expendable. This view, contrasted with our own high regard for the well being of our men in PW status, enabled them to use the PWs as a strong bargaining tool for propaganda and leverage to precipitate a favorable war settlement.<sup>13</sup>

(U) This weak bargaining position is unavoidable as long as a high regard to human worth is maintained, as it well should be. It must be recognized as a risk we assume whenever we engage in hostilities with countries whose traditions are less humane (as regards PW treatment) than our own.

#### PRISONER OF WAR NEEDS

(U) Caught between the grinding forces of the protector and the captor is the PW with his own set of needs for physical and psychological survival. Once captured, he has points

13. Richardson, p. 59.

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of inherent conflict with his own nation's interests as well as with the captor's goals.

Physical Survival

(U) PW death is the surest way to minimize intelligence, propaganda and political utility to the captor. Many prisoners have contemplated, and some have pursued this unacceptable solution to the captor exploitation problem. Experiences from the Korean War, the Pueblo incident and the Vietnam War portray vividly how the communist captor stands ready to enhance the physical well being of the man who will disregard the needs of his country and his fellow PWs through collaboration.<sup>14</sup>

(U) The food, shelter, medical attention and security required of the captor to support the physical needs of the PW are generally given grudgingly. If he is not driven by strong humanitarian motivations then the captor must find some other reward for keeping the PW alive. Despite elaborate international law provisions, the PW exists by permission of the captor.

Psychological Survival

(U) But physical survival is not enough, and the psychological survival of the PW is even more tenuous than the physical. Confinement itself is generally destructive to a man's sense of personal worth and purpose. Add this

14. Segal, p. 11.

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feelings of guilt for having been captured or for subsequent PW performance, conditions of isolation, depriving one of mutual support from other PWs, uncertainty of release, torture, the emotional stress of the threat of torture, and the captor's continual pressure to break down resistance to exploitation, and man's sanity is taxed to the limit.

(U) To the communists, the PW is a political pawn to be broken psychologically for exploitation as an instrument of political warfare.<sup>15</sup> Control, physical and mental, of the PW must be achieved before he can be exploited. Control is achieved by isolation, fear, torture or disappointing news. The captor seeks to make the PW dependent, deprive him of his identity and self-esteem, and develop guilt feelings and feelings of remoteness from friends and country. The goal of these techniques is to prepare the PW for exploitation. "Loss of self-determination is the primary goal in the overall exploitation process. Once it is achieved the captor's goals can be more easily achieved."<sup>16</sup>

(U) The threat of this type of treatment is testified to by Father Paul Jeandel, a prisoner of the Viet Minh:

Medieval tortures are nothing in comparison to the atomic age torture of

15. U.S. Congress, Senate, Communist Treatment of Prisoners of War, Senate Judiciary Committee, Subcommittee to Investigate Administration of Internal Security Act and Other Internal Security Laws, (Washington: U.S. Government Printing Office, 1972), p. 1.

16. Code of Conduct Lesson Plan: Exploitation, p. 9.

brainwashing. It amputates your soul and grafts another upon you. Persuasion has taken place of punishment. The victims must approve and justify in their own eyes the measures which crush them. They must recognize themselves guilty and believe in the crimes which they have not committed. I have seen men leave camp who were dead and did not know it, for they had lost their own personality and had become slogan reciting robots. I myself nearly lost my reason. . .

[Father Jeandel summed it up that the prisoner's worst fate] wasn't to die, but to see one's soul change.<sup>17</sup>

(U) The PWs returning from Korea were in a depressed state. Their discussions were flat and unemotional and their body movements were slow. They were apathetic and reluctant to express feelings and emotions. Psychiatric tests showed them to be filled with feelings of conflict and aggression.<sup>18</sup> They reflected the psychological scars of their captivity.

(U) Reflecting on his experiences as a PW in Vietnam, Rear Admiral James Stockdale emphasizes the inherent threat to the mental well-being as he states:

Unless you have been there it is difficult to imagine the grievous insult to the spirit that comes from breaking under torture and saying something the torturer wants you to say. . . It was a society of intense loyalty--loyalty of men one to another of rigid military authoritarianism. Most men need some kind of personal philosophy to endure what the Vietnam POW endured. For many it is religion; for many it is a

17. Hearings on Communist Treatment of Prisoners of War, pp. 15-17.

18. Eugene Kinkead, In Every War But One, (New York: W.W. Norton & Co., Inc., 1959), pp. 49-50.

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patriotic cause; for some it is simply a question of doing their jobs even though the result--confinement as a POW--may not seem necessarily fair.<sup>19</sup>

(U) He went on to state that he felt that self-discipline and self-respect were critical to survival and that the PW organization supported the man as he sought to maintain or regain his self-respect.

(U) Psychological survival is a complex problem which necessitates that the man know what is expected of him; that the expectations be achievable; and that PWs be trained and organized to provide mutual support insofar as possible. The man must be cognizant of his country's obligations to him as well as of his obligations to his country.

(U) In summary it can be said that the conflicting needs of the captor and the protector governments generally strain against the physical and psychological survival of the PW. The ideal of benevolent quarantine is usually destroyed by the intelligence, propaganda and political hostage exploitation efforts of the captor. The PW must be given all available tools to react to these exploitative efforts with effective, meaningful, resistance.

#### NEEF FOR OBJECTIVES

(U) The Code of Conduct cannot be evaluated until a clearly stated set of objectives is established. The current

<sup>19</sup>. Stockdale, p. 5.

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absence of objectives may be attributed to the political climate of the early and mid-1950's, against a backdrop of worldwide ideological conflict, fear and public apprehension over Communist treatment of Prisoners of War and the apparent inability of those prisoners to withstand Communist interrogation techniques.<sup>20</sup> In a letter transmitting the Code to the Secretary of Defense, the Defense Advisory Committee on Prisoners of War provides possibly the best clue to the committee's objective in developing the Code. It states:

(U) . . . in concluding, the committee unanimously agreed that Americans require a unified and purposeful standard of conduct for our Prisoners of War backed up by a first class training program.<sup>21</sup>

(U) The statement implies that the Code's purpose was as much to inform the American people about these standards of conduct as to impose them on the American serviceman.

(U) Possibly the closest thing to an objective statement meaningful to the fighting man is contained in the second

20. For an excellent summary of the political climate at the time the Code was formulated see Phillip R. Holt, "Prisoners of War: Prescriptive Conduct and Compliance in Captive Situations," a research paper prepared at the U.S. Naval War College, Newport, R.I., 1968, p. 31.

21. U.S. Department of Defense, POW: The Fight Continues After the Battle, the report of the Secretary of Defense's Advisory Committee on Prisoners of War. August 1955, p. VII.

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paragraph of President Eisenhower's promulgation to the Code of Conduct which provides that:

Every member of the Armed Forces of the United States is expected to measure up to the standards embodied in this Code of Conduct while he is in combat or captivity. To insure achievement of these standards each member of the Armed Forces liable to capture shall be provided with specific training and instruction designed to better equip him to counter and withstand all enemy efforts against him, and shall be fully instructed as to the behavior and obligations expected of him during combat or captivity.<sup>22</sup>

(U) This statement falls short of defining the goal to be accomplished. After close assessment, the declaration appears to be more a promise that future training and guidance are forthcoming that will help the fighting man react to the captor. Professor James E. King, of the U.S. Naval War College's Advanced Research Department provides a cryptic analysis of the Code's shortcomings:

I remember very well the circumstances in which the Code of Conduct was issued, and the manner of its issuance. I thought then, and I still think, that the Code and its presentation were both shockingly inadequate. Almost nothing was said about the fact that the PW himself was supposed to be the primary beneficiary. There was no hint of compassion. All the prospective PW was offered was a sermon on his obligations (and that promise of training). It all seemed pathetically inadequate and unfeeling when hundreds of the Korean War PWs (both those who survived

22. U.S. President Code of Conduct for Members of the Armed Forces of the United States, Executive Order 10631, (Washington: 17 August 1955).

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and those who did not) were teenage draftees who had not served in their units long enough to get to know their buddies, much less develop any organizational loyalty or habitual discipline.<sup>23</sup>

(U) Notwithstanding the "public relations" objective of the Code, it was published as an Executive Order to be a standard of conduct for the United States military combatant. If the Code is to maintain its vitality, it should have a more lasting, significant, and explicit set of objectives. These objectives should become the criteria by which the Code's specific provisions are judged. The objectives should be as specific as possible so that particular provisions of the Code be directed toward separate objectives. Such an approach is especially valuable when working with a document that is designed to assist the PW in the demanding isolation of the prison camp. He needs direct, practical guidance to solve immediate problems and to answer specific questions. Elaborate but pithy admonishments are of little help. Prescribed inspiration is a most difficult task and efforts to achieve this effect must be very discreet. The Code of Conduct should be perceived as valuable by the most cynical mind as well as by the more idealistic.

23. Interview with Professor James E. King, Chairman Department of Advanced Research, U.S. Naval War College, Newport, R.I.: June 19, 1974.



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### OBJECTIVES

(U) From the analysis of the conflicts within the PW relationship, seven specific objectives can be derived which are based on consideration for individual and protector nation needs and as a counter to captor needs. These objectives are:

1. Strengthen the fighting resolution and precombat morale of the fighting man.
2. Deny intelligence information to the captor.
3. Deny propaganda exploitation of the prisoner.
4. Deny political exploitation of the prisoner.
5. Promote physical and psychological survival of the Prisoner of War.
6. Foster fellowship and mutual support among prisoners.
7. Promote organization within the prison camp.

Subsequent paragraphs will discuss briefly each objective.

(U) Objective 1: Strengthen the Fighting Resolution and Precombat Morale of the Fighting Man.

At the time of enlistment or commissioning, the individual covenanted in the presence of witnesses to

. . . support and defend the Constitution of the United States against all enemies, foreign and domestic; and to . . . hear true and allegiance to the same. . .<sup>24</sup>

24. 10 USC 501.

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(U) The Code should remind the individual of these obligations assumed at the time of his oath. It should leave little doubt in the individual's mind that when he agreed to defend his country, his commitment was total, even to the giving of his life in its defense, if required.

(U) In the daily routine of training or battle, the military man needs a constant reminder of the lofty purpose for which he fights and which justifies his risk, suffering and sacrifice. The knowledge that he fights for the safety and well being of his loved ones, country and way of life are strong motivating factors that should be constantly emphasized in order to bolster morale and toughen the individual's resolve. DOD Directive 1300.7's purpose for Code of Conduct training could in fact be considered to be a part of this overall objective. It indicates the purpose is:

. . . to inculcate in each individual an unqualified determination and belief in his ability to oppose and defeat physically, mentally and morally all enemy efforts against him, his fellow servicemen, and his country during peacetime, combat or captivity.<sup>25</sup>

(U) Objective 2: Deny Intelligence Information to the Captor.

(U) Throughout history captives have been prime sources of intelligence data. By the casual, unguarded word as well as by torture-produced disclosures, the captive has provided

25. U.S. Department of Defense, Training and Education Measures Necessary to Support the Code of Conduct, DOD Directive 1300.7, July 1964.

the enemy with valuable information. While it must be recognized that trickery and torture will extract some intelligence information, it is important that every effort be made to minimize the amount of meaningful data that the enemy can obtain from prisoners.

(U) Objective 3: Deny Propaganda Exploitation of the Prisoner.

(U) In the Korean and Vietnam Wars and in the U-2 RB-47, RB-66 and Pueblo incidents, the communist captors expended more effort eliciting propaganda statements and confessions from PWs than in securing intelligence information. In both the Korean and Vietnam Wars, considerable captor energy was expended in efforts to reeducate the captives. This re-education process which has loosely been called "brainwashing" can have various goals.

(U) In Korea there was instruction given in basic communist ideology in an apparent attempt to achieve communist conversion. Out of this education process came the 21 turn-coats who voluntarily remained in North Korea and China after repatriation.<sup>26</sup>

(U) In North Vietnam the indoctrination program was aimed more at developing distrust of the U.S. Government and

26. Julius Segal, "Factor Related to the Collaboration and Resistance Behavior of U.S. Army PWs in Korea" Human Resources Research Officer Technical Report 33, (Washington D.D.: the George Washington University, June 1956) p. 10.

feeding the popular dissatisfaction with the war than at converting the prisoners to communist ideology. The PW generated propaganda material was to them a vital weapon in this battle.

(U) The PW must understand his propaganda value and be motivated and trained to minimize his worth to the enemy in that regard.

(U) Objective 4: Deny Political Exploitation of the Prisoner.

(U) The Vietnam War and the Pueblo incident added a new dimension to the communist exploitation of American captives. The United States' deep concern for the welfare of these prisoners made them valuable political hostages for the captors. This issue became a key factor in the peace negotiations.

(U) This particular exploitative value is only minimally effected by the acts of the PW. It is more a reflection of the protector nation's attitudes toward the individual worth and importance of its citizens. The PW is by and large a helpless pawn caught in the middle of a political battle between the two belligerent countries. He must, however, refrain from any acts or statements that would enhance his hostage value to the captor.

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(U) Objective 5: Promote Physical and Psychological Survival of the Prisoner of War.

(U) The PW is a deprived and threatened person living a tenuous existence. He needs and deserves whatever support his country and his fellow prisoners can provide to help him survive and return with honor. Physical survival alone is not sufficient. A man who returns with strong feelings of guilt and self-recrimination will be a miserable and discontented individual.

(U) S.L.A. Marshall, one of the framers of the original Code of Conduct has said:

One of the objects of the Code must be to strengthen the person psychologically by making him feel that his situation would not be hopeless; and that there is a possible terminal point for his ordeal. Given this, the thought of captivity becomes less intolerable.<sup>27</sup>

(U) Without the hope and faith that the future will bring better things, the Code and all its objectives are but meaningless words to the prisoner. The Code must instill in the individual the desire to continue. It must provide him with the instruction and motivation that will insure his continued resistance and help him survive the ordeal.

(U) Objective 6: Foster Fellowship and Mutual Support Among Prisoners.

27. U.S. Department of the Air Force, (U) Report of the Air Force Advisory Committee on Prisoners of War, 1963. (Washington, D.C.: November 1963), p. 172. SECRET

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(U) Embodied in this objective is the concept of keeping faith with fellow prisoners and not doing anything that would be harmful to them. The Turkish Prisoner of War experience during the Korean War is ample proof of the resistance capability of a unified group and of the survivability of that group when there is genuine concern for each other's welfare.<sup>28</sup> At one North Korean prison camp the Turks did not lose a single man during the same period that America's Prisoner of War losses were four to eight hundred out of 1500 interned in the same camp.<sup>29</sup> The secret to the Turks' remarkable success lies in the tight organization they established and their mutual concern for each others welfare.<sup>30</sup>

(S) The Vietnam experience provides similar testimony of the power of the group when it is organized and its members care for each other. During the early years of Vietnam captivity, prisoners were kept isolated. Very little mutual support was possible. The captives were forced to suffer the ordeal of interrogation, torture and deprivation alone in isolation without the benefit of communication or contact with fellow prisoners.

28. U.S. Department of Defense, The U.S. Fighting Man's Code, DOD Pamphlet 1-16, Washington, D.C. U.S. Government Printing Office, 1959, p. 75.

29. Eugene Kinkad, "In Every War But One," New York: W.W. Norton & Co., Inc. 1959, p. 165.

30. Ibid., pp. 165-168.

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(S) In later years, reorganization within the prison camps of North Vietnam brought the prisoners together into blocks of up to 40 prisoners per cell. This enabled the prisoners to provide each other with guidance and support in resisting the interrogation efforts of the enemy. Comradeship and mutual support are key factors in a prisoner's resistance and survival.

(S) Objective 7: Promote Organization Within the Prison Camp.

(S) Vietnam demonstrated the effectiveness of organization in a prison camp as an aid to supporting the individual in his survival and resistance efforts. According to many of its members, the Fourth Allied Prisoner of War Wing, was a significant element in supporting the survival efforts of the individual. The Prisoner of War organization established policies nicknamed "plums" which provided guidance on the Code; strengthened individual resistance to interrogation; and fostered group resistance to unsatisfactory camp conditions or treatment.

(S) A senior ranking officer in the Fourth Allied Prisoner of War Wing indicates that, "one of the most important tactics. . . was building an organization. . . so that resistance could be uniform and broad and not leave a guy hanging out in left field."<sup>31</sup>

31. Debriefing of Colonel David W. Winn, Vietnam PW Returnee, March 1973. SECRET.

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(U) One of the greatest dangers an individual must face in captivity is isolation and the feeling that no one knows or cares about him. An organization, even though crude, can provide immeasurable assistance in strengthening the individual's resolve and in helping him to identify with the group.

#### SUMMARY

(U) In analyzing the seven objectives, it must be recognized that just as the standards expressed in each article of the Code are intertwined, so also are the objectives closely interwoven. Some are mutually supporting as with Objective 6, "Foster Fellowship and Mutual Support" and Objective 7, "Organization." Others, however, imply activities which might be in conflict. For example, denying intelligence information may not be compatible with aiding the PW to survive if the captor wants the information badly enough. If a captive totally resists enemy efforts to exploit him for propaganda or intelligence purposes, his survival could be jeopardized.

(U) This set of objectives provides for the welfare of the PW as much as possible while still keeping in mind the requirements of the nation as it continues to wage the war.



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## CHAPTER VI

### ANALYSIS OF BASIC PROVISIONS

(U) The Code of Conduct can be logically broken down into 12 basic provisions and topics for analysis. These areas are General Military Service, Surrender, Resistance, Escape, Parole, Special Favors, Faith with Fellow Prisoners, Prisoner Organization, Communication with the Enemy, Responsibility for Actions, Trust in God and Country and Training. The above listing follows the same general order found in the Code.

(U) In the following pages, each of these provisions will be discussed and evaluated from a historical, legal and functional point of view. The specific goal is to construct a document which meets the objectives outlined in Chapter V. It will be recommended that those provisions which do not serve these objectives be discarded.

(U) It is recognized that in the past 19 years the Code of Conduct has gained a strength and tradition of its own. This strength and tradition stems from the contemplation and striving of men, under the most difficult conditions, even to the point of giving their lives, to abide by the precepts of the Code. Consequently, changes will be recommended only where the Code can be improved significantly.

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### GENERAL MILITARY SERVICE

(U) The broad topic of military service is addressed by Article I of the Code of Conduct.

I AM AN AMERICAN FIGHTING MAN. I SERVE  
IN THE FORCES WHICH GUARD MY COUNTRY AND OUR  
WAY OF LIFE. I AM PREPARED TO GIVE MY LIFE IN  
THEIR DEFENSE.

### BACKGROUND

(U) The basic objectives of military service are reflected in this article. The commitment associated with wearing the military uniform is much stronger than most men appreciate.

### ANALYSIS

(U) The military man has regularly been required to give his life for his country. He deserves a bold confident statement of the reason for his possible sacrifice. The first article of the Code serves such a purpose and should strengthen the fighting resolution and precombat morale of the military man. Seventy-four percent of the PW returnees from Vietnam affirmed that the Code did strengthen their overall resolution to do what they perceived as their duty to their country (Appendix I, Questions 26 and 27).

### RECOMMENDATION

(U) Leave as written.

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SURRENDER

(U) Article II of the Code of Conduct states:

I WILL NEVER SURRENDER OF MY OWN FREE  
WILL. IF IN COMMAND, I WILL NEVER SURRENDER  
MY MEN WHILE THEY STILL HAVE THE MEANS TO  
RESIST.

BACKGROUND

(U) Entire armies have shamefully surrendered in past wars. Weak individuals in every war have sought sanctuary from battle injury and death, by surrendering during slight turns of tactical advantage. Battles are won by either destroying the enemy or causing him to surrender. Fighting resolution is the antithesis of surrender. If fighting forces are to be effective, strong traditions and sanctions against surrender must be fostered. Such is the goal of Article II. The Defense Advisory Committee's view of surrender is evident in their amplifying statement about Article II. They said:

(U) If individuals and commanders were permitted to surrender whenever a situation seems to be desperate, it would become an open invitation to all weak of will or depressed in spirit.<sup>1</sup>

1. U.S. Department of Defense, "POW: The Fight Continues After the Battle," the Report of the Secretary of Defense's Advisory Committee on Prisoners of War., August 1955, p. 20.

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(U) Any meaningful Code of Conduct for fighting men must take a strong, unequivocal position on surrender of one's self or of one's command. As the Advisory Committee stated:

The responsibility and authority of a commander never extends to the surrender of his command to the enemy while it has power to resist or evade.<sup>2</sup>

LEGAL

(U) The legal obligation of the fighting man is detailed in the UCMJ as previously discussed in Chapter IV. The GPW further prescribes the acceptable rules of surrender or "capitulation" as is the terminology in international law. Capitulation is defined as:

(U) . . . an agreement entered into between commanders of belligerent forces for the surrender of a body of troops, a fortress, or other defended locality, or of a district of the theater of operations.<sup>3</sup>

(U) In the "Law of Land Warfare," the commander of a body of troops is authorized to enter into capitulations.<sup>4</sup> The commander of a military force of the United States has authority to surrender if continued battle has become "impossible" and communication with superiors is not

2. Ibid., p. 20.

3. U.S. Department of the Army, "The Law of Land Warfare," Field Manual 27-10, July 1956, p. 169.

4. Ibid., p. 169.

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possible.<sup>5</sup> If the surrender is unnecessary or in violation of orders from higher authority, the commander may be held accountable under the UCMJ, but the surrender is still considered valid.<sup>6</sup>

#### ANALYSIS

(U) Surrender to the enemy is an acceptable alternative under certain conditions. It is by definition a voluntary act and to prohibit surrender is to direct fighting to the death in every case unless physically disarmed or overpowered. Concerning the statement ". . . of their own free will," in the Code, Walzer says, "If it were possible for soldiers to surrender in any other way, the act might . . . have no moral consequences."<sup>7</sup> It does not seem reasonable to assume that the Code was intended to prohibit surrender totally. Otherwise, the Code provisions for PWS would be unnecessary.<sup>8</sup>

(U) The difficulty in the surrender question stems from the question of resolution. Undedicated soldiers have surrendered at the first opportunity with no threat from

5. Ibid., p. 170.

6. Ibid.

7. Michael Walzer, Obligations: Essays on Disobedience, War and Citizenship, (Cambridge: Harvard University Press, 1970), p. 150.

8. Ibid.

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the enemy. Some men have shown their lack of resolution by even fighting for the enemy. The other extreme is to fight to the death, as many men have, rather than be taken prisoner.

(U) The problem at hand is to determine a reasonable expectation for avoiding surrender that can be expressed to United States fighting men. When is surrender justified?

(U) One point of view is that when a man or unit no longer has the capability of inflicting casualties on the enemy; has no avenue of escape; is prohibited by the enemy from further action and would experience large and unnecessary numbers of casualties as a result of further action; then surrender is a acceptable alternative.<sup>9</sup>

(U) The UCMJ is detailed and complete in its coverage of surrender. The topic is a critical one which should be mentioned in the Code of Conduct to remind men what is expected of them. However, Code admonishments should not be indefensibly lofty. The downed aircrew member, armed with only a 38 pistol, and surrounded by well-armed soldiers in a rice or hops field, may have the means to resist, but his resulting death serves no useful purpose. If surrender is an acceptable act under certain conditions, and it certainly should be, then the Code should not prohibit making that choice. The Code goes into the Prisoner of War

9. Ibid.

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compound with the man. It is natural for him to feel guilty for having been captured. Guilt feelings decrease the PW's chance for psychological survival and make him more susceptible to exploitation by the captor. Consequently, the phrase, "I will never surrender of my own free will" is a contradiction of terms that can and should be corrected.

(U) RECOMMENDATION

Article II should be changed to read:

I WILL NEVER SURRENDER MYSELF OR MY  
MEN WHILE I STILL HAVE EFFECTIVE MEANS TO  
RESIST.

RESISTANCE

(U) The most difficult questions regarding the Code of Conduct and Prisoner of War behavior center on the concept of resistance. The present Code demands that:

"IF I AM CAPTURED I WILL CONTINUE TO  
RESIST BY ALL MEANS AVAILABLE."

BACKGROUND

(U) Current training literature and even the first Defense Advisory Committee Report, are based on the concept of continuing the fight in the Prisoner of War camp.<sup>10</sup>

10. POW: The Fight Continues After the Battle, p. 17.

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(U) The Department of Defense Pamphlet "U.S. Fighting Man's Code" states "The Prisoner of War is as much in a combat situation as the man who faces the enemy on the battlefield. The only difference is the weapons."<sup>11</sup>

(U) On the other hand, as was pointed out in Chapter IV, the Geneva Conventions and other instruments of international law pertaining to the treatment of Prisoners of War, are based on the concept of "benevolent quarantine" wherein the prisoner secures his life by his surrender and by his agreement to stop fighting. As he moves from combatant to Prisoner of War status, he is entitled to a modicum of humane treatment.<sup>12</sup>

(U) Unfortunately, the Communists have negated this satisfactory solution to the Prisoner of War abuse problem. They have added a new dimension to warfare by extending the war into the prison camps through Prisoner of War exploitation.<sup>13</sup>

(U) Exploitation is the unjust or improper use of another person for one's own profit or advantage. The potential communist Prisoner of War must expect to be coerced through

11. U.S. Department of Defense, The U.S. Fighting Man's Code, DOD GEN 28, 5 June 1967, p. 4.

12. Walzer, p. 148.

13. U.S. Fighting Man's Code, DOD GEN 28, p. 3.



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(U) As Dr. Edgar H. Schein contended in a 1963 study, it is unlikely that a set of rules can be constructed which will replace the necessity for on-the-spot judgement and decision. The individual must know what his general obligations are and be trained in the most effective, proven way of countering the captor. He must be given the basis for developing a strategy for long term survival with honor.<sup>14</sup>

(U) Why Resist. Some writers have asked "why resist?" arguing that the Prisoner of War is unarmed for his battle. To some extent this is true. Biderman points out that many enemy political and propaganda successes are ultimately beyond the power of the individual to prevent, however, well-trained and determined he is.<sup>15</sup> North Vietnam's use of PWs as political hostages to encourage the United States to withdraw troops from South Vietnam could not have been prevented by PW resistance activities. Many involuntary PW pictures and articles released by Hanoi were effective propaganda tools.

14. U.S. Department of the Air Force, Report of the Air Force Advisory Committee on Prisoners of War, November 1963, p. 217. SECRET

15. Albert D. Biderman, March to Calumny: The Story of the American POW's in the Korean War. (New York: The Macmillan Co., 1963), p. 188.

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(U) Equally as important is the question of man's ability to withstand physical and mental torture and pressure. At times policy has reflected more wishful thinking and spy story folklore than fact and reason. Any serious attempt to substantiate the contention that a significant number of average American combat troops can resist completely determined communist interrogation will run headlong into facts and expert opinion which prove otherwise. At the end of World War II, the consensus of the experts was this: "It is virtually impossible for anyone to resist a determined interrogator."<sup>16</sup> No experienced prisoner would support the thesis that complete resistance is possible if the captor wants to spend sufficient time and effort to secure compliance. Each man has a breaking point.<sup>17</sup>

(U) Some military writers and a few Vietnam PW returnees contend that if compliance is inevitable, why prolong the process? They feel that the PW should be allowed to say or write whatever the captor directs under a United States broadcast disclaimer, and that no credence should be placed on such statements as prisoners might make.<sup>18</sup> While this

16. POW: The Fight Continues After the Battle, pp. 17-18, and Biderman, March to Calumny, p. 229.

17. POW: The Fight Continues After the Battle, p. 18.

18. Rear Admiral Daniel V. Gallery, (ret.), "What Should Captured Americans Do?" U.S. News and World Report, 20 January 1969, pp. 40-41.

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contention has a certain amount of surface logic, the experience of PWs in both Korea and Vietnam indicates that collaboration seldom relieves captor pressure. The first step in cooperation may well lead to more and more pressure until complete "surrender of the will" is accomplished. It is also very questionable whether such acquiescence enhances psychological health and survival. The man who does not have some cause to strive for can rapidly lose his determination and self-respect.

(U) Even more important, it is quite naive to assume that by simply telling the world not to believe what is said in fact negates the propaganda value of PW statements. The Communist capability for selected news dissemination gives them a great advantage in a propaganda war.

(U) The "resist not" approach to resistance overlooks the critical question of intelligence interrogation. Any set of guidelines must provide for the safeguarding of classified information. It is difficult to imagine a Prisoner of War talking freely until an operational or plans question is asked and then "clammed" up.

(U) Finally, the Communist Block countries' reservations to Article 85 of the Geneva Conventions, stipulate that a conviction of war crimes removes the individual from the protections of the conventions and subjects him to "war criminal" treatment. Thus, the man who pursues the path of

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least resistance and makes germ warfare confessions may well be facilitating his own execution as a convicted war criminal.<sup>19</sup>

(U) Another traditional argument for extensive resistance is that it will tie up more enemy troops for security purposes. This logical sounding contention does not mesh with the facts of war with a manpower-rich Communist country. Personnel problems are the least of their concern. They use more quality people in their indoctrination-interrogation program than they would in a simple security compound. In Korea, the Communists used more men on educating the "Progressives" than securing the "reactionaries." If a man is primarily interested in tying-up enemy troops, he ought to feign interest in the Communist philosophy to encourage the maximum enemy manpower response.<sup>20</sup>

(U) This ridiculous example highlights the need to reevaluate our traditional maxims for resistance and the difficulties in delineating meaningful guides to resistance. But if the Prisoner of War and protector nation's objectives are to be achieved, some plan of resistance must be effected.

(U) Submission to exploitation should not be viewed as an "either-or" question. As one talks of our ultimate

19. POW: The Fight Continues After the Battle, p. 18.

20. Biderman, pp. 71-73.

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"breaking point" he implies that recovery is not possible. This eggshell philosophy indicates that once a man "cracks," he is finished. He is putty in the hands of the captor for the remainder of his captivity. The accompanying guilt feelings help this become a self-fulfilling prophecy.

(U) Resiliency and Friction. It is possible, as was proven repeatedly in North Vietnam, for men under duress to go beyond their limits in meeting captor demands and still return and resist another day. It is critical to develop a resistance philosophy of friction and resiliency. Under such a philosophy the individual who resists with all of the friction he can generate as the enemy seeks to secure his cooperation and collaboration, will be worthy of the esteem of his fellow prisoners and of his country. When the pressure of the interrogator takes a PW beyond his limit and secures its immediate end, the PW must realize that he is not finished, that he can start over again in the next session.<sup>21</sup>

(S) The Prisoner of War experience in North Vietnam demonstrates that successful resistance is employed by knowing how and when to say "no." It is important to make the interrogator work for everything he gets. He should be forced to go back to the beginning in each succeeding session. Nothing should be done in response to threats. Threats are

21. Report of the Air Forces Advisory Committee on Prisoners of War, 1963, p. 108, SECRET.

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always present. Prisoner of War status in a Communist camp in itself is synonymous with threat. A PW must establish his credibility as a resistor during his initial interrogation to keep from becoming a recognized "easy touch" for exploitation.

(U) What To Resist. A very critical question is "What should be resisted?" It is certainly possible to participate in resistance which serves no useful purpose. "It takes guts to stand calmly in the face of insult and abuse, but it will most often be the best thing to do."<sup>22</sup> Meaningless antisocial acts such as striking or cursing guards or refusing to comply with simple camp regulations will likely cause harsh and pointless retaliation by the captor.<sup>23</sup>

(U) A review of the Code's objectives gives a good outline of what should be resisted. Any statements or acts which give the enemy tactical or strategic intelligence information, propaganda support, political leverage, or other forms of military aid should be resisted. Resistance to communications with the enemy will be discussed in greater detail under another section.

22. U.S. Department of Defense, The U.S. Fighting Man's Code, DOD PAM 1-16, 6 August 1959, p. 115.

23. Julius Segal, "Factors Related to the Collaboration and Resistance Behavior of U.S. Army PW's in Korea," HUMRRO Technical Report No. 33, (George Washington University: December 1956), p. 12.

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(U) Effective resistance demands judgement, not robot reaction. A man must be instructed in the power and use of enemy propaganda, the intelligence implications of seemingly harmless bits of information, and in the political value of the PW to the captor. He must also understand to some extent the enemy techniques for achieving PW submission. This information, coupled with the understanding of his obligation to resist all enemy exploitation, will enable him to make judgements about his strategy of resistance.

(C) No one would contend that it is better to die than to disclose one's home town, but there are obviously some things that are worth dying for. Shortly after capture, the North Vietnamese tried to make one downed Air Force pilot call a rescue helicopter into a trap to pick him up. He rightly decided that this was worth dying for and attempted to warn the rescue team. The warning was not completely effective, and one of the rescue planes was in fact shot down. But the enemy did not shoot the PW for his failure to comply with their plan.<sup>24</sup>

(U) In the final analysis, a man is going to ask questions such as "is it worth getting my arm broken to keep from making this statement?" His answer to that question will be one that he will have to live with. If he is too liberal

24. Interview with Lieutenant Colonel Kenneth North, USAF, Vietnam PW Returnee, April 1974.

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with his own personal survival interests, he may come in conflict with the UCMJ and its provisions for the conduct of Prisoners of War. Or he may just be liable to professional condemnation from his service and his peers.

(U) Previous experience in Vietnam and Korea has shown that the American people are not sympathetic to the prosecution of a man for his misconduct as a PW. Dr. Schien reflects this reluctance when he proposes that we abandon the idea that there will be 100 percent resistance.<sup>25</sup> While this is an unpleasant resistance philosophy, it reflects the reality that in the PW camp, the protector nation is not in control, and that the United States is not prone to hold a man to a strict standard when he has already been confined as a PW.

(U) It is appropriate to point out that men's determination to resist is directly proportional to their understanding of the cause for which the war is being fought. For example, in the latter part of the Vietnam War, the new Prisoner of War had a difficult time disagreeing with his captor's contention that the United States should not be in the war. Many did not understand the reasons for the United States' involvement and consequently they started off from

25. Report of the Air Force Advisory Committee on Prisoners of War - 1963, p. 221.



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a position of doubt. Men perform better when they understand the problem.<sup>26</sup>

SUMMARY

(U) In summary, it can be said that resistance must be a reaction to captor exploitation; the Prisoner of War must understand his role and what his country expects of him; and those expectations must be realistic.

RECOMMENDATION

(U) Change the present provision for resistance to read:

IF I BECOME A PRISONER OF WAR, I WILL  
RESIST EXPLOITATION BY ALL MEANS AVAILABLE.

ESCAPE

(U) Article III of the Code of Conduct admonishes every United States Prisoner of War to:

MAKE EVERY EFFORT TO ESCAPE AND AID  
OTHERS TO ESCAPE.

BACKGROUND

(U) Escape is a tradition as old as captivity itself. The first inclination of the captured man is to escape and return to less hostile surroundings. Literature and folklore

26. Code of Conduct Message File, Special Homecoming Debrief No. 93, 140155Z, 13 March 1973. Headquarters 7602d Air Intelligence Group, (AFIS) Fort Belvoir, VA. SECRET.

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find a rich topic as they extoll the attraction and excitement of escape.

(U) The GPW recognizes escape and specifically authorizes only disciplinary punishment and in extreme cases, special surveillance for prisoners whose escape is unsuccessful.<sup>27</sup> More severe judicial punishment, including death, may be levied for certain crimes committed in the act of escaping, provided the punishment is consistent with that which would be given a member of the captor nation's Armed Forces for a similar offense.<sup>28</sup>

(U) The Civil War. The number of Americans who have escaped from enemy prisoner camps fluctuated considerably depending in large measure upon the nature of the war and the environmental circumstances in which the captives found themselves. In the Civil War, almost one and one half percent of the federal prisoners escaped from confederate prison camps, while less than one half of one percent of the union captives escaped.<sup>29</sup> This does not consider the number who were paroled in that conflict or who escaped prior to reaching permanent encampment.

27. GPW Article 92.

28. GPW Article 99.

29. House Report No. 45, 40th Cong. 3d Sess., p. 229 and 737, as quoted in William E.S. Flory, Prisoners of War: A Study in the Development of International Law. (Washington, D.C.: American Council on Public Affairs, 1942), p. 142.

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(U) World War II. The ensuing wars of the 20th Century have seen fewer and fewer captives escape the confines of the prisoner camps. During World War II, 28,570 Americans were captured by the Japanese and 95,495 by the Axis powers in Europe.<sup>30</sup> Less than one percent escaped from the European camps.<sup>31</sup> American escapes from Japanese camps in and around the Japanese mainland and Korea were largely unsuccessful.<sup>32</sup> The importance of physical, linguistic and sociological factors become apparent when escape statistics for the European and Pacific theater of operation are compared. A much higher success rate was experienced in the European area where cultural and social environments are more similar to those found in the United States.

(U) Korea. The Korean conflict proved again the importance of physical, geographical and sociological factors as deterrents to escape. In Korea there were no successful American escapees from any base camp. Kinkead indicates that the effective way in which the Koreans were able to destroy trust was to a large extent responsible for thwarting any escape attempts in Korea. Men were reluctant to trust one another and thus could not secure the necessary help to escape.

30. Report of the Air Force Advisory Committee on Prisoners of War, 1963, p. 18.

31. Ibid.

32. Biderman, p. 87.

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(U) Biderman indicates that while no one escaped and returned to friendly forces from permanent Prisoner of War camps, many men did escape from the forced marches around North Korea. Many also attempted to escape from camps but were recaptured.<sup>33</sup> Despite the obstacles presented by a hostile, foreign populace and the rugged Korean terrain and climate, Biderman estimates that about four percent of the Army Prisoner of War returnees and 15 percent of the Air Force returnees made partially successful escape attempts.<sup>34</sup> Nor were escape conditions much more favorable for North Korean Prisoners of War. Segal estimates five percent of the Korean Prisoners of War captured by the allies attempted escape in the field. From permanent camps, four percent made it out of the camps but all were recaptured. Another four percent attempted escape and still another nine percent had escapes planned.<sup>35</sup>

(U) Vietnam. The escape probability pattern was much the same for the Vietnam War as for previous conflicts. While a significant number managed to get away from Viet Cong captors in South Vietnam and Laos, not one prisoner managed to

33. Ibid., pp. 85-86.

34. Ibid., p. 89.

35. Segal, pp. 40-41.

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escape successfully once established in the prisons in and around Hanoi.<sup>36</sup>

(S) In May of 1969, an illustrative escape attempt was made from the "ZOO annex" at Cu Loc. Two Air Force officers escaped from the compound by going out through the roof in the early morning. Despite disguises and fairly elaborate preparations they were recaptured within a few hours.<sup>37</sup>

(S) After this unsuccessful escape attempt, a vicious round of torture was set off in the camp. One man died as a result of severe torture following his recapture and approximately two dozen others were brutally tortured, some to the edge of insanity. The existing organization and communication network received a serious setback and several returnees noted that during the purge the enemy was annoyed to learn of the extent and effectiveness of the organization (discovered through torture and detailed confessions). Even men who knew nothing about the escape plan were tortured and the period May to October 1969 was extremely bad for the prisoners at Cu Loc.<sup>38</sup>

(S) One senior Air Force Colonel who spent almost seven years as a PW, felt that the escape clause of the Code of Conduct generated problems for the PWs in that men kept trying to escape without regard for the probability of

36. Lieutenant Colonel Michael Patrick Murray, USMC, Historical Analysis and Critical Appraisal of the Code of Conduct for Members of the Armed Forces of the United States." Unpublished Study, U.S. Naval War College, Newport, R.I.; 1973, p. 217. SECRET.

37. Ibid., p. 218.

38. Ibid., p. 218.

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success of such a venture or the consequences to others who remained behind.<sup>39</sup>

(S) It was the need to assess the probability of success more accurately that led the prison organization in North Vietnam to establish an escape committee and to require any captive contemplating escape to submit his escape plan to the committee for review and evaluation of the chances for success. This policy diluted the escape clause in the Code since the man could no longer "make every effort to escape." Approval of the organization was required before any support for the escape could be obtained from fellow captives.

(S) On the other hand, the PW organization had the welfare of the remaining prisoners to consider which made close assessment of escape plans a critical necessity. Generally, any escape attempt would require the coordinated efforts of other prisoners, particularly those in the same cell block and others who might be along the escape path out of the prison. Reprisal by prison officials for any support of an escape attempt could be expected in the form of severe punishment for those individuals who could be identified as well as mass retaliation against all prisoners in the form of reduced rations or physical abuse, to discourage future

39. Code of Conduct Message File, Special Homecoming Report No. 58.

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attempts. The need for a high success probability was nothing more than insurance to those individuals who would be supporting the escape. Not only did they want to see the potential escapee get back home, but they also realized the consequences his recapture would bring after torture had loosened his tongue sufficiently to result in identification of his accomplices.

(U) Organizational control over escape attempts is not without precedence in history. During World War II, Major General Delmar T. Spivey was the senior ranking officer over 2,500 American captives at Stalag LUFT III prison camp in Germany. As a result of Hitler's orders to kill 50 British captives out of 80 who attempted to escape the prison in 1944, Spivey directed that no American would attempt escape without his approval. However, escape planning could continue.<sup>40</sup> Spivey's opinion of Article III is that it ". . . is good if not interpreted literally." And if the escape provision is interpreted literally it ". . . is unrealistic."<sup>41</sup> If the captives did interpret the escape clause of Article III literally the results could be very serious for the entire prison population.

40. Major General Delmar T. Spivey, "The Soldier and the Prisoner," Marine Corps Gazette Vol. 49, May 1965, p. 43.

41. Ibid.

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ANALYSIS

(U) Escape is the most effective form of resistance. It not only robs the enemy of an asset; it costs him face and real resources in recovery efforts. Successful escape achieves all of the protector nation and PW goals, and is a great boost to prison morale.

(U) As stated before, escape is the natural inclination of most men in captivity. They are drawn to their families and the safety of their homelands. Some want to return to fight again. Others want to simply escape from the war and all of its misery. However, it must be recognized that there are some men who do not long for escape because they may have found a measure of security in the prison camp.

(U) The risk and uncertainties involved in any escape attempt places great demands upon the courage and ability of a captive. This is particularly true once the prisoner has been removed to permanent camps behind enemy lines or within the captor nation proper. Detained in this manner, escape is not simply a matter of evading a guard or slipping over a wall to freedom. Once outside the prison, a potential escapee must face a hostile populace which may have physical, social and linguistic characteristics sufficiently different to make disguise extremely difficult if not impossible. He may have weeks, even months ahead of him in which he must take constant evasive action, as he seeks food



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and protection on his trek to freedom. If he is fortunate enough to arrive back at the battle front, he must then run the risk of recapture or even death as he penetrates first the enemy's and then his own front lines.

(U) There is little wonder that all PWs do not make every effort to escape. Walzer contends that when we admire those who make every effort to escape, we are admiring heroes who have gone above and beyond the call of duty.<sup>42</sup>

(U) Escape efforts must be balanced with other needs of the prisoner population as a whole. While the Code directs the prisoner to make every effort to escape, his actions must be tempered by consideration for his fellow prisoners. In this regard, overzealous application of the escape obligation could well result in violation of other sections of the Code of Conduct, namely Article IV, "I will keep faith with my fellow prisoners."

(U) For the reasons cited, to "make every effort" to escape is not always in the best interest of the individual, his fellow Prisoners of War or his country. The inherent dangers involved with the act itself, together with the harm that can be caused to fellow prisoners that remain behind, combine to make escape the most risky and dangerous act a prisoner can attempt in captivity.

<sup>42</sup>. Walzer, p. 161.

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(U) Escape is not a question to be answered by a blanket policy made far from the realities of each individual camp. Some men are not equipped with the nerve, ingenuity and stamina usually required to escape. The PW organization commander must weigh the probabilities of success against the likely costs before an escape attempt is made. The power to decide should be his.

(U) A significant aspect of escape is the psychological value of having a goal to work toward. A major problem within a PW camp is the apathy and hopelessness that can set in when no useful endeavor is available. Escape planning fills this void for many men. Nothing in the Code of Conduct should discourage such planning.

#### CONCLUSION

(U) Escape is a complex question. Successful escape is an excellent way to resist and thwart the exploiting captor, but it may exact an unacceptable price in the misery and torture of the remaining prisoners, and have an adverse effect on the PW organization. It is healthy for all to be planning escapes but the PW organization must have final approval authority.

(U) One alternative is to completely remove the obligation to make every effort to escape from the Code. However, the implication to the casual reader when comparing the existing

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Code with a revised Code which eliminates the escape article is that escape, under any condition, is no longer required or even recommended. This is not the case and this implication must be avoided. Therefore, a more realistic alternative would be to recommend escape but not as a demand requiring "every effort" regardless of the probability of success.

RECOMMENDATION

I WILL ATTEMPT TO ESCAPE AND AID  
OTHERS TO ESCAPE.

PAROLE

I WILL ACCEPT NEITHER PAROLE NOR SPECIAL  
FAVORS FROM THE ENEMY.

(S) Since its inclusion in the Code and close identification with special favors, the precise meaning of parole has created confusion in the minds of many, particularly those who have lived by its precepts in captivity. Many Vietnam PW returnees complained that they did not clearly understand what parole meant or its relationship to the terms "amnesty" or "early release," used by them often interchangeably to describe the early return of PWs to the United States.<sup>43</sup>

43. Letter (Enclosure) from Defense Intelligence Agency to Department of Army, Navy, Air Force and Marine Corps, "Review of Returnees' Comments on the Code of Conduct," S-1 14S/DI-6, 3 December 1973. SECRET.

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Further confusion and misunderstanding was voiced about the changing government policies toward parole which occurred during the Vietnam conflict. These changes may have all but abrogated the parole proscription in the COC. Over 70 percent of Vietnam PW returnees surveyed indicated the COC should be clarified with regard to questions concerning parole, special favors, early release, or offers of amnesty. (See Appendix 1, Question E25).

#### BACKGROUND

(U) In order to evaluate current attitudes toward parole properly it is important first to review the origin and application of the concept. Flory says parole developed from the law of ransom which was one of the earliest methods of liberating prisoners.<sup>44</sup> However, in place of money, the prisoner agreed to certain conditions in return for his liberty. One dissimilarity which separated parole from ransom was that it affected one's release from captivity but not from prisoner status.<sup>45</sup> The individual remained a prisoner subject to reinternment or other retaliation by the detaining state if he violated the provisions of his parole contract.

44. Flory, p. 10.

45. Ibid.

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(U) Parole was a concept in ancient Greek and Roman times,<sup>46</sup> but received most employment during the 18th and 19th centuries. Throughout this period it was common practice to release a prisoner on parole and permit him to go home.<sup>47</sup>

(U) Extensive use of the parole concept was made by both the United States and Great Britain during the American Revolution. British officers were allowed freedom within specific areas of the colonies and, generally, American prisoners were granted the same freedom reciprocally in England.<sup>48</sup> In American-French conflicts of the era, French officers were allowed to leave the United States after parole was granted.

(U) The most extensive American use of parole was during the Civil War. The agreement between Northern and Southern forces was that ". . . all Prisoners of War were to be discharged on parole 10 days after their capture."<sup>49</sup> In that same period, War Department General Order No. 207, 3 July 1863, recognized the parole of honor whereby a prisoner was

46. Ibid.

47. Walzer, p. 151.

48. Flory, p. 117.

49. U.S. Department G.O. No. 142 (1862) Art. 4, as quoted in Flory, Prisoners of War, p. 117.

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permitted to pledge that he would not attempt to escape in return for release from close guard or confinement.<sup>50</sup>

(U) During World War I per authority of the American Instruction of 1863, Article 126, commissioned officers were allowed to give their parole with the permission of the senior officer when he was within reach and without consent when he could not be reached.<sup>51</sup> According to Fooks, noncommissioned officers and privates could also give their parole in accordance with the U.S. Manual, Rules of Land Warfare, if the consent of an officer was first obtained.<sup>52</sup> World War II saw a reversal of this long established parole policy. The publication of War Department circular No. 400 in 1942 prohibited the giving of one's parole to the enemy.<sup>53</sup>

(U) Rationale for Prohibiting Parole. History provides little documentation to explain why United States policy regarding parole was abruptly changed during World War II. Traces of evidences remain that lead to several possible reasons: (a) the idea that the enemy would not offer parole unless there are advantages in it for him and any advantage to the enemy is to be considered a disadvantage to the

50. G.S. Prugh, "The Code of Conduct for the Armed Forces," Columbia Law Review, 1956, p. 707.

51. Herbert C. Fooks, Prisoners of War, (Federalburg, MD.: The J.W. Stowell Printing Co. 1924), p. 205.

52. Ibid.

53. Prugh, Note 43, p. 686.

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United States; (b) the concept that anyone who makes an agreement with the enemy cannot be trusted by fellow prisoners; (c) consideration of parole as a special favor from the enemy and therefore unacceptable and; (d) the notion that if parole were authorized, it might be an avenue out of the conflict for many would-be fighting men, and thus be an unacceptable drain on resources needed to fight the war.

(U) Whatever the reasons may have been, the policy against parole has stood through the two subsequent wars. It was, in fact, made more binding subsequent to the Korean War by its inclusion in the Code of Conduct.

(U) Legal. Modern International Law recognizes parole only when it ". . . is allowed by the laws of the powers on which they [Prisoners of War] depend."<sup>54</sup> The law is so structured because many nations today, like the United States, do not allow their military personnel to accept parole if captured.

(U) Under the provision of the GPW, ". . . upon the outbreak of hostilities, each party to the conflict shall notify the adverse party of the laws and regulations allowing or forbidding its own nationals to accept liberty on parole or promises."<sup>55</sup> Thus the Geneva Convention will authorize parole, provided the protector nation announces the specific conditions that its members can accept. It is significant

54. GPW Art. 21.

55. Ibid.

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to note that international law requires notification to the opponent when parole is forbidden. Thus each side is made aware of the opponent's parole policy or prohibition against it. The importance of this provision in the GPW is that it enables a distinction to be made between parole and special favors. The protector nation can establish the conditions of parole which are advantageous to the protector nation and not damaging to fellow prisoners or the war effort.

(U) An important aspect of the parole agreement is documentation. Without adequate documentation there is practically no way of knowing the precise terms of the parole, or whether the parole was made in accordance with the directives of the protector nation. Greenspan says:

(U) Parole or promise should be in writing, drawn up in duplicate in a language understood by the prisoner and signed by him. It should state in clear unequivocal language exactly what acts the prisoner is obligated not to do, particularly whether he is interdicted only from active service against the enemy or whether indirect services are also forbidden. Otherwise doubt may exist on the extent of his obligations.<sup>56</sup>

(U) PWs liberated on parole and recaptured bearing arms against the government to which they had pledged their honor, or against allies of that government, forfeit their

56. Morris Greenspan, The Modern Law of Land Warfare, (Berkeley CA: University of California Press, 1959), p. 109.



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right to be treated as Prisoners of War and may be put on trial before the courts.<sup>57</sup>

(U) While the United States does not authorize permanent parole at this time, there are provisions for temporary parole. A member may enter into an agreement with the enemy not to escape in exchange for ". . . permitting him to perform certain acts materially contributing to the welfare of himself or of his fellow prisoners."<sup>58</sup> This agreement has effect only for the period of time necessary to perform the act. Paroles of this nature are permitted to allow for such needs as visits to a medical facility or to enable medical and chaplain personnel freedom of movement to carry out their respective humanitarian responsibilities.<sup>59</sup> However, the rule proscribes that parole ". . . will not normally be granted solely to provide respite from the routine rigors of confinement or for other purely personal relief."<sup>60</sup>

(U) Parole in the Code of Conduct. The framers of the Code of Conduct apparently included the parole prohibition in the Code because when used unjustly parole can be a most powerful, if not the ultimate special favor a captor can confer. The instructional material accompanying the Code

57. Ibid.

58. Ibid., Para 187, pp. 72-73.

59. Ibid.

60. Ibid.

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indicated that "parole agreements are promises given the captor by a Prisoner of War upon his faith and honor, to fulfill stated conditions, such as not to bear arms or not to escape, in consideration of special privileges, usually release from captivity or lessened restraint."<sup>61</sup> The references to conditions and special privileges imply a broadened interpretation not necessarily found in International Law which confines parole generally to the obtaining of one's liberty in exchange for an agreement to remain in a quarantine status for the duration of conflict.<sup>62</sup> The Code's instructions further direct that the prisoner ". . . will never sign or enter into a parole agreement."<sup>63</sup> In view of the policies regarding PWs to be expected of the enemy in the Korean War, there was probably little reason to believe that any future captor's offer of parole would be anything other than a special favor. This view was supported in substance by Department of Defense Instruction on the Code of Conduct where captives are expressly forbidden to enter into a parole agreement since the captors are in a position to make parole terms "advantageous to themselves and disadvantageous to the captive. . . ."<sup>64</sup>

61. POW: The Fight Continues After the Battle, p. 20.

62. GPW Art. 21.

63. POW: The Fight Continues After the Battle, p. 20.

64. The U.S. Fighting Man's Code DOD GEN 28, p. 64.

(U) Vietnam. The Vietnam experience more than substantiated the earlier fears of the Defense Advisory Committee. A form of parole, more frequently termed "early release" by PW returnees, was used by the NVN as a special favor to further their own propaganda program.

(U) In all, 12 PWs were allowed to return home from North Vietnam prisons prior to the official repatriation in 1973.

(S) Although they returned home to a hero's welcome, the feeling among the PWs who returned later in the 1973 official exchange was that many if not all of the early returnees had compromised themselves and the Code of Conduct by accepting parole as a special favor in return for support of the enemy's propaganda efforts.<sup>65</sup>

(S) The insidious use of parole as a special favor and its acceptance by some of the prisoners led the PW organization to develop specific directives on early release which amplified the prohibition in the Code.<sup>66</sup> This directive stated essentially that early release or amnesty was not to be accepted. Instead the general policy was repatriation in order of capture with sick and injured going first. Further, an early release could be approved only by the

65. Interview with Lieutenant Colonel Kenneth North, USAF, Vietnam PW Returnee, April 1974.

66. Murray, p. 216.

senior PW in command.<sup>67</sup> In the eyes of the PW organization, the only early return out of capture order that could be made with any degree of honor was outright expulsion by the enemy.<sup>68</sup> Expulsion was defined as removal of the prisoner from the country without voluntary effort on the part of the prisoner. The prisoner was directed to refuse to negotiate should early release be offered, and to request permission to see the camp SRO. He was specifically directed to do nothing before or after expulsion that would contribute to the enemy's propaganda program.<sup>69</sup>

(U) In 1970, the Department of Defense issued a policy statement that was to effect the status of the Code of Conduct profoundly and in particular the parole and special favor constraints of Article III. The policy read "The United States approves any honorable release and prefers sick and wounded and long-time prisoners first."<sup>70</sup> The government's willingness to approve any honorable release was an abrupt reversal of the parole prohibition that had existed for over 30 years. This change resulted from intelligence

67. Ibid.

68. Interview with Lieutenant Colonel Kenneth North, USAF, PW Returnee, April 1974.

69. Ibid.

70. U.S. Department of the Air Force, Code of Conduct Pamphlet 10 August 1971, p. IV, (hereafter cited as Air Force Pamphlet 50-53).

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received from early returnees about the severe exploitation American Prisoners of War were undergoing at the hand of the NVN. It was deemed important to get them back as quickly as possible, under honorable conditions. The 1970 declaration was part of an effort to encourage more prisoner releases by the North Vietnamese.

(U) Behind the scenes efforts had been going on for some-time, however. During the period 1964-1969, U.S. Government Policy, under the direction of roving Ambassador W. Averell Harriman was to not make public the information that was available regarding the inhumane treatment of United States Prisoners of War by the NVN. This decision was made on the assumption that the NVN would be more inclined to release men if they were not used for propaganda purposes against Hanoi after their release.<sup>71</sup>

(U) In May of 1969, it was decided to take a more aggressive tack. Navy Lieutenant Robert Frishman was allowed to detail publicly the torture he and others had suffered. The wives and families of Prisoners of War and MIAs were encouraged to speak out about the horrors of not knowing about the fate of their husbands and sons. National and international support was sought and obtained for the improved

71. U.S. Congress, American Prisoners of War in Southeast Asia, 1971. Hearing-Subcommittee on National Security Policy and Scientific Development, pp. 503-504.

treatment of the Prisoners of War and for the release of their names.<sup>72</sup>

(U) Paradoxically, during this period (1964-68), the PW organization was fighting to keep men from going home out of order of capture while the policy of the U.S. Government was to obtain release of the men, however it could. When the government abandoned its secret policy and made the NVN treatment known to the public, the resulting international pressure achieved greatly improved treatment for the PWs.

#### ANALYSIS

(S) The policy conflict between the government and the PW organization was counterproductive to both. In effect, it created a double standard for the Code wherein individuals who lived by its precepts and those who violated them were both given credit for honorable service by the government. The men who returned early were accorded honors, given promotions, utilized in choice assignments and otherwise given recognition. This was a severe blow to the morale of those who remained behind.<sup>73</sup>

(S) So intense was the feeling about the parole restriction in the Code that some prisoners would not accept release even when their release was considered advantageous to

72. Ibid.

73. Special Prisoner Debriefing Report #33, March 1973.

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do so by the prisoner organization. In 1971, the PW organization leadership recognized the need to get someone out of the prison camp on parole to tell the truth about NVN treatment of PWs and provide information on prisoners to their families. Those prisoners who were known to be accepting special favors from the NVN were of course unacceptable to the prisoner organization. The Air Force officer who was requested to go absolutely refused because of the parole restriction in the Code, its association with special favors and the possible consequences of being identified with others who had accepted parole as a special favor from the enemy.<sup>74</sup>

(U) A most successful technique of a captor bent on exploiting prisoners, is to sow dissent and distrust by dissimilar treatment and special rewards. This distrust and dissent breaks down organizational cohesiveness and degrades PW morale. Special treatment makes collaboration with the enemy more attractive and decreases the camp's overall will to resist.

(U) Parole in and of itself is not evil. Throughout history it has been an honorable means of removing the prisoner from captivity while at the same time preventing his return to the fight. In past wars, it has served well the needs of

<sup>74</sup>. Interview with Lieutenant Colonel North, PW Returnee, April 1974.

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all three parties to the parole agreement, the captive, his captor, and the protector nation alike. To the United States, a nation that places high value on Prisoners of War, parole offers a possible avenue for return of these prisoners to their families and for removing them from possible exploitation by the enemy. It may therefore be to the advantage of the United States and its PWs to authorize parole under certain conditions.

(U) In the past the practice of looking upon parole as an avenue out of the conflict and this as a potential drain on manpower resources was probably the most significant reason for prohibiting it. This could conceivably be the situation in a general war where the total resources of a nation are committed. In the light of the Korean and Vietnam Wars and of the Pueblo incident, however, it is unlikely that a fighting man would voluntarily surrender himself knowing that he would be exploited by a brutal enemy in hopes of possibly getting paroled out of the conflict.

(U) Today, the tendency to regard parole as a special favor is perhaps the significant reason for continuing its prohibition. When parole is accepted as a special favor not available to all prisoners and given as a reward for some form of collaboration, the results can be devastating to prisoner morale. Experience has proven that it is the enemy's natural inclination to use parole unscrupulously as



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one means of exploiting the prisoner. Consequently, PWs should be protected by every means available from captor encroachments that offer the most tempting possible reward for cooperation, -- that of release and return home.

CONCLUSION

(U) The present prohibition of parole in the Code, binds the prisoner and the government to a policy of not accepting parole. Because of the special favor aspect, it may be well to continue the proscription for the prisoner as a protective device yet allow the government the freedom of action to negotiate paroles which are advantageous. In Vietnam, paroles granted men based on order of capture would have been advantageous to all concerned.

(U) Adequate provisions exist in international law whereby acceptable parole can be defined to the enemy. Doing so will serve as a protection for both protector nation and prisoner alike. The senior ranking officer in the prison camp can then decide when parole is acceptable, using the basic guide: "Is this a special favor that will not be offered to all prisoners?" If so, it should be refused, regardless of what the offering is. He can also make the determination if the parole is offered as a reward for collaboration, knowing full well that both he and the parolee will be held responsible for their decisions upon their return to protector nation control.

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RECOMMENDATIONS

(U) 1. Remove the parole restriction from the Code of Conduct.

2. Change the statement in Article II to read:

"I WILL ACCEPT NO SPECIAL FAVORS FROM THE ENEMY. I WILL NOT NEGOTIATE MY OWN RELEASE. IF EXPELLED I WILL DO NOTHING TO AID THE ENEMY'S PROPAGANDA EFFORTS."

SPECIAL FAVORS

(U) Article III of the Code of Conduct states ". . . I WILL ACCEPT NEITHER PAROLE NOR SPECIAL FAVORS FROM THE ENEMY."

Special Favors can be defined as privileges which are not given to all prisoners of equal status.

(U) The use of special favors to exploit an individual prisoner is a most effective tool, and therefore a favorite tactic of practically every captor nation. Unlike blackmail or extortion which impose punishment for noncompliance, special favors are positive, offering rewards for information, services or good behavior. For the captive, to be offered a special favor constitutes an insidious temptation at a time when he is most vulnerable.

BACKGROUND

(U) Special favors were used as a captor enticement to secure prisoner cooperation long before the Code of Conduct

was written or before communist exploitation began. The captor can make very trivial things into very attractive special favors by his complete dominance of the prisoner's environment. To the man deprived of water or food for two or three days, the smallest drink or morsel becomes very tempting. Or even to stop beating on a man can be a special favor. Normally, however, special favors implies something extra that a prisoner is given which may or may not be for a special level of cooperation.

(U) One of the attractions of special favors to the captor is that they are very inexpensive. There is no risk nor cost associated with a tool that can be very productive.

(U) Legal. Article 105 of the UCMJ makes it a criminal offense for a prisoner to act to the detriment of another prisoner for the purpose of gaining favorable treatment. Article 16 of the GPW which attempts to insure some degree of standard PW treatment states:

. . . subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all Prisoners of War shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinion, or any other distinction founded on similar criteria.

(U) While this article provides an admirable standard and reinforces the policy the U.S. would prefer, it is a standard that communist captors have seldom followed.

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ANALYSIS

(U) The most obvious purpose of special favors is to bribe the prisoner into cooperating by giving him some object or privilege which less cooperative men do not enjoy. In North Vietnam cooperation was rewarded with greater freedom outside of cells, greater exercise privileges, improved food, communications with family or even early release.

(U) The attractiveness of such favors is a direct function of the general prison environment. The harsher the treatment, the more attractive is some small favor.

(U) Special favors are also used by the captor to breed distrust and discontent between prisoners. This turmoil within the PW group undermines the strength of the PW organization and adversely affects PW morale. Seldom does one PW know what another had to do to secure some particular special favor, and he instinctively suspects the worst. In this atmosphere of suspicion, the vital process of cooperation and mutual support deteriorate markedly. This is the real value of special favors as an exploitation tool. Almost any prisoner might lose some determination to resist when he perceives that his fellow PWs are improving their lot by compliance.

(U) The effectiveness of special favors is controlled to a large extent by the strength of the PW organization and its ability to make the PW understand the long, strong

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strings that are attached to enemy offerings, no matter how small the favors may first appear.

(U) The achievement and retention of this understanding by the PWs is made more difficult by the failure of the U.S. Government to administer punitive enforcement. No PWs have been punished for simply violating the Code of Conduct by accepting special favors. As noted in Chapter IV, there is no legal basis for punishment for such conduct unless it can be established that the man's action was detrimental to other prisoners; constituted conduct unbecoming an officer; or involved wrongful communication with the enemy. These offenses are generally very difficult to prove.

#### CONCLUSIONS

(U) Despite the poor enforcement record of this provision in the Code of Conduct, the destructive power of special favors makes continued prohibition necessary. Not only do these acts bring harm to comrade and country alike, but they scar the character of the participants. To yield under the pressure of duress to an enemy is one thing, but to volunteer cooperation in exchange for reward is quite another. Such action must be decried in any meaningful statement of professional military ethics.

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RECOMMENDATIONS

(U) 1. The prohibition against accepting special favors should remain in the Code of Conduct.

2. Code of Conduct training should emphasize the non-judicial, and administrative punishments that can result from accepting special favors.

FAITH WITH FELLOW PRISONERS OF WAR

(U) Article IV of the Code of Conduct states: "IF I BECOME A PRISONER OF WAR I WILL KEEP FAITH WITH MY FELLOW PRISONERS. I WILL GIVE NO INFORMATION NOR TAKE PART IN ANY ACTION WHICH MIGHT BE HARMFUL TO MY COMRADES."

(U) This very general admonition reflects one of the Code's most important philosophies; that of keeping faith with one's fellow prisoners.

BACKGROUND

(U) Legal. The provisions of Articles 104 and 105 of the UCMJ relate directly to a Prisoner of War's responsibility to keep faith with his fellow prisoners. In fact Article 105, Misconduct as a Prisoner, provides what could be termed a minimum definition for keeping faith with fellow prisoners. It declares as punishable crimes any self-seeking acts by a Prisoner of War which are contrary to law, custom, or regulations and which are detrimental to other prisoners. Article 104 supports this concept by prohibiting direct or

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indirect communications with the enemy. Some form of illegal communication with the captor would usually be required if one PW were going to cause harm to another through the captor. Other offensive acts that one PW might commit against another such as stealing, murder or assault, are all prohibited by the UCMJ.

(U) Historical. One of the strong, distasteful impressions that followed the Korean War was the picture of men failing to support one another by turning their backs on a man when he needed physical or emotional support. On the other hand, the movies and novels of World War II have depicted men soaring to heroic heights as they helped one another through the trials of captivity.

(U) It is not necessary to trace the validity of these impressions. But it is important to have a clear understanding of how keeping faith with fellow prisoners helps achieve the objectives of the Code outlined in Chapter V.

(U) To some extent the Prisoner of War is a citizen of a new society once he is captured. It is a society which includes obligations to the protector state, to the captor state and to fellow Prisoners of War. The obligations to the protector state are enforced by the man's sense of loyalty and by the knowledge that he may some day return to that state's control and be held responsible for his actions. The obligations to the captor are obviously enforced by

immediate coercion and threat. It is much more difficult to describe exactly what prompts men to meet their obligations to the society of prisoners:

(U) Captivity brings men together under conditions that make their cooperation both vitally necessary and extremely difficult. . . . Shared suffering is a powerful bond among men and seems to entail. . . very strong positive obligations to mutual assistance. These bonds seem to arise among groups of men assembled with or without regard to their previous citizenship. . . . These new obligations are owed to other prisoners and not to the state from which they come.<sup>75</sup>

(C) These ties, built on real need for mutual support, are cemented by mutual suffering. One SEA PW returnee felt it was important to help each other avoid depression and failing spirits by mutual support. "This was accomplished either by talking to and encouraging the man or, in some cases, by aggravation until anger restored the will to survive."<sup>76</sup>

(U) The importance of this mutual support is best attested to by the technique of isolation. When the Communists have sought to break a man's will and ability to resist, they have usually isolated him from his fellow Prisoners of War. In this way they deprive him of the mutual support of other prisoners.

75. Walzer, pp. 159-160.

76. Code of Conduct Message File, Special Homecoming Report #54, 10 March 1973, Cite #101901Z March 1973.



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(U) A diseased or wounded man needs someone to treat and tend him and help restore his health. A discouraged, depressed man needs someone to buoy him up and help restore his emotional balance. A harassed and tortured man needs someone to rekindle his determination to resist. The only person available to provide these aids is the fellow prisoner. In the final analysis, the most important people in a PW's life are his fellow prisoners.

CONCLUSIONS

(U) Precombat training as well as the provisions of the Code must stress the absolute necessity of prisoners keeping faith with one another by providing the mutual support necessary for physical and psychological survival.

RECOMMENDATION

(U) Retain the basic provision for keeping faith with fellow prisoners in the Code.

ORGANIZATION

(U) Article IV of the Code of Conduct emphasizes the importance of prison camp organizations when it states:  
. . . IF I AM SENIOR I WILL TAKE COMMAND, IF NOT I WILL OBEY THE LAWFUL ORDERS OF THOSE APPOINTED OVER ME AND BACK THEM UP IN EVERY WAY.

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BACKGROUND

(U) Legal. The UCMJ gives an adequate base for establishing a man's legal responsibility to initiate or to support a Prisoner of War organization within a camp. The man who fails to take command and organize a group of prisoners is subject to punishment under Article 92 of the UCMJ for dereliction of duty and failure to lead as imposed by the regulations and customs of the services. Officers who fail to discharge their responsibilities as senior prisoners may also be liable to prosecution under Article 133 for conduct unbecoming an officer. The man who fails to support the lawful orders emanating from his Prisoner of War organization is subject to punishment under Article 92, Failure to Obey an Order or a Regulation.

(U) Historical. World War II PW camps were generally well organized. It is difficult to sift out the fact from the fiction on how extensive and how effective these organizations were, but there is evidence and testimony that organizations existed which were able to plan and effect large scale escapes and restrict them when appropriate.<sup>77</sup>

(U) The organization of PW camps in Korea is better documented. According to Kinhead, the Army concluded from post-war studies that the high death rates in North Korean PW camps were due in part to the breakdown in discipline and the

77. Spivey, p. 43.

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failure of the men to organize effectively. There were too many who stole from the weak; who refused to carry the stretchers of the sick and wounded on forced marches; and who informed on fellow prisoners.<sup>78</sup>

(U) The organizations that did exist were usually filled with resisters who showed strong group loyalty and great compassion for their fellow resisters. However, they showed great hostility and even violence toward the collaborators. These organizations were tight knit groups which were effective in increasing member resistance.<sup>79</sup> Unfortunately, there were not enough men committed to these groups. Further, the Communist technique of separating officers, NCOs, and junior enlisted men worked against effective organization. The very men who should have taken the lead in organizing often found themselves in complete isolation.

(U) In North Vietnam, an overwhelming majority of the PWs felt that the prisoners were effectively organized for the last three years of their captivity.<sup>80</sup> Rear Admiral Stockdale emphasized, upon his return, the importance of organization in helping the PW survive from day to day. This

78. Eugene Kinkead, In Every War but One, (New York: W.W. Norton Co., Inc., 1959), pp. 154-156.

79. Segal, pp. 90-94.

80. See Appendix 2, Questions E-52-59.

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organization established the rules and regulations to support the men and insured the communication of these rules to as many as possible.<sup>81</sup>

#### ANALYSIS

(U) Organization within the PW camp is easy to overlook and underestimate, but few things are more threatening to the captor than a well organized prisoner force. There is real strength in the esprit, group identification and mutual support derived from such an organization. The "dog-eat-dog" attitude that the communist captor attempts to foster is thwarted by a viable PW organization. The captor realizes this and accordingly, makes every effort to fragment a camp. He separates officers and enlisted men and he isolates aspiring leaders who seek to fulfill their responsibilities to take command. Such an enemy will only be frustrated by well trained and highly motivated men. The men must support one another and combat the destructive feeling of aloneness through a strong organization.<sup>82</sup>

(U) Thus organization reflects the sustaining strength of group loyalty. In Vietnam it was maintained at the cost of

81. Rear Admiral James B. Stockdale, "Experiences as a POW in Vietnam," Naval War College Review, January-February 1974, p. 4.

82. Segal, pp. 12-14.

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much suffering, but it was important because it supported the individual when other supports were gone.<sup>83</sup>

(U) It is not enough to organize in cliques to hoard food and harass suspected collaborators, as occurred in Korea. These groups may do more harm than good. The organization must work to suppress the natural opportunistic behavior which the captor will encourage through his offers of special favors. The organization must feel responsibility for camp and personal hygiene and physical conditioning. It must work to motivate and support men in their efforts to resist captor exploitation. In short, the organization must work to insure that the goals of PW survival and exploitation resistance are met, insofar as possible.<sup>84</sup>

(U) One other potential pragmatic result of effective organization is the increased demand for security forces. The Communist organizational techniques in the South Korean prison camps enabled the few strong Communists to control a large number of "volunteer fighters" for their political purposes. They succeeded in effecting the UN/US policy on voluntary repatriation, disrupted the camp's civil

83. Stockdale, p. 4.

84. Segal, pp. 13, 14.

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information and education program and increased the number of guards required for security.<sup>85</sup>

(U) As previously pointed out, Biderman effectively counters this point as far as Communist prison camps are concerned when he states that they use more high quality people in their indoctrination and interrogation program than they would need for a simple security program. To a heavily populated Communist captor a few hundred security troops are not likely to be a significant factor.<sup>86</sup> Further, Communist history has demonstrated that if the prisoners became too bothersome they would simply be disposed of.<sup>87</sup>

#### CONCLUSION

(U) If the captor seeks to exploit PWs, effective organization is necessary if the objectives of the PW and the protector are to be realized. Such organization will only arise and survive through the dedicated efforts of well trained men. It must be encouraged and supported by every means possible.

85. Samuel M. Meyers and William C. Bradbury, "The Political Behavior of Korean and Chinese Prisoners of War in the Korean Conflict: A Historical Analysis," HUMPRO Technical Report No. 50, (George Washington University: August 1958), p. 9.

86. Biderman, pp. 71-72.

87. U.S. Congress, Senate, Communist Treatment of Prisoners of War, Senate Judiciary Committee, Subcommittee to Investigate Administration of Internal Security Act and other Internal Security Laws, (Washington: U.S. Government Printing Office 1972), p. 1.

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RECOMMENDATION

(U) Retain the present organizational provisions in the Code of Conduct.

COMMUNICATIONS WITH THE ENEMY

(U) Communications with the enemy is addressed by Article V of the Code of Conduct which reads: 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.

(U) This article has received more attention and criticism than any other in the Code because most of the captor's exploitative efforts have focused on getting more information from the Prisoner of War than Name, Rank, Service Number and Date of Birth (NRSD). Questions have been raised as to what the article actually means, what it was intended to mean, and what should be prohibited. Even the need to limit communications has been questioned.

(U) These are certainly not trivial questions. One Southeast Asia PW returnee attributed the death of some PWs directly to their rigid adherence to Article V of the Code of Conduct.<sup>88</sup>

88. Code of Conduct Message File, Special Homecoming Report #2, 20 February 1973, 210100Z February 1973.

BACKGROUND

(U) Legal. The Uniform Code of Military Justice is straightforward in its restrictions against communicating with the enemy. Article 104, Aiding the Enemy, makes it a punishable offense to give without proper authority intelligence to or communicate or correspond with or hold any intercourse with the enemy, either directly or indirectly. For administrative purposes, Article 17 of the Geneva Conventions requires that a Prisoner of War give his name, rank, service number and date of birth upon capture.

(U) Enforcement. As pointed out in Chapter IV, military legal experience reflects considerable reluctance on the part of the services to prosecute men for communications with the enemy while they are PWs. While the UCMJ holds that any unauthorized communication with the enemy is unlawful, it is virtually impossible to spend prolonged periods in captivity without some communication. The practical solution then is to hold as punishable only harmful communications with the enemy. These questions, in conjunction with the political implications of what punishment will the American people support, have precipitated few convictions for PWs communicating with the enemy.

(U) Restricting Communications. A PWs value, to a large degree, depends on his willingness to talk. Consequently, the protector nation has long sought ways to restrict



communications by its people when they are captured, just as the captor has sought physical and psychological techniques for encouraging PWs to talk.

(U) This paper will not address the topic of persuasion techniques. Interrogators have adequately proven their ability to crumble the resistance of almost every man if it is worth the time and effort.

(U) In World War II, the initial instructions passed out to combat troops directed that they give only name, rank and service number if captured. When it soon became evident that these were unrealistic instructions, broader guidelines were established. Admiral King, Commander in Chief, U.S. Fleet, ordered that aircrews should be given only mission-essential knowledge and they be briefed on what information they should attempt to withhold from their captors.<sup>89</sup> These instructions were based on the realization that NRSR restrictions were unrealistic.

(S) During World War II, 98 to 99 percent of all troops interrogated gave more than NRSR. Ninety-seven percent of aircrew personnel went beyond NRSR.<sup>90</sup>

89. U.S. Department of the Army, A Review of United States Policy on Treatment of Prisoners of War Vol. III Origins of a Standard of Conduct. The Prisoner of War Study Group, Office of the Provost Martial General, December 1968, p. III-80. SECRET (NOFORN).

90. Report of the Air Force Advisory Council on Prisoners of War - 1963, p. 94. SECRET.

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(U) Biderman sums it up: ". . . virtually all American Prisoners of War who had been interrogated more than perfunctorily had divulged information beyond that strictly prescribed by the "name, rank and serial number only" rule - generally far beyond.<sup>91</sup>

(U) The Defense Advisory Committee's 1955 report pointed out that only a handful of Prisoners of War could adhere to NRSD only during the Korean War. Prisoner experience and expert testimony on interrogation methods point out that compliance with such a strict, Spartan approach as NRSD only is impossible for a vast majority of prisoners where the enemy interrogators are skillful and persistent.<sup>92</sup>

(S) The testimony from the North Vietnam camps is better documented. One PW Returnee's comments are typical on the subject of NRSD only. He felt that restricting Prisoners of War to reveal only name, rank, service number and date of birth is only possible while the enemy limits himself to threats. When torture is used "the chances of maintaining that line are probably absolutely zero. The individual is either going to break, be killed or go insane." The Prisoners of War were forced to modify the Code in response to

91. Biderman, pp. 22, 23.

92. Report of Air Force Advisory Committee on Prisoners of War Report 1963, p. 60.

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the well directed torture. They were advised not to endure torture that would cause them permanent physical damage, but this came only after many had already received considerable physical abuse.<sup>93</sup>

(U) Despite strong evidence to the contrary, some contended in the early 1960's that a man was committed by the Code of Conduct to hold absolutely to the NRS D line. This is somewhat understandable since it was the only way to defeat the captor completely and keep him from his exploitation goals. It was a simple, straightforward solution that was difficult to reject. There were no other solutions proposed which promised to deny the enemy his objectives. Thus the Army, the Navy and the Marines supported the "NRS D only" view.

(U) Army Position. The 1964 U.S. Army's Code of Conduct instruction regulation 350-30, prohibited the soldier from going beyond NRS D. In 1971, this was changed to point out the need to understand enemy exploitation techniques and methods for resisting these techniques.<sup>94</sup>

(U) Navy Position. Article 1123 of Navy Regulations 1973, states the current Navy position.

Article 1123. Capture by an Enemy.

1. A person in the naval service who is captured by the enemy is bound to give

<sup>93</sup>. Code of Conduct Message File, Homecoming Special Report #14, 28 February 1973.

<sup>94</sup>. See U.S. Army Regulations 350-30 1964 vs 1971 revision of Paragraph 11b(3) (c) and (d).

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only his name, grade or rate, file or serial number and date of birth. In order to communicate with his family, as guaranteed in the Geneva Conventions relative to the treatment of Prisoners of War he may give the name and address of his parents, guardian or next of kin.

2. Except as provided in the foregoing, any person in the naval service captured by the enemy shall evade further questions and shall make no oral or written statements disloyal to, critical of, or harmful to, the United States or its allies.

Thus the Navy holds to NRSB only position.

(U) Marine Position. The Marine Corps does little direct Code of Conduct training since it maintains that the total thrust of Marine discipline and training will enable a Marine to ". . . acquit himself honorably in the face of the enemy whether it be in battle or in captivity. . . . It is not expected that many Marines will become prisoners, and past experience has indicated that those who do, usually succeed in their efforts to resist and survive."<sup>95</sup>

(U) Air Force Position. In 1963, the Air Force was criticized from within the Department of Defense for instructing aircrew members in "successive lines of resistance" to be followed when forced beyond NRSB. Air Force personnel were instructed to adhere to both the spirit and content of the Code of Conduct to the full extent of their physical, mental,

95. Murray, p. 107. SECRET.

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and moral resources.<sup>96</sup> Following the 1963 conflict between the services over the concept of "successive lines of resistance" the Air Force taught the stricter line of NRSD only.

(U) The 1968 Pueblo incident, wherein all of the crew members violated the NRSD only provisions of the Code, renewed the concern over the realism of such instructions. The special subcommittee on the USS Pueblo of the House Armed Services Committee felt that the Code of Conduct should be changed to provide some latitude for the prisoner.

(U) In response to the Pueblo investigation S.L.A. Marshall, expressed his conviction that the concept, "the big four and nothing more," was not intended by the authors of the Code. They quoted directly from the Geneva Convention when they wrote "I am bound to give only name, rank, service number, and date of birth" and it was not intended that the Prisoner of War should then "clam up." Marshall felt that it should be emphasized the key word is "evade" where it refers to answering further questions. The article does not say "avoid" or "refuse." Marshall, who helped write the Code, felt that the man must work to avoid answering questions which truly jeopardize United States security or interests.<sup>97</sup>

96. Air Force Pamphlet 50-53, p. iv.

97. Lieutenant General S.L.A. Marshall, USA (Ret.) "The Code and the Pueblo." Some questions and Some Answers," Air Force Space Digest, July 1969, p. 74.

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ANALYSIS

(U) After extensive testimony supporting the already known fact that NRSD only is an unrealistic position, there is still no unified position on the part of the services. It is a difficult question because no absolute solution has been found to keep most men from talking. Thus, it is a question of minimizing losses. When it is acknowledged that a man is going to talk if pressured sufficiently, the next step is to teach him how to say the least. That is a compromise approach, and no one likes to compromise.

(U) However, to do less is to send a man to battle with instructions which he probably will not be able to follow. He is strongly admonished to follow these instructions and told he will be responsible for his failures. Consequently, when he departs significantly from the NRSD only line he is very likely to feel guilty. He is then exactly where the interrogator wants him, depressed, broken and defenseless. Since he has been told that to say more than NRSD is the first step to collaboration, in his anxious state he considers himself a collaborator to some extent.<sup>98</sup> It is difficult to predict what will follow, but he has probably lost a significant portion of his ability and will to resist.

98. U.S. Fighting Man's Code, DOD PAM 1-16, p. 137.

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(C) One Lieutenant Colonel returnee contended that it is easy to say "shoot me" but virtually impossible to stand indefinite, intense pain. He felt that the failure of the Code of Conduct training to tell the American fighting man that "anybody can be broken" is a serious shortcoming of the present system.<sup>99</sup>

(C) Lack of a second line of defense may be responsible for some men not surviving enemy interrogation.<sup>100</sup> Several PWs reached their low points when they found that the enemy could, through torture, break them down and get them to cooperate. Many had gone into combat and captivity with the notion that they could withstand almost anything only to find that they were tremendously let down when the interrogators proved to them that they had a breaking point.<sup>101</sup>

(U) If a man resists going beyond NRSD as long as possible but has a plan for going beyond and returning when possible, he is much more likely to maintain the resiliency that keeps him in the ranks of the dedicated resisters.

(C) The overwhelming opinion of Southeast Asia Prisoner of War returnees was that they needed guidance and a philosophy

99. Code of Conduct Message File, Special Homecoming Report #21, 28 February 1973, Cite #282057Z February 1973.

100. Code of Conduct Message File, Special Homecoming Report #53, Cite #282231Z March 1973.

101. John L. Frisbee, "Surviving in Hanoi's Prisons." Air Force Magazine 56: 28-33, June 1973, p. 30.

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beyond NRSD only to prepare them to control their communications with the enemy effectively. They found the guilt generated depression detracted from their ability to minimize their cooperation under torture and duress. They were bothered by inconsistency of Code interpretations and instructions between services and within their own service. Planned successive lines of resistance such as friction and lies, proved to be of value to some once they were driven beyond NRSD. Often it appeared that all the NVN wanted was answers. They did not seem to care about the quality of the information. The returnees feel that an expanded philosophy is necessary to enable the individual to maintain as much control of the situation as possible and to minimize the probability of disclosing critical military information.

(C) One returnee pointed out how he bought time with such comments as:

You know I am not allowed to do that. I don't think I should. You know my Code does not allow me to do this. I don't want to. Don't be afraid to say no. It's the only way to keep from being their man.<sup>102</sup>

(U) Approaches must be developed that address the problem because the experiences of the SEA Prisoner of War returnees have been widely enough broadcast to undermine potential

102. Code of Conduct Message File, Homecoming Special Report #40, 28 March 1973.

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Prisoner of War confidence in the present Code of Conduct's guidance on communication with the enemy. Twenty-two percent of Air Force combat ready crew members recognize that a skilled interrogator can make a man talk and 16 percent feel that the present instructions on divulging information are harmful. Thirty-three percent have lost confidence in the importance of resisting captor interrogation efforts. (See Appendix 2, Questions 22, 37 and 23). These statistics emphasize the need to reevaluate current approaches to restricting communications.

SUMMARY

(U) The critical elements affecting the Prisoner of War communication with the enemy are: (1) Captors, especially Communist captors, will make every effort, not excluding murder to make a Prisoner of War talk. (2) Through determined effort the captor can break down almost every PW and make him go beyond the NRSO only limit. (3) Under present Code of Conduct guidance, responsible men will feel some guilt when they go beyond NRSO significantly. (4) In the depressed state that usually accompanies such guilt, men are less determined resisters. (5) Neither combat ready crew members nor SEA Prisoner of War returnees feel that the present Code restrictions on communications with the enemy are realistic guides for PW behavior. (6) Experience

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from Vietnam, Korea and World War II, has shown that men can resist captor exploitation effectively and still survive by going beyond NRSD. Such resistance will not be complete, but complete resistance is an unrealistic goal in most cases.

#### CONCLUSIONS

(U) From this summary the following can be concluded: A philosophy of friction should be adopted in response to the captor's efforts to make the Prisoner of War talk. Under such a philosophy a man holds to NRSD only as long as possible to prove he is a "tough nut" and to give his resistance credibility. Beyond NRSD the man fights all of the way giving as little information as possible. This concept is well described by the words of the original Defense Advisory Committee on Prisoners of War:

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.<sup>103</sup>

(U) The man will require instructions on what is vital military information and how seemingly harmless statements can in reality be disloyal.

103. POW: The Fight Continues After the Battle, p. 18.

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(U) This approach to the problem of communications with the enemy necessitates a reappraisal of programs designed to insure that people with critical defense information are not needlessly exposed to capture.

(U) It is unlikely that some exploitative pressure on Prisoners of War can be relieved by national efforts to counter propaganda statements made. The often suggested blanket disclaimer at the beginning of a war seems a bit naive, but it would certainly seem wise to continually remind the world how the Communists have, in the past, obtained false confessions and statements through torture.

RECOMMENDATION

(U) Change Article V to read:

WHEN QUESTIONED AS A PRISONER OF WAR  
I AM REQUIRED TO GIVE MY NAME, RANK, SERVICE  
NUMBER AND DATE OF BIRTH. I WILL RESIST ANY  
ACTS DETRIMENTAL TO MY COUNTRY OR ITS ALLIES  
OR HARMFUL TO OUR CAUSE. TO THE BEST OF MY  
ABILITY I WILL RESIST GIVING MILITARY INFOR-  
MATION OR MAKING DISLOYAL STATEMENTS.

RESPONSIBILITY FOR ACTIONS

(U) Article VI of the Code of Conduct reminds the man that he will return to his country where his performance as a

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combatant or Prisoner of War will be evaluated. It states:  
I WILL NEVER FORGET THAT I AM AN AMERICAN FIGHTING MAN,  
RESPONSIBLE FOR MY ACTIONS. . . .

(U) This clear, forceful language is designed to remind the captive that the control and influence of his protecting nation may seem remote and distant, but that they are nonetheless real. He should plan one day to stand before his comrades and family and discuss the character of his captivity. If the Code does not justifiably prompt such expectations than it loses considerable value as a meaningful guide to PW behavior.

#### BACKGROUND

(U) The first legal question appropriate in a discussion of Prisoner of War responsibility is "can the man be held responsible for his actions?" The results of prosecutions following World War II and the Korean War, emphasize that the prisoner remains subject to the military laws of the United States.<sup>104</sup> Under Article 105 of the UCMJ, several captive violations are specified as punishable, and in theory virtually all provisions of the UCMJ are projectable into the PW camp.

(U) As has been pointed out in Chapter IV, there are significant problems in prosecuting violations alleged to have occurred in PW camps. Questions of fact, timeliness,

104. Prugh, p. 686.

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coercion, and availability of key witnesses all complicate a prosecutor's job of proving guilt beyond a reasonable doubt. Consequently, when men look for judicial remedies for alleged wrongs there will very likely be some degree of frustration.

(U) As was also pointed out in Chapter III, the strong, direct language of the Code of Conduct does not constitute a penal Code. Its provisions are today accepted as a set of guidelines designed to keep a man from violating the customs and traditions of the service, and to provide him with the benefit of the experience of thousands of prisoners in their battle to survive with honor.<sup>105</sup> Unfortunately, this was not the understanding of the men captured in North Vietnam in the mid 1960's.

(U) Korea. Following the Korean War, 14 men were brought to trial for crimes including murder, larceny, informing on fellow prisoners, collaborating with the enemy, assault on an officer, and misconduct as a Prisoner of War.<sup>106</sup> The trials were very unpopular with the American public, especially where the charge was some form of collaboration with the enemy. A Gallup poll showed 75 percent of the

105. Letter (Enclosure) from Chief of Staff U.S. Air Force (AFCCS) to all Major Air Force Commands, "Code of Conduct," 12 February 1969, published as Appendix I to Annex F to Operations Plan EGRESS RECAP. For Official use only.

106. Kinhead, pp. 65-67.

people had heard of germ warfare confessions, 20 percent favored some form of punishment, 61 percent opposed punishment and 19 percent had no opinion.<sup>107</sup> Some of the cases were not tried because the particular Army commanders felt that the public reactions to the trials made further prosecution unwise.<sup>108</sup>

(C) Vietnam. Following the 1973 release of Prisoners of War from Southeast Asia, there were two instances where misconduct charges were filed against the returnees by other prisoners. However, no trials were held as was explained in Chapter IV.

(U) From this decision not to prosecute, flowed the bitterness of some returnees toward those who they felt had failed to try to live up to the Code.

(C) One returnee reflected the attitude of many PWs during his debrief after release in March 6, 1973.

[The Code] is not worth the powder to blow it to hell when someone who has obviously violated the Code through public statements is rewarded. [Referring to early releasees who had made propaganda statements]. So when nothing is done to these individuals, in fact they are patted on the back for having done this, then how can you expect an enlisted man on the battlefield to put much faith in the Code of Conduct. . . if you are going to set out a code of ethics for a serviceman to attempt to strive for, any

107. Biderman, p. 222.

108. Kinkead, pp. 71-72.

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rewards should go to those who abide by the Code to the best of their ability. [I have] the feeling that many of us have been stabbed in the back, who were trying to live up to the Code and its ethics.<sup>109</sup>

(U) Indirectly this attitude has been communicated to the combat ready crew members. Forty three percent believe that United States Prisoners of War in SEA were not held responsible for their actions after their release. (Appendix 2, Question 28). This loss of confidence by both Prisoner of War returnees and potential PWs, necessitates either changes to the Code or a revitalized training program.

(U) Although its action is understandable, by deciding not to take any exceptions to violations in the Vietnam War the Defense Department has made some kind of change mandatory if the Code is to be more than writing on a piece of paper.<sup>110</sup>

#### ANALYSIS

(U) Holding a man responsible for his actions implies that he will be punished for violating certain standards. Punishment can take several forms, although to some a man has not been punished unless he has been locked up. The general forms of punishment applicable to PWs are judicial, non-judicial, administrative, social and selfimposed.

(U) Judicial. Punishments awarded by courts-martial under the authority of the UCMJ are judicial and include

109. Murray, p. 247.

110. Biderman, p. 222.

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imprisonment, fines and forfeiture, reductions in grade, letters of reprimand, discharge or dismissal from the service, and even death.

(U) Nonjudicial. These punishments are awarded under Article 15, UCMJ, and include deprivation of liberty, fines and forfeitures, reductions in grade and written reprimands.

(U) Administrative. This is a much more subtle form of punishment. Strictly speaking it is not punishment at all. It is administrative action taken to classify people properly in light of their performance, to correct deficiencies or to expel them from the organization altogether. Such actions would include, inter alia, administrative letters of reprimand, unfavorable effectiveness reports, placement on a control roster, administrative discharge for the good of the service or non-honorable discharges. The effectiveness and meaning of these punishments depend on the individual case. To the professional military man they are real and very damaging.

(U) Social. To the hardline disciplinarian, social punishment is ineffective, but to a psychologist it is possibly the most powerful punishment available in that it affects far more people than other forms of punishment. Peer pressure is a prime determinant of most people's behavior. As was pointed out in the discussions on keeping faith with fellow prisoners and organization, the mutual support from



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fellow PWs is a critical factor in psychological survival. The withdrawal of this support in the form of peer disapproval is a very real threat to anyone, but especially to a PW. He knows that not only will he be criticized and ostracized by his immediate comrades if he violates the group's standard, such as is embodied in the Code of Conduct; he also knows that the word will spread and he will be condemned to some degree by his contemporaries in the service, following his release. If he has any sensitivity to history, he will realize that official military prosecution is unlikely for most prisoner's misconduct, but he also knows that peer pressure is sure and swift, although not always fair.

(U) Self-Imposed. Personal pride is another extremely variable tool for punishment. Some men have no pride and thus their capacity for guilt feelings is negligible. To others, personal pride is their basic standard of performance. When a man violates his accepted standard, guilt feelings naturally follow. The impact of these feelings have been discussed previously in Chapter III and in this chapter. They are real punishments which can even lead men to suicide. The problem with guilt is that too often a man does not realize its potency until he has completed the undesired act. Thus it is more a source of weakness and misery than an inhibitive force.

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(U) Unfortunately, this broad view is not the commonly held attitude toward punishment. Many feel that if the man did not go to jail he was not really punished. There seems to be a lack of sensitivity to the personal misery and professional sanctions that follow those who do not meet the generally accepted standards of conduct.

#### CONCLUSIONS

(U) There are sufficient legal and administrative means to hold a man responsible for his actions as a PW. Often the political climate surrounding the release of Prisoners of War prevents the execution of the letter of the law and the administrative actions that may be taken are less visible. Consequently, many feel that PWs are not held responsible for substandard actions. Because of this perception, the Code of Conduct has lost part of its strength as a guide for PW behavior.

#### RECOMMENDATIONS

- (U) 1. Retain the concept of responsibility for actions in the Code of Conduct.
2. Strengthen the concept of positive social pressure by including the tradition-surrounded concept "Return with Honor."

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3. Include in the Code of Conduct training a section on the punishments available for violations of the concepts of the Code of Conduct.

#### TRUST IN GOD AND COUNTRY

(U) It is easy to underestimate the importance of trust and faith in God and country when sitting in the unrestrained and peaceful sanctuary of home. Trust and faith are conceptual words which can mean many different things to different people. To some they may seem to be innocuous generalities, but to others they have proven to have the potential to thwart despondency and depression. The Code seeks to draw on the strength of the concept of trust when it stipulates:

I WILL TRUST IN MY GOD AND IN THE  
UNITED STATES OF AMERICA.

#### BACKGROUND

(U) The history of man has shown his tendency toward renewed interest in spiritual matters during times of oppression and stress, especially when there are no other apparent sources of relief available. The prison camps gave men time to contemplate their plight between sessions of torture and misery. Such an environment was conducive to giving added meaning to the words "trust" and "faith."

(U) Some felt that faith was the important key to survival when things got the toughest; faith in God, country, national

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leadership, family, way of life and in one's self.<sup>111</sup>

Seventy percent of the Prisoner of War returnees got a positive morale boost from their expressions of trust in God or a higher being. (Appendix I, Question G-50).

(U) Trust and faith give hope and purpose, which in turn give strength and determination to continue to put forth the effort required to resist and exist.

(U) The Korean War produced the term "give-up-itis" to describe a phenomenon that has occurred before in harsh captivity environments.<sup>112</sup> The condition was described by a PW Army doctor when he said,

The sufferer first became despondent; then he lay down or covered his head with a blanket; then he wanted ice water to drink with his food; next no food, only water; and eventually, if he was not got to [sic] and helped, death would come.<sup>113</sup>

(U) Certainly many such deaths were tied to physical affliction, but the loss of purpose and determinations seems to have hastened death if not caused it.

(U) Trust is based partly on past experience. Any United States fighting man who becomes a PW should be well aware that his country has given him a firm basis for trust and confidence by its past performance. The United States does not forget its men. The Southeast Asia conflict provides

111. Frisbee, p. 32.

112. Biderman, pp. 19-21.

113. Kinhead, p. 148.

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the strongest evidence of how dedicated the United States is to caring for the needs of the families left alone and to working to secure the release of the PWs. A good case can be made for the contention that toward the end of the United States' involvement in the Vietnam War the primary objective was to obtain the release of the Prisoners of War. That degree of commitment should give any future PWs faith and trust in their country.

(U) In the Pueblo incident, the government was willing to sign a false confession to gain the release of the crew.<sup>114</sup> One might argue about the ethics of that action, but it certainly showed the nation's concern for detained citizens. That too should prompt trust and faith in the country.

#### CONCLUSION

(U) Trust in God and country are concepts which have the potential of strengthening the PWs will and ability to resist enemy exploitation and to survive during captivity.

#### RECOMMENDATIONS

(U) 1. Retain the concept of trust in God and country as written in the Code of Conduct.

2. Insure that the Code of Conduct training program reflects the United States' outstanding record of active concern for its Prisoners of War and for their families.

114. Ed Brandt, "The Last Voyage of the USS Pueblo, (New York: W.W. Norton Co., Inc., 1969) p 228.

## TRAINING

(U) The Code of Conduct may be viewed as a training aid which contains vital guidance to help one meet the responsibilities and challenges of the combat and captive environments. The concepts of the Code are reflections of the UCMJ, the Geneva Conventions, and military and national customs and regulations.

(U) The unique aspect of the Code is that its concepts are tested in the isolated crucible of the prison camp. The training philosophies of the four services meet when the prisoners are thrown together and expected to form a well-organized, united front. Unfortunately, this does not happen unless responsibilities and goals are generally understood by all combatants. This can only be accomplished by careful attention to the Code of Conduct training program.

(U) This study will not attempt to produce a Code of Conduct training syllabus. However, the training program is a critical factor in determining the viability and usefulness of the Code. Consequently, a few general recommendations will be made in an attempt to help guide the construction and administration of the training program.

BACKGROUND

(U) The Code of Conduct instruction program is defined and explained in Department of Defense Directive 1300.7 dated

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8 July 1964. This directive provides for a uniform, continuing training program for all United States service members.

(U) The Assistant Secretary of Defense (Manpower) is given the general responsibility for the training program, but each Military Department Secretary is responsible for his service's own separate training program. The general thrust and tone of these programs are outlined in the directive.

(U) Article 137 of the UCMJ directs that each enlisted service member shall be instructed in several articles of the UCMJ within six days of his entrance into active duty, at the completion of six months of service and at the time of reenlistment. Included for required instruction are Articles 104 and 105, which cover Aiding the Enemy and Misconduct as a Prisoner.

(U) The writers of the Code of Conduct recognized the important role of training in insuring that the Code be made a workable concept. However, they left the actual training program up to the individual services.<sup>115</sup>

(U) The results of such a policy was an unacceptable degree of diversification of both concept and technique, especially with respect to NRSD only restrictions. In January 1963, a sharp controversy over the question of successive lines of

115. Report of The Air Force Advisory Committee on Prisoners of War, 1963, p. 32.

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resistance developed between the Air Force and the Navy (for details of the conflict see Chapter III). This controversy was taken to the Secretary of Defense, but the final resolution was never clearly stated and the question of official ~~policy towards~~ successive lines of resistance remains unanswered.

(U) Current Training Philosophy. Code of Conduct training is conducted at the unit level under the "essential personal knowledge training" category in the Army. No individual records of training are required, but periodic command inspections evaluate the training level of unit personnel. DOD Directive 1300.7 with its positive attitudes for resistance to interrogation, indoctrination and exploitation, is used as the basis for the training program.<sup>116</sup>

(U) Navy training on the Code is provided for by Articles 1122 and 1123 of Navy Regulations 1973. Under these regulations, the enlisted man is instructed in the Code of Conduct within six days of his initial enlistment, at the end of six months service and again upon reenlistment. The training is documented in personnel training records and reflects the Navy's general attitude that the Code is primarily a statement of professional standards rather than a penal Code.

116. Murray, pp. 98-99.



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(U) Marine Corps Code of Conduct training is included in the basic combat training program as part of essential training subjects. Initial training consists of approximately two hours of lecture, film and slide presentations. Annual follow-up instruction and testing is performed in the combat units. Little training time is spent on the Code of Conduct since it is considered that the total thrust of Marine discipline and training is directed to preparing the man to combat the enemy successfully on the battlefield or in captivity.<sup>117</sup>

(U) Code of Conduct training for enlisted men in the Air Force is included as part of the promotion fitness evaluation systems outlined in Air Force Manual 50-34. Consequently, as each man studies to compete for promotions he reviews the basic concepts of the Code of Conduct. Officers receive a preponderance of their training as they go through the Survival Training Course at Fairchild Air Force Base in Washington.

#### ANALYSIS

(U) It is imperative that all United States military combatants who may become Prisoners of War receive standardized instructions in the Code of Conduct. It is likely that they will be confined together should they become PWs, and they

117. Ibid., pp. 106-107.

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need to begin with the same basic understanding of what is expected of them. Thus, the Code must be interpreted and instructed in the same way in all services. Each service member must have a clear, common appreciation for what the Code is and how it will help the individual resist and survive. He must also understand that most of the provisions of the Code of Conduct are founded in law and that complying with the precepts of the Code will enable him to avoid embarrassing conduct as a Prisoner of War.

#### RECOMMENDATIONS

(U) 1. It is recommended that an office within OSD be given the responsibility for the direction of Code of Conduct training with all services. This office would prepare instruction materials and schedules of instructions and monitor record keeping systems. It would insure standardized interpretations and philosophies for all services through regular inspections of training and facilities programs.

2. It is further recommended that a Joint Service School be established, under the direction of the same OSD Office or of the JCS, which should establish uniform standards of instruction and train instructors in survival and emergency communications techniques, in resistance to captors, in escape, and in the Code of Conduct. Code of Conduct training should stress the following points:

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(1) that a fighting man who has surrendered honorably should feel no sense of disgrace in being a Prisoner of War; (2) that the discipline and pride-of-self which the Code of Conduct seeks to instill in him is for his benefit as well as for that of his country; and, (3) finally, that he should never forget that his future life, after his return home, depends largely on how he conducts himself as a Prisoner of War.

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## CHAPTER VII

### SUMMARY

(U) The U.S. Fighting Man's Code of Conduct was written in 1955 in response to the adverse publicity that stemmed from incidents of misbehavior by U.S. PWs in North Korea. It was an attempt to formalize the standards of conduct expected by the American people of their combat troops on the battlefield and in the prison camp. The Code of Conduct did not set new standards; instead it capsulized the laws, customs and traditions that had served as standards of military conduct throughout the nation's history.

(U) In the 19 years subsequent to the publication of the Code, several hundred men have been captured or detained by Communist nations. These men have tested the value of the Code under harsh conditions.

(U) The experience of these men have indicated a need to reevaluate the Code. A majority of the Vietnam PW returnees have indicated that, while they believe in the concept of a Code of Conduct, they feel some changes should be considered. Also, a survey of Air Force crew members indicates a loss of confidence in the Code as a viable guide to PW behavior.

(U) The most significant questions regarding the present Code of Conduct focus on its lack of stated objectives, its

legal status, and its inflexibility regarding surrender, escape, parole and communications with the enemy. Problems regarding training standardization have also been experienced.

(U) LACK OF STATED OBJECTIVES. The present Code of Conduct lacks stated objectives or goals. This makes a purposeful analysis difficult. The recommended objectives taken from Chapter V serve as criteria for the evaluation of the Code's specific provisions.

(U) Objective (1): Strengthen The Fighting Resolution And Pre-Combat Morale Of The Fighting Man.

(U) Objective (2): Deny Intelligence Information To The Captor.

(U) Objective (3): Deny Propaganda Exploitation By The Captor.

(U) Objective (4): Deny Political Exploitation By The Captor.

(U) Objective (5): Physical and Psychological Survival of PW.

(U) Objective (6): Foster Mutual Support and Fellowship Among PWs.

(U) Objective (7): Promote Organization Within The Prison Camp.

(S) STATUS OF CODE. Considerable animosity has resulted among SEA PW returnees because willful violators of the Code of Conduct have not been prosecuted upon their return to the

the U.S. They considered the Code to be a penal Code and were very distressed when the less determined men received a hero's welcome along with the hard resistors. The early returnees were the focal point of much of this animosity. The confusion over the legal status of the Code contributed to this animosity.

(U) The prescriptive declarations of the Code are not directly enforceable in the courts. They are, however, reflections of UCMJ proscriptions and military traditions and customs which can be enforced under the UCMJ.

(U) The Code of Conduct is a statement of professional ethics and national expectations for American fighting men. It is also a convenient training device to instruct and remind a man of the standards by which he is expected to live in combat and in the PW camp. It reflects the valuable survival and resistance experience of captured American men in previous wars.

(U) Lost Confidence. From the testimony of Vietnam PW returnees regarding their life under the Code; from the failure to prosecute suspected offenders; and from the success of determined interrogators to acquire PW submission, many current Air Force combat members have lost confidence in the value of the Code of Conduct as a guide to PW behavior. This loss of confidence constitutes a serious threat to the effectiveness of the Code in any future conflict. This confidence

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can only be restored by a revitalized training program and by correcting deficiencies in the Code.

#### ANALYSIS OF BASIC PROVISIONS

(U) The Code of Conduct can be broken down into 11 basic provisions for the purpose of deficiency analysis as follows:

##### GENERAL MILITARY SERVICE

(U) This broad topic is addressed by Article I of the Code of Conduct:

I am an American fighting man. I serve in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

This provision states the purpose of military service and describes the depth of the commitment in the wearing the military uniform. It is important to give the man who may be required to die for his country a bold, confident statement of the reasons for his sacrifice. This guidance serves to strengthen the fighting resolution and increase the combat morale of the military man. SEA PW returnees affirmed that the Code did strengthen their overall resistance resolution.

RECOMMENDATION: Leave as written.

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SURRENDER

(U) Article II of the Code of Conduct reads:

I will never surrender of my own free will. If in command I will never surrender my men while they still have the means to resist.

(U) To prohibit surrender is to direct fighting to the death unless physically disarmed or overpowered. That position would be indefensible. Surrender should certainly not be encouraged, but in the era of PW abuse and exploitation, it is unlikely that men are going to actively seek captivity. Surrender is an acceptable alternative under certain conditions and should not be prohibited by the Code of Conduct.

RECOMMENDATION

(U) Article II should be changed to read:

I WILL NEVER SURRENDER MYSELF OR MY  
MEN WHILE I STILL HAVE EFFECTIVE MEANS TO  
RESIST.

RESISTANCE

(U) The most difficult Code of Conduct questions center on the concept of resistance. The Code states:

If I am captured, I will continue to resist by all means available. . . .

(U) By their intensive, abusive programs of PW exploitation, the Communist captors have negated the concept of



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"benevolent quarantine" which was developed over the centuries as men sought to provide a measure of security and humane treatment for the PW.

(U) The PW must resist the captor's efforts to exploit him for intelligence, propaganda and political purposes. His resistance is not an initiative but rather a goal oriented set of actions taken in response to the enemy's exploitation efforts. It involves furthering escape, declining parole and special favors, keeping faith with fellow prisoners, sustaining PW organization and restricting communications with the enemy.

(U) Submission to exploitation is not an either/or matter. The concept of an ultimate breaking point should be avoided. This eggshell philosophy implies that once a man "cracks" he becomes a complete tool of the captor. His strong guilt feelings help this become a self-fulfilling prophecy. It is possible, as was proven in North Vietnam, that men can go beyond their limits in meeting captor demands and still return and resist another day. It is critical to develop a resistance philosophy of resiliency and friction. Under such a philosophy, the individual who resists, who must be pushed every step of the way; and who exercises all the friction his constitution can generate as the enemy seeks submission, will do more than his duty.

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(U) There are forms of resistance which serve no useful purpose. Antisocial acts such as striking or cursing guards or refusing to comply with administration camp regulations will likely cause harsh retaliation by the captor. Effective resistance demands judgement, not robot reaction. Any statements or acts which give the enemy intelligence information, propaganda support, political leverage or other forms of military aid should be resisted.

(S) To help make these decisions he can be given useful general guidelines that proved worthwhile in SEA. The man should avoid permanent physical and psychological disability such as would be caused by broken bones or prolonged beatings on the head. The PW should attempt to maintain control of the degree of torture and control of himself. A completely broken PW is often forced to go far beyond the original captor demand and his ability to regain his will to resist is diminished.

(U) In reaction to captor exploitation, the PW must resist to the best of his ability if he is to survive his captivity with honor. To accomplish this resistance he must understand his role and what his country expects of him. Equally important, these expectations must be realistic.

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RECOMMENDATION

(U) Change the present provision for resistance to read:

IF I BECOME A PRISONER OF WAR I WILL  
RESIST EXPLOITATION BY ALL MEANS AVAILABLE.

ESCAPE

(U) Article II of the Code of Conduct directs every PW to  
". . . make every effort to escape and aid others to escape."

(U) Escape is the natural impulse when one is imprisoned.  
It is the most thorough solution to PW exploitation pressures  
and completely frustrates the captor's goals.

(S) Despite its obvious advantages, escape is a two sided  
question because not all attempted escapes are successful.  
Far more fail than succeed. No PWs successfully escaped  
from permanent prisoner camps in North Vietnam or North  
Korea. Despite GPW protections, an attempted or even a  
successful escape is not without its costs. Recaptured men  
are often severely punished and even killed. Nonparticipants  
may be beaten and tortured as happened in North Vietnam.  
Camp organization and communications systems may be serious-  
ly disrupted. Conflict may result as the PW attempts to  
make every effort to escape and the PW organization suppres-  
ses such attempts for the good of the group. Unnecessary  
and destructive guilt feelings may be generated because the  
man does not make such attempts. These are potential costs

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of attempted escape. The PW organization commander must weigh the probabilities of success against the likely costs before escape is attempted. The power to decide should be his.

#### RECOMMENDATION

(U) Remove the obligation to make every effort to escape from the Code of Conduct.

#### PAROLE AND SPECIAL FAVORS

(U) Article III of the Code states:

I will accept neither parole nor special favors from the enemy.

(U) To sow discord by dissimilar treatment is a very successful PW exploitation technique. This discord breaks down organizational cohesiveness and degrades PW morale. Special treatment makes collaboration more attractive and decreases the camp's overall will to resist.

(U) Parole is not necessarily evil. It may be to the advantage of the United States and its PWs to accept parole under certain conditions. However, when parole is accepted as a special favor not available to all prisoners and given as a reward for some form of collaboration, the results can be devastating to prisoner morale. The senior ranking officer (SRO) should decide when parole is acceptable using the basic guide "Is this a special favor or will this opportunity be

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offered to all prisoners?" In evaluating the requisites for the release.

RECOMMENDATION

(U) 1. Remove the parole restriction from the Code of Conduct.

2. Change the Code to read:

I will accept no special favors from the enemy nor will I negotiate my own release. If expelled, I will do nothing to aid enemy propaganda.

KEEP FAITH WITH FELLOW PRISONERS

(U) Article IV of the Code states:

If I become a Prisoner of War I will keep faith with my fellow prisoners. I will give no information nor take part in any action which might be harmful to my comrades.

(U) A diseased or wounded man needs someone to treat and tend him. A discouraged, depressed man needs someone to buoy him up and help restore his emotional balance. A harassed and tortured man needs someone to rekindle his determination to resist. This assistance must be provided by the fellow prisoner as he "keeps faith."

RECOMMENDATION

(U) Retain the basic provision for "keeping faith with fellow prisoners" in the Code of Conduct.

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ORGANIZATION

(U) Article IV of the Code stipulates:

If I am senior I will take command,  
if not I will obey the lawful orders of  
those appointed over me and back them up  
in every way.

(U) The PW organization is a vital part of a man's program to survive with honor. The well run PW organization will suppress man's natural opportunistic behavior which the captor will seek to encourage. It will assist in maintaining standards of hygiene and physical conditioning. It will strive to motivate and support men in their efforts to resist captor exploitation.

RECOMMENDATIONS

(U) 1. Retain the present organizational provisions of the Code of Conduct.

2. Insure that training reflects that the senior military man is the commander, regardless of his branch of the service.

COMMUNICATIONS WITH THE ENEMY

(U) Article V states:

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.

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(S) The testimony from Hanoi has reinforced the worn cliché "Every man has his breaking point." A philosophy of friction must be developed and taught to aid the PW to resist the captor's demands to talk. Under such a philosophy a man holds to "NRSD only" as long as possible. He retreats from this stand in response to significant pain or the obvious threat of permanent physical or emotional damage. Beyond NRSD, the man fights the disclosure of military data or propaganda all of the way, giving as little information as possible. For information that clearly jeopardizes the lives of his comrades or national security, the man must be prepared to die.

RECOMMENDATIONS

(U) Rewrite the Code's instructions regarding communications with the enemy to read:

WHEN QUESTIONED AS A PRISONER OF WAR  
I AM REQUIRED TO GIVE MY NAME, RANK, SERVICE NUMBER AND DATE OF BIRTH. TO THE BEST OF MY ABILITY I WILL RESIST GIVING MILITARY INFORMATION OR MAKING DISLOYAL STATEMENTS. I WILL RESIST ANY ACTS DETRIMENTAL TO MY COUNTRY OR ITS ALLIES OR HARMFUL TO OUR CAUSE.

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RESPONSIBILITY FOR ACTIONS

(U) Article VI of the Code of Conduct states:

I will never forget that I am an  
American fighting man, responsible for  
my actions. . . .

(U) The Code's ability to influence men's behavior positively is to some degree dependent on the anticipation the man has of one day returning to his service, his comrades and his family and reporting on his actions as a prisoner.

(U) There are sufficient legal and administrative means to hold a man responsible for his actions as a PW. However, the political climate surrounding the release of PWs may prevent the execution of the letter of the law, and the other forms of sanctions are less visible. Consequently, many feel that men are not held responsible for their actions with any consistency. Because of these feelings, the Code of Conduct has lost some of its strength as a guide for PW behavior.

RECOMMENDATIONS

(U) 1. Retain the concept of responsibility for actions in the Code.

2. Strengthen the concept of positive social pressure by incorporating the phrase "return with honor" into the Code.



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3. Include in training a section on the punishments available for violating the Code's concepts.

TRUST IN GOD AND COUNTRY

(U) Trust and faith are conceptual words which can mean many different things to different people. For some they are innocuous generalities, but for others they are effective cures for despondency and depression. The Code seeks to draw on the strength of the concept of trust when it stipulates:

I will trust in my God and in the  
United States of America.

(U) The Korean War produced the term "give-up-itis" to explain a phenomenon that has occurred often in harsh captivity environments when men lose hope, motivation and succumb more readily to the hazards about them. The United States has an excellent record of concern for its detained and captured citizens which should inspire the trust of any PW. Trust in God and country are concepts which have strengthened many PWs ability to survive and resist.

RECOMMENDATIONS

(U) 1. Retain the concept of trust in God and country in the Code.

2. Insure that the training program reflects the United States' outstanding record of active concern for its PWs and their families.

(U) For convenience of comparison the present Code and the recommended Code are listed below:

Present Code

I. I am an American fighting man. I serve in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

II. I will never surrender of my own free will. If in command I will never surrender my men while they still have the means to resist.

III. If I am captured, I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy.

IV. If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information nor take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.

Proposed Code

I. I am an American fighting man. I serve in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

II. I will never surrender myself or my men while I still have effective means to resist.

III. If I become a Prisoner of War, I will resist exploitation by all means available. I will attempt to escape and aid others to escape. I will keep faith with my fellow prisoners by giving no information nor taking part in any action which might be harmful to my comrades. I will accept no special favors from the enemy nor will I negotiate my own release. If expelled, I will do nothing to aid enemy propaganda.

IV. If I am the senior Prisoner of War, I will take command. If not, I will obey the lawful orders of those appointed over me and back them up in every way.

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V. 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.

VI. I will never forget that I am an American fighting man, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

V. When questioned as a Prisoner of War, I am required to give my name, rank, service number and date of birth. I will resist any acts detrimental to my country or its allies or harmful to our cause. To the best of my ability I will resist giving military information or making disloyal statements.

VI. I will conduct myself so that I may return with honor. I will never forget that I am an American fighting man, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

#### TRAINING

(U) Like most military concepts, the Code of Conduct is only as meaningful and effective as the implementing training program. In fact, the Code may be viewed as a training aid reflecting concepts from the UCMJ, the GPW and military and national custom and regulation.

(U) The unique aspect of the Code of Conduct is that it is tested in the isolated arena of the prison camp. The diverse training philosophies of the four services meet when the PWs are thrown together and expected to form a well-organized, united front. This organization can take place only if the men have been exposed to a standardized, effective training program.

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RECOMMENDATIONS

(U) 1. An OSD office should be designated responsible for Code of Conduct training in all services. This office would prepare instruction materials, schedules, and record keeping systems and conduct inspections of the services' training programs and facilities.

2. It is recommended that serious consideration be given to the establishment of a Joint School which would train instructors in resistance, Code of Conduct, escape and communications. Such a school should insure a standardized program.

(U) This study has attempted to analyze the Code of Conduct in depth with special emphasis on the lessons available from the conflict in Southeast Asia. From this analysis specific recommendations have been made. These recommendations are directed toward helping the American Prisoner of War resist captor exploitation, keep his obligation to his fellow prisoners, survive and return to his country, comrades and family with honor and self-respect.

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APPENDIX I

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SURVEY OF  
RETURNED  
PRISONERS OF WAR



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Please do not mark in the preprinted number boxes on each side of your answer sheet. These numbers are used by the electronic scanner to match the front and back of your answer sheet. These are not identification numbers to link responses to individuals.

Please complete and return this survey within two weeks of receipt, if at all possible.

If you have any questions concerning this survey, please contact:

USAF Military Survey Program (HQ USAF ACRM)  
Washington, DC 20330  
Telephone:  
Autovon: 227-5845  
Commercial: OX7-5845

MAILING INSTRUCTIONS:

When you complete the survey, place all eight answer sheets inside the front cover of the booklet and mail the booklet and answer sheets in the envelope provided. Please do not mail answer sheets in separately. Inventory the contents before you mail your return envelope. Be certain that you are returning the booklet(s) and eight answer sheets. Be sure the envelope is well sealed before mailing.

THANK YOU



Section E

To be completed by everyone.

INSTRUCTIONS:

BEFORE answering any of the next 36 questions, read them and the discussion which follows question 36. A copy of the Code of Conduct is included at the end of this Section for your reference.

1. Using a new answer sheet, mark response "E" opposite item 1.

Describe the most frequent causes for infractions of PW discipline:

	Never	Rarely	Occasionally	Often	Always	Total Number
2. No real authority was (or could be) directly applied	4%A	33%B	33%C	29%D	2%E	304
3. Individual PW ego or stubbornness	2%A	20%B	49%C	28%D	2%E	304
4. Fear of captors	4%A	20%B	40%C	34%D	2%E	304
5. Disagreement with policies of PW organization	1%A	37%B	45%C	17%D	E	303
6. Frustration with individual PW leaders	4%A	31%B	46%C	20%D	E	303

In cases where an apparently lawful order of a senior ranking officer (SRO) was disobeyed or seriously questioned, rank the following possible reasons for such (use 1 for the most probable, 4 for the least probable).

- A. 1  
B. 2  
C. 3  
D. 4

Look at each statement and rank them on your questionnaire. Then enter the appropriate code for the rank opposite the indicated item number on your answer sheet. For example, if you considered the first as ranking third, you would enter "C" opposite item 7 on your answer sheet.

7. ( ) There was doubt that court-martial action would be taken. Total  
29%A, 37%B, 23%C, 11%D 302
8. ( ) There was doubt that even if court-martial action were taken, a conviction could be obtained. Total  
28%A, 41%B, 21%C, 10%D 303
9. ( ) Even the consequences of conviction were preferable to enduring conditions then prevailing. Total  
24%A, 28%B, 35%C, 32%D 302
10. ( ) The lawful constitution of authority in a PW camp was open for debate. Total  
14%A, 12%B, 19%C, 55%D 303

Please react to the following statements.

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	<u>Total Number</u>
11. An SRO needs more authority to maintain discipline in a PW camp	10%A	30%B	22%C	28%D	11%E	305
12. The Uniform Code of Military Justice (UCMJ) provides sufficient legal authority for an SRO to maintain discipline	9%A	22%B	15%C	40%D	14%E	303
13. A PW camp is a special problem of command and requires a different set of rules	16%A	28%B	17%C	27%D	12%E	304

With respect to the Code of Conduct, indicate your agreement or disagreement with the following statements based upon your interpretation and personal experience:

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	
14. The Code was <u>principally</u> written to satisfy a need for a policy toward PW behavior in captivity	2%A	8%B	6%C	61%D	22%E	304
15. The Code principally served <u>only</u> as a useful statement of <u>personal</u> ethical/moral values	12%A	45%B	19%C	22%D	3%E	304
16. The Code represents what our society expects for PW behavior in captivity.	5%A	17%B	18%C	48%D	12%E	303
17. The Code is principally a code of <u>professional</u> ethics	1%A	9%B	12%C	65%D	13%E	304
18. The Code <u>is</u> legally binding	13%A	34%B	16%C	23%D	15%E	303
19. The Code is unnecessary	57%A	29%B	8%C	4%D	2%E	304
20. The Code should be changed to permit giving more than name, rank, service number, and date of birth	9%A	20%B	13%C	39%D	19%E	301
21. The Code should be changed to remove the obligation to attempt escape	15%A	30%B	25%C	21%D	9%E	303

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	<u>Tot. No.</u>
22. The Code should be changed to specify who should be the SRO or NCOIC	14% A	46% B	20% C	16% D	5% E	303
23. The Code should be legally binding by reference to it in the UCMJ	7% A	21% B	14% C	32% D	26% E	304
24. The Code should be uniformly interpreted for all Services	A	1% B	2% C	33% D	63% E	305
25. The Code should be clarified with regard to questions concerning parole, special favor, early release, or offers of amnesty	3% A	14% B	10% C	42% D	30% E	305
26. The Code was a useful resistance tool during the entire period of captivity	3% A	6% B	12% C	42% D	38% E	304
27. The Code was especially useful for resistance during the very early (initial) stages of captivity	3% A	12% B	17% C	40% D	29% E	305
28. There are changes needed in the Code which are not covered in this section	5% A	20% B	30% C	30% D	14% E	299

COMMENT: If you have additional comment on any issue raised by the above statements, use the following space. Add other sheets if desired. You may propose specific changes to the Code here.

Please consider the following possible situation:

After having forced compliance to give information or make statements, the captor increases demands upon PWs to the point wherein the senior ranking officer of the PW organization commands the stiffening of resistance to the captor's demands.

The captor in turn responds to evidence of increased resistance by increasing punishment of PWs and attempts to ruin the PW organization.

In this situation, the confrontation between PWs and the captor could be cause for the captor's steadily increasing punishment of PWs, isolation of SROs, etc.

What should an SRO do?

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	<u>Total Number</u>
29. Order PWs to stick to the <u>present Code</u> , but develop reasons for refusing captor demands	2% A	13% B	12% C	59% D	14% E	304
30. Permit each PW to establish his own resistance posture under the <u>present Code</u>	23% A	44% B	12% C	18% D	3% E	304
31. Selectively permit departures from the <u>present Code</u> in cases where he feels that such departures are not harmful to the country or other PWs	9% A	23% B	17% C	44% D	6% E	304
32. Adopt a variety of resistance postures which are in line with the <u>present Code</u> in order to obscure any unified resistance from the captor	3% A	12% B	14% C	54% D	16% E	304
33. Order PWs to stick to the <u>Code as you would prefer to see it changed</u> , but develop reasons for refusing captor demands	14% A	32% B	22% C	26% D	6% E	304
34. Permit each PW to establish his own resistance posture under the <u>Code as you would prefer to see it changed</u>	24% A	51% B	14% C	9% D	2% E	303
35. Selectively permit departures from the <u>Code, as you would prefer to see it changed</u> , in cases where he feels that such departures are not harmful to the country or other PWs	17% A	35% B	19% C	25% D	5% E	304

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	<u>Total Number</u>
36. Adopt a variety of resistance postures which are in line with the Code, as you would prefer to see it changed, in order to obscure any unified resistance from the captor	12%	29% B	21% C	27% D	11% E	304

**NOTE:**

Please weigh carefully the following before you answer the above questions: How important is it to preserve the PW organization? Will the individual and group resistance be better with or without it? Can you achieve variety in resistance postures and still stick to the Code?

Once a PW yields, is he more vulnerable to further exploitation? Is it better to make some concessions as a group than risk the weaker ones being singled out for further exploitation?

Since the senior officer may be subjected to greatest pressure, is it wise to allow him to set the standards under pressure?

Is it feasible to try to write a Code for all situations?

Is it feasible to set a high standard but specify certain lower limits beyond which one would not go? Would the captor not quickly learn those limits, and would he be satisfied (consider military secrets)? Is one likely to quit trying if he feels the standards are unrealistic? Are the norms of the group likely to lower when they commiserate?

Will a man surprise himself as to what he can endure if: (a) He has no choice, (b) Feels he has no good alternative?

Can we expect an effective fighting force in combat or an effective resistance force in captivity if the standards of performance are set by the men under fire/pressure?

Assume we abolish or radically change the parts of the Code pertaining to conduct in captivity, would the result be acceptable to our society, would we be able to guard military secrets?

How important is pride and self-respect in enabling one: (a) To resist, (b) To return to a productive, happy life when he gets back?

**NOW ANSWER THE PRECEDING 36 QUESTIONS.**

There are eight basic activities covered by the Code. Please indicate your evaluation of the Code with respect to these factors.

	<u>Very Useless</u>	<u>Useless</u>	<u>Neither Useful Nor Useless</u>	<u>Useful</u>	<u>Highly Useful</u>	<u>Total Number</u>
37. Code instructions for <u>resistance</u>	3%A	13%B	10%C	54%D	20%E	303
38. Code instructions for <u>escape</u>	10%A	20%B	31%C	31%D	6%E	304
39. Code instructions for <u>parole</u>	3%A	12%B	13%C	45%D	28%E	303
40. Code instructions on accepting special favors	2%A	6%B	9%C	54%D	29%E	304
41. Code requirements for organization (i.e., SROs)	1%A	5%B	7%C	48%D	38%E	303
42. Code instructions for <u>divulging information</u>	4%A	16%B	17%C	44%D	18%E	304
43. Code policy toward <u>collaboration</u>	1%A	8%B	9%C	49%D	33%E	304
44. Code position on PW <u>responsibility for personal actions</u>	3%A	12%B	15%C	38%D	32%E	304

At the time of your capture, how familiar were you with the provisions of the Code of Conduct? With the Uniform Code of Military Justice (UCMJ)?

	<u>Totally Unfamiliar</u>	<u>Very Unfamiliar</u>	<u>Not Familiar</u>	<u>Somewhat Familiar</u>	<u>Familiar</u>	<u>Very Familiar</u>	
45. Code	A	1%B	2%C	27%D	49%E	22%F	305
46. UCMJ	1%A	7%B	51%C	45%D	24%E	7%F	306

Based upon your experience during captivity, when efforts to instruct PWs or clarify the Code were conducted, evaluate the following statements:

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	<u>Not Applicable</u>	
47. Efforts to clarify the Code and make it uniform were effective	2%A	15%B	17%C	51%D	12%E	3%F	304
48. Prevailing interpretation of the Code depended upon mutual agreement among majority of PWs	3%A	32%B	17%C	37%D	8%E	3%F	304

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	<u>Not Applicable</u>	<u>Tot No</u>
49. Code interpretation depended upon instructions of SROs	4% A	25% B	16% C	43% D	12% E	1% F	304
50. Instruction on the Code was frequently given to PWs and provided to all new PWs	4% A	27% B	21% C	31% D	15% E	2% F	304
51. Instruction on the Plums was frequently given to PWs and provided to all new PWs	4% A	2% B	3% C	34% D	54% E	3% F	303

The following questions relate to PW organization. Please indicate your agreement or disagreement with the following statements.

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	<u>Not Applicable</u>	
52. If junior, sought out SRO	A	3% B	4% C	43% D	48% E	2% F	305
53. If senior, sought to take charge	1% A	4% B	5% C	39% D	37% E	13% F	305
54. I was fully aware of leadership and command structure	1% A	6% B	4% C	30% D	58% E	F	305
55. There should be an SRO in a 2 to 4-man room	1% A	6% B	8% C	37% D	49% E	F	304
56. Prior to "Unity," I was aware of the command structure	4% A	8% B	4% C	31% D	40% E	13% F	304
57. Leadership developed swiftly and surely	6% A	27% B	20% C	31% D	14% E	2% F	304
58. The Fourth Allied POW Wing was effective	1% A	5% B	7% C	43% D	40% E	4% F	303
59. The Fourth Allied POW Wing was well organized	1% A	4% B	8% C	41% D	48% E	4% F	303
60. Service of SRO made no difference	13% A	17% B	5% C	29% D	35% E	F	304

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	<u>Not Applicable</u>	<u>Total Number</u>
61. Captor attempts to suppress organization were effective	26%A	53%B	8%C	10%D	2%E	F	305
62. The Ops orders were adequate and clear	1%A	17%B	25%C	46%D	9%E	1%F	304
63. Specific Uniform Code of Military Justice (UCMJ) guidance for captivity circumstances was needed	1%A	18%B	13%C	47%D	20%E	F	303
64. Leadership and command can be maintained in a non-command camp	6%A	13%B	14%C	48%D	16%E	3%F	300
65. Leadership guidance always applied to individual circumstances	7%A	44%B	27%C	18%D	2%E	1%F	303
66. I always obtained effective guidance	11%A	47%B	16%C	20%D	5%E	2%F	303
7. I always sought guidance	3%A	38%B	18%C	30%D	9%E	1%F	303
68. Previous training formed the basis for PW organization	1%A	8%B	10%C	59%D	21%E	1%F	303
69. Discipline was strict in the PW camp	4%A	32%B	27%C	31%D	6%E	F	303
70. All personal freedoms such as eating, drinking, sleeping, reading, writing, etc., must be inviolate from PW camp or SRO authority	29%A	41%B	17%C	8%D	5%E	F	303
71. The junior "room responsible" system did not disrupt PW organization	3%A	16%B	17%C	37%D	12%E	15%F	304
72. PWs were accountable to their compatriots for all their actions	5%A	14%B	13%C	43%D	25%E	F	305



Consider the following statements and rate their significance.

	Definitely True	Probably True	Possibly True	Possibly Not True	Probably Not True	Definitely Not True	Tot. No.
73. Captor views of the war, history, etc., were demoralizing	3% <sup>A</sup>	10% <sup>B</sup>	26% <sup>C</sup>	10% <sup>D</sup>	28% <sup>E</sup>	24% <sup>F</sup>	305
74. Captor indoctrination had no effect	14% <sup>A</sup>	21% <sup>B</sup>	8% <sup>C</sup>	22% <sup>D</sup>	24% <sup>E</sup>	11% <sup>F</sup>	305
75. Anti-war propaganda taken from U.S. sources was demoralizing	29% <sup>A</sup>	30% <sup>B</sup>	25% <sup>C</sup>	6% <sup>D</sup>	8% <sup>E</sup>	3% <sup>F</sup>	305
76. Promises of amnesty by the captor were attractive to PWs	3% <sup>A</sup>	13% <sup>B</sup>	22% <sup>C</sup>	8% <sup>D</sup>	31% <sup>E</sup>	22% <sup>F</sup>	304
77. Visits outside the prison to museums or to view bomb damage were conducive to changing PW attitude toward the war	2% <sup>A</sup>	4% <sup>B</sup>	11% <sup>C</sup>	8% <sup>D</sup>	42% <sup>E</sup>	33% <sup>F</sup>	305
78. PWs never felt like "war criminals"	50% <sup>A</sup>	26% <sup>B</sup>	5% <sup>C</sup>	6% <sup>D</sup>	6% <sup>E</sup>	8% <sup>F</sup>	305
79. The war was consistent with PWs' personal beliefs and commitments	14% <sup>A</sup>	42% <sup>B</sup>	15% <sup>C</sup>	19% <sup>D</sup>	9% <sup>E</sup>	1% <sup>F</sup>	305
80. Camp radio broadcasts and statements by fellow PWs were not demoralizing	7% <sup>A</sup>	20% <sup>B</sup>	16% <sup>C</sup>	2% <sup>D</sup>	20% <sup>E</sup>	16% <sup>F</sup>	305
81. "180 degree decoding" of captor propaganda always worked	1% <sup>A</sup>	17% <sup>B</sup>	26% <sup>C</sup>	18% <sup>D</sup>	20% <sup>E</sup>	18% <sup>F</sup>	305

During the initial stage of captivity, which of the following aspects was most often in your thoughts? Rank in order of frequency, the most frequent being 1, the least being 6. Enter your answers on your answer sheet in the same manner as you did for questions 7-10 earlier in this section.

- A. 1
- B. 2
- C. 3
- D. 4
- E. 5
- F. 6

		38% A	28% B	20% C		9% D	5% E	1% F	Total Number
82.	( ) "Quizzes" (interrogations/interviews)								304
83.	( ) Home/family	49% A	29% B	12% C		7% D	1% E	2% F	304
84.	( ) Health	7% A	26% B	36% C		23% D	7% E	2% F	303
85.	( ) Career	2% A	3% B	11% C		32% D	37% E	15% F	303
86.	( ) Being forgotten	1% A	5% B	8% C		11% D	36% E	40% F	302
87.	( ) Other (specify)	13% A	14% B	12% C		14% D	12% E	36% F	242

During the period after Fall 1969 or during the communal period of captivity, which of the following aspects was most often in your thoughts? Rank in order of frequency, the most frequent being 1, the least being 6.

- A. 1
- B. 2
- C. 3
- D. 4
- E. 5
- F. 6

		1% A	6% B	13% C	31% D	32% E	16% F	Total Number
88.	( ) "Quizzes" (interrogations/interviews)							301
89.	( ) Home/family	69% A	22% B	6% C	2% D			303
90.	( ) Health	10% A	37% B	30% C	15% D	21% E	1% F	302
91.	( ) Career	3% A	19% B	32% C	22% D	16% E	9% F	303
92.	( ) Being forgotten	2% A	7% B	8% C	17% D	30% E	35% F	302
93.	( ) Other (specify)	20% A	41% B	11% C	10% D	11% E	31% F	237

Please indicate your feelings toward the following statements:

	<u>Definitely True</u>	<u>Probably True</u>	<u>Possibly True</u>	<u>Possibly Not True</u>	<u>Probably Not True</u>	<u>Definitely Not True</u>	<u>Total Number</u>
94. Effective organization can be maintained in a non-communal camp with tap, signal, and note communication only	40% A	33% B	17% C	4% D	3% E	3% F	303
95. Due to the cryptic nature of communications, some messages were garbled or misconstrued	50%	32% B	14% C	2% D	2% E	F	305
96. Discipline can be maintained with non-verbal communications only	27% A	31% B	20% C	8% D	9% E	6% F	304

Please react to the following statements concerning in-camp communications (comm).

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	
97. Comms were secure from intercept or compromise	17% A	53% B	10% C	19% D	1% E	305
98. Comms were hard to learn and use	26% A	58% B	9% C	7% D	E	304
99. Different channels were needed to be certain that messages got through	3% A	15% B	16% C	53% D	13% E	304
100. Messages were often misunderstood when transmitted by tap code	5% A	35% B	25% C	32% D	3% E	302
101. There was too much comm in Camp Unity	14% A	29% B	23% C	19% D	14% E	299

102. Which of the following should govern the decision to escape?

7	2%	A. SRO only
181	60%	B. SRO with advice of escape committee
28	9%	C. Escape committee only
12	4%	D. Escapees only
41	14%	E. Service should not exhort continued requirement to escape
34	11%	F. Other (specify): _____

303

In view of your personal experience, indicate your agreement or disagreement with the following statements:

	<u>Strongly Disagree</u>	<u>Disagree</u>	<u>Neither Agree Nor Disagree</u>	<u>Agree</u>	<u>Strongly Agree</u>	<u>Total Number</u>
103. Escape to freedom was possible without outside assistance	59% A	21% B	21% C	10% D	3% E	304
104. Escape to freedom was possible <u>only</u> with outside aid	1% A	9% B	9% C	32% D	48% E	304
105. SROs were in favor of attempting escape	14% A	51% B	28% C	7% D	1% E	302
106. PWs generally were not in favor of attempting escape	1% A	8% B	15% C	59% D	17% E	304
107. The Code of Conduct should be interpreted to mean that escape should be attempted only when chances of escape are adequate and other PWs are not jeopardized	3% A	13% B	10% C	39% D	35% E	302
108. Escape techniques should be emphasized over evasion techniques in E&E training	11% A	47% B	31% C	9% D	2% E	305
109. Enough emphasis was given to escape training in Survival School	9% A	37% B	18% C	34% D	2% E	304
Please rate the following:						
	<u>Very Unimportant</u>	<u>Somewhat Unimportant</u>	<u>Neither Unimportant Nor Important</u>	<u>Somewhat Important</u>	<u>Very Important</u>	
110. Reprisals against escape	2% A	7% B	9% C	38% D	44% E	302
111. Low odds for success	1% A	1% B	1% C	26% D	71% E	303
112. Reprisals against fellow PWs who didn't attempt escape	3% A	7% B	6% C	41% D	43% E	303
113. General negative attitudes of PWs toward escape due to risks involved	2% A	10% B	19% C	47% D	23% E	302

	<u>Very Unimportant</u>	<u>Somewhat Unimportant</u>	<u>Neither Unimportant Nor Important</u>	<u>Somewhat Important</u>	<u>Very Important</u>	<u>Total Number</u>
114. Attitudes of SROs toward escape	2% A	4% B	20% C	39% D	35% E	302
115. Other (specify):	21% A	6% B	36% C	5% D	32% E	124

Answer this question only if you feel you were prone to have confrontation with the captors in excess of what a large number (or perhaps the majority) of PWs seemed prudent. My reason(s) was/were because:

	<u>Not at all</u>	<u>Partly</u>	<u>Largely</u>	<u>Mostly</u>	
116. I had feelings of guilt when I learned others had resisted more than I	49% A	35% B	14% C	2% D	86
117. I felt the group was getting soft (i.e., valued good treatment above self-esteem) and I wanted to make a point	43% A	43% B	11% C	4% D	80
118. I felt the Code of Conduct called for resistance of almost everything the captor wanted (e.g., standing at attention for head count)	36% A	32% B	19% C	13% D	84
119. My personal code called for resistance of almost everything the captor wanted (e.g., standing at attention for head count)	24% A	32% B	20% C	24% D	79
120. It was hard to control my hatred because they had forced me to do things against my will	21% A	41% B	20% C	18% D	80

Rate the following as sources of conflict among PWs.

	<u>Rarely</u> a <u>Source</u>	<u>Sometimes</u> a <u>Source</u>	<u>Often</u> a <u>Source</u>	<u>Usually</u> a <u>Source</u>	<u>Constantly</u> a <u>Source</u>	
121. Disagreement over what we should resist and how	5% A	29% B	30% C	21% D	15% E	305
122. Unequal treatment of PWs by captors	43% A	37% B	13% C	4% D	3% E	305
123. Efforts to regulate eating, sleeping, exercising, etc.	34% A	43% B	17% C	5% D	1% E	305
124. Efforts to restrict contact with captor	31% A	51% B	15% C	3% D	1% E	306

	Rarely <u>A</u> Source	Sometimes <u>A</u> Source	Often <u>A</u> Source	Usually <u>A</u> Source	Constantly <u>A</u> Source	Total Number
125. Efforts to restrict reading of propaganda or watching propaganda movies	43% <u>A</u>	42% <u>B</u>	12% <u>C</u>	2% <u>D</u>	1% <u>E</u>	305

126. Other (specify): \_\_\_\_\_ 22%A 9%B 18%C 26%D 25%E 151

Resolution of conflict in a PW environment is best achieved by a leader who

	Strongly <u>Disagree</u>	Disagree	Neither Agree Nor <u>Disagree</u>	Agree	Strongly <u>Agree</u>	Total Number
127. Authoritarian (listens to pros and cons then makes a decision in a "military manner")	3% <u>A</u>	6% <u>B</u>	6% <u>C</u>	43% <u>D</u>	41% <u>E</u>	305
128. Democratic (relies on majority vote to decide the issue)	23% <u>A</u>	42% <u>B</u>	22% <u>C</u>	12% <u>D</u>	1% <u>E</u>	305
129. Laissez faire (lets each man decide for himself)	63% <u>A</u>	31% <u>B</u>	5% <u>C</u>	1% <u>D</u>	<u>E</u>	304

130. In relation to other PWs, in your camp(s) who were captured in your general time frame, do you think you resisted:

- A. Less
- B. About the same
- C. More

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USA: Combat Law Manual Overhaul

no

APPENDIX II



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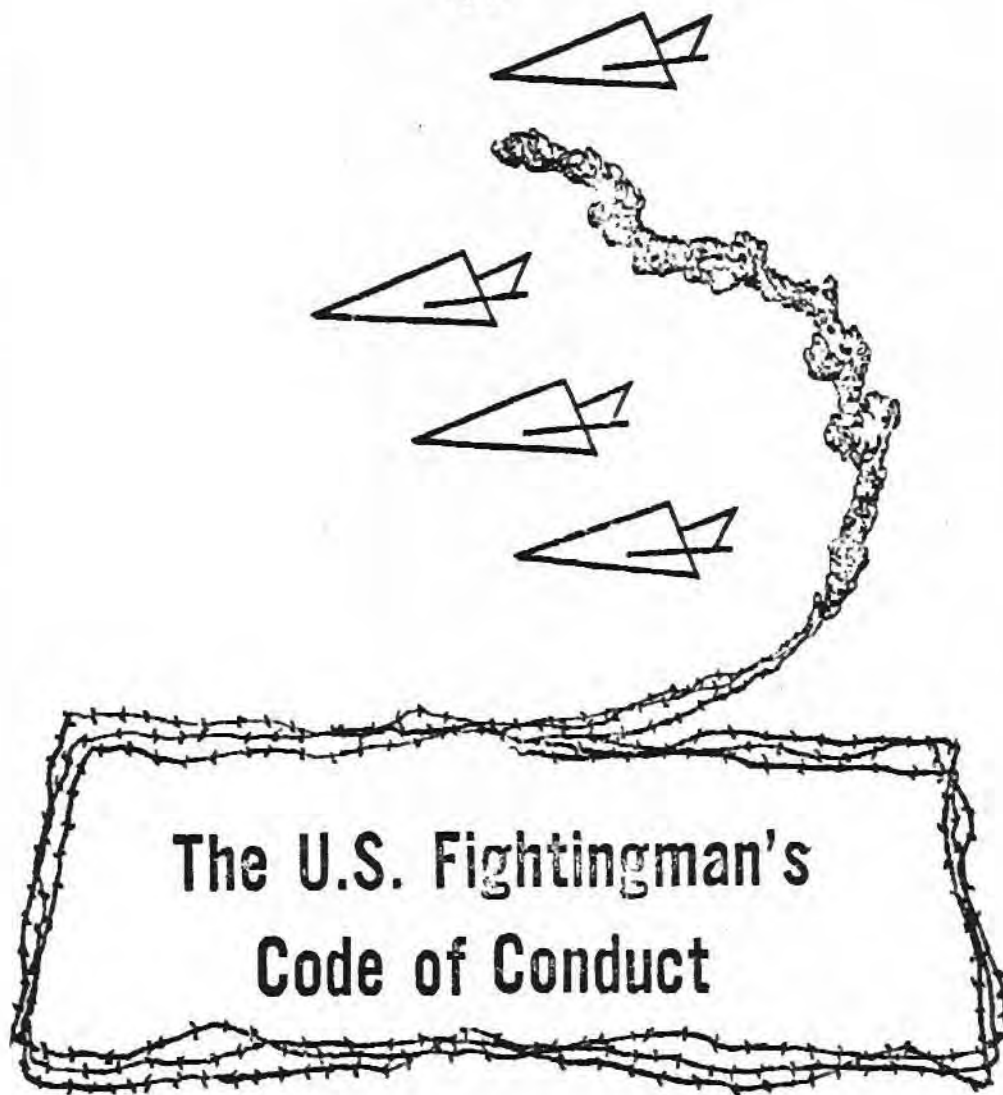
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# USAF Combat Crew Member Questionnaire

on



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USAF SCN 74-63



CODE OF CONDUCT SURVEY OF  
AIR FORCE  
COMBAT CREW MEMBERS

FEBRUARY 1974

PLEASE READ THE FOLLOWING INSTRUCTIONS BEFORE ANSWERING THE SURVEY.

The following questionnaire is designed to determine the attitude of Air Force Combat Crew members toward the U.S. Fighting Man's Code of Conduct. A copy of the Code is enclosed for your review.

Your thoughtful response to the questions will provide valuable information for the detailed study of the Code of Conduct.

Your participation in this survey is voluntary. All responses will be anonymous.

Please mark your answers on the answer sheet provided. Select only one answer to each question. Use a No. 2 pencil only.

Answer the questions as of February 1974.

Be sure to mark your answers carefully so that you enter them opposite the same answer sheet number as survey question number.

Be sure that your answer marks are heavy and black and that you blacken the whole rectangle but stay within the rectangle lines.

RIGHT WAY  
TO MARK  
ANSWER SHEET



WRONG WAY  
TO MARK  
ANSWER SHEET



**IMPORTANT** Do not put your Social Security Account Number (SSAN) on the front side of the answer sheet even though the answer sheet states otherwise. Please do not mark in the preprinted number boxes on each side of your answer sheet. These numbers are used by the electronic scanner to match the front and back of your answer sheet.

CODE OF CONDUCT SURVEY

1. What is your command of assignment?

- |    |  |      |
|----|--|------|
| A. | Alaskan Air Command -                        | 1.9  |
| B. | US Air Force Academy-                        | 0.0  |
| C. | Aerospace Defense Command -                  | 6.0  |
| D. | US Air Forces in Europe -                    | 14.1 |
| E. | Air Force Accounting and Finance Center -    | 0.3  |
| F. | Air Force Logistics Command-                 | 1.1  |
| G. | Air Force Systems Command -                  | 1.6  |
| H. | Air Reserve Personnel Center                 |      |
| I. | Air Training Command -                       | 2.7  |
| J. | Air University -                             | 0.0  |
| K. | US Air Forces Southern Command -             | 0.3  |
| L. | Headquarters Air Force Reserve               |      |
| M. | Headquarters USAF -                          | 0.2  |
| N. | Air Force Data Automation Agency             |      |
| O. | Headquarters Command -                       | 0.9  |
| P. | Military Airlift Command -                   | 7.4  |
| Q. | Pacific Air Forces -                         | 5.2  |
| R. | Strategic Air Command -                      | 31.6 |
| S. | Tactical Air Command -                       | 26.4 |
| T. | USAF Security Service                        |      |
| U. | Air Force Military Personnel Center -        | 0.2  |
| V. | Air Force Communication Service              |      |
| W. | Air Force Inspection and Safety Center       |      |
| X. | Air Force Audit Agency                       |      |
| Y. | Air Force Office of Special Investigations - | 0.0  |
| Z. | Other -                                      | 0.2  |

2. How much total active federal military service have you completed?

- |    |                                 |        |
|----|---------------------------------|--------|
| A. | Less than 1 year                | - 0.2  |
| B. | 1 year but less than 2 years    | - 1.7  |
| C. | 2 years but less than 3 years   | - 7.6  |
| D. | 3 years but less than 4 years   | - 12.2 |
| E. | 4 years but less than 5 years   | - 9.8  |
| F. | 5 years but less than 6 years   | - 6.9  |
| G. | 6 years but less than 7 years   | - 7.2  |
| H. | 7 years but less than 8 years   | - 7.3  |
| I. | 8 years but less than 9 years   | - 7.2  |
| J. | 9 years but less than 10 years  | - 3.9  |
| K. | 10 years but less than 11 years | - 4.3  |
| L. | 11 years but less than 12 years | - 3.3  |
| M. | 12 years but less than 13 years | - 2.6  |
| N. | 13 years but less than 14 years | - 2.4  |
| O. | 14 years but less than 15 years | - 3.7  |
| P. | 15 years but less than 16 years | - 3.4  |
| Q. | 16 years but less than 17 years | - 2.7  |
| R. | 17 years but less than 18 years | - 2.8  |
| S. | 18 years but less than 19 years | - 3.0  |
| T. | 19 years but less than 20 years | - 3.8  |
| U. | 20 years or more                | - 4.0  |

3. What is your present active duty grade?

- A. Colonel
- B. Lieutenant Colonel
- C. Major
- D. Captain
- E. First Lieutenant
- F. Second Lieutenant
- G. Warrant Officer
- H. Chief Master Sergeant
- I. Senior Master Sergeant
- J. Master Sergeant
- K. Technical Sergeant
- L. Staff Sergeant
- M. Sergeant
- N. Airman First Class
- O. Airman
- P. Airman Basic

4. How old were you on your last birthday?

- A. 20 years old or less -  $\frac{0.8}{\%}$
- B. 21 - 25 - 14.4
- C. 26 - 30 - 39.6
- D. 31 - 35 - 24.6
- E. 36 - 40 - 14.4
- F. 41 - 45 - 5.7
- G. 46 or older - 0.5

5. What is your highest level of education now (include accepted GED credits)?

- A. Grammar School grade or below -  $\frac{0.2}{\%}$
- B. High school (did not graduate) - 0.4
- C. High school graduate - 4.0
- D. Trade or technical school graduate - 0.3
- E. Some college, but less than one year - 2.2
- F. One year college, but less than two - 3.1
- G. Two years college, but less than three - 4.0
- H. Three years or more college, but no degree - 4.1
- I. Registered nurse diploma program - 0.3
- J. Bachelor's degree - 31.1
- K. Graduate work beyond bachelor degree (no master's degree) - 20.6
- L. Master's degree - 8.7
- M. Postgraduate work beyond Master's degree - 0.9
- N. Doctorate degree - 0.1

6. What is your marital status?
- A. Married -  $\frac{\%}{83.5}$
  - B. Never been married - 12.0
  - C. Divorced and not remarried - 3.2
  - D. Legally separated - 1.0
  - E. Widow/widower - 0.2
7. Are you currently performing rated duties?
- A. I am currently performing rated duties. -  $\frac{\%}{91.6}$
  - B. I am rated but not performing rated duties. - 1.6
  - C. I am not rated. - 6.8
8. Are you currently a member of a combat ready crew?
- A. Yes -  $\frac{\%}{75.6}$
  - B. No - 24.4
9. Have you ever had a combat tour of duty in Southeast Asia or Korea?
- A. Yes -  $\frac{\%}{74.7}$
  - B. No - 25.3
10. If you had a combat tour of duty in Southeast Asia or Korea, what type of aircraft did you fly during that tour?
- A. Bombers -  $\frac{\%}{20.3}$
  - B. Fighters - 31.9
  - C. Attack - 4.2
  - D. Helicopters - 5.6
  - E. Other - 14.5
  - F. Have not had a combat tour of duty in Southeast Asia or Korea - 23.5
11. In what type of aircraft are you currently flying?
- A. Bombers -  $\frac{\%}{27.4}$
  - B. Fighters - 43.4
  - C. Attack - 2.3
  - D. Helicopters - 8.6
  - E. Other - 17.8
  - F. Not currently flying - 0.5

12. What is the first digit of your present duty Air Force Specialty Code?

- A. 0 - 2.3
- B. 1 - 88.2
- C. 2 - 1.0
- D. 3 - 5.2
- E. 4 - 0.1
- F. 5 - 0.3
- G. 6 - 0.0
- H. 7 - 0.1
- I. 8 - 0.0
- J. 9 - 2.8

13. What is the second digit of your present duty Air Force Specialty Code?

- A. 0 - 7.3
- B. 1 - 30.3
- C. 2 - 15.2
- D. 3 - 7.7
- E. 4 - 1.0
- F. 5 - 38.1
- G. 6 - 0.1
- H. 7 - 0.1
- I. 8 - 0.1
- J. 9 - 0.1

14. What is the third digit of your present duty Air Force Specialty Code?

- A. 0 - 1.2
- B. 1 - 25.2
- C. 2 - 26.5
- D. 3 - 11.9
- E. 4 - 2.0
- F. 5 - 16.0
- G. 6 - 3.5
- H. 7 - 13.7
- I. 8 - 0.1
- J. 9 - 0.1

15. Do you plan to make a career of the Air Force?

- A. Definitely yes - 49.4
- B. Probably yes - 27.2
- C. Undecided - 12.0
- D. Probably not - 3.1
- E. Definitely not - 4.7
- F. I have over 20 years in the Air Force - 3.7

The following questions apply to the Code of Conduct as it is presently written. Please answer the questions to the best of your knowledge and beliefs.

16. How familiar are you with the contents and requirements of the Code of Conduct?
- |                        | %      |
|------------------------|--------|
| A. Very familiar       | - 16.0 |
| B. Quite familiar      | - 37.0 |
| C. Moderately familiar | - 37.6 |
| D. Somewhat familiar   | - 8.9  |
| E. Not familiar at all | - 0.5  |
17. Approximately how much training have you had concerning the Code of Conduct in the past year?
- |                       | %      |
|-----------------------|--------|
| A. More than 5 hours  | - 13.6 |
| B. 3-5 hours          | - 13.3 |
| C. 1-3 hours          | - 29.6 |
| D. Less than one hour | - 22.2 |
| E. None               | - 21.8 |
18. Are you satisfied with your understanding of the Code of Conduct?
- |        |        |
|--------|--------|
| A. Yes | - 82.6 |
| B. No  | - 17.4 |
19. Have you ever attended the Air Force Survival School at Stead AFB or Fairchild AFB?
- |        |        |
|--------|--------|
| A. Yes | - 96.0 |
| B. No  | - 4.0  |
20. The Code of Conduct gave U.S. prisoners of war in Southeast Asia increased ability to physically survive in the prison camps?
- |                      | %      |
|----------------------|--------|
| A. Strongly agree    | - 7.7  |
| B. Agree             | - 44.9 |
| C. Undecided         | - 26.8 |
| D. Disagree          | - 17.7 |
| E. Strongly disagree | - 2.9  |
21. The Code of Conduct gave the U.S. prisoners of war in Southeast Asia increased ability to resist the enemy interrogators?
- |                      | %      |
|----------------------|--------|
| A. Strongly agree    | - 7.8  |
| B. Agree             | - 46.4 |
| C. Undecided         | - 24.0 |
| D. Disagree          | - 19.0 |
| E. Strongly disagree | - 2.7  |

22. A skilled interrogator can get any information he wants from you if he wants to take the time?
- A. Strongly agree -  $\frac{20.5}{\%}$
  - B. Agree - 40.2
  - C. Undecided - 16.3
  - D. Disagree - 21.0
  - E. Strongly disagree - 1.9
23. It is important to resist enemy interrogation efforts to the utmost of one's ability.
- A. Strongly agree -  $\frac{55.5}{\%}$
  - B. Agree - 37.6
  - C. Undecided - 4.4
  - D. Disagree - 2.0
  - E. Strongly disagree - 0.6
24. The Code should be changed to permit a prisoner of war to give the enemy more information than name, rank, service number and date of birth.
- A. Strongly agree -  $\frac{12.4}{\%}$
  - B. Agree - 33.1
  - C. Undecided - 23.1
  - D. Disagree - 24.5
  - E. Strongly disagree - 6.9
25. Prisoners of war should be held responsible for their actions as prisoners upon their release.
- A. Strongly agree -  $\frac{16.6}{\%}$
  - B. Agree - 44.3
  - C. Undecided - 20.1
  - D. Disagree - 13.8
  - E. Strongly disagree - 5.2
26. Is it your impression that the U.S. prisoners of war in Korea were held responsible for their actions after their release?
- A. All guilty men were punished -  $\frac{1.2}{\%}$
  - B. Most guilty men were punished - 10.4
  - C. A few guilty men were punished - 33.6
  - D. No guilty men were punished - 4.9
  - E. Do not know - 50.3

27. Do you believe that the Pueblo crew members were held responsible for their actions after their release?

- A. All guilty men were punished -  $\frac{\%}{6.5}$
- B. Most guilty men were punished - 8.1
- C. A few guilty men were punished - 20.3
- D. No guilty men were punished - 17.6
- E. Do not know - 47.7

28. Do you believe that the U.S. prisoners of war in Southeast Asia were held legally responsible for their actions after their release?

- A. All guilty men were punished -  $\frac{\%}{2.4}$
- B. Most guilty men were punished - 5.1
- C. A few guilty men were punished - 20.2
- D. No guilty men were punished - 42.8
- E. Do not know - 29.4

29. The Code of Conduct should be changed to remove the obligation to attempt escape.

- A. Strongly agree -  $\frac{\%}{2.6}$
- B. Agree - 8.9
- C. Undecided - 13.2
- D. Disagree - 50.0
- E. Strongly disagree - 25.3

30. The average combat crew member has little or no military information that could help the enemy war effort.

- A. Strongly agree -  $\frac{\%}{4.9}$
- B. Agree - 20.3
- C. Undecided - 5.0
- D. Disagree - 49.0
- E. Strongly disagree - 20.7

31. The statements of prisoners of war made under duress are of little or no propoganda value to the enemy.

- A. Strongly agree -  $\frac{\%}{3.8}$
- B. Agree - 15.2
- C. Undecided - 8.5
- D. Disagree - 50.1
- E. Strongly disagree - 22.4



There are eight basic activities covered by the Code of Conduct. Please indicate your evaluation of the Code with respect to these factors.

	Very Helpful	Helpful	Neither Helpful nor Harmful	Harmful	Very Harmful
	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>
32. Code instructions for <u>resistance</u>	A - 14.3	B - 59.1	C - 18.0	D - 7.2	E - 1.2
33. Code instructions for <u>escape</u>	A - 14.1	B - 49.9	C - 27.5	D - 7.7	E - 0.8
34. Code instructions for <u>parole</u>	A - 18.5	B - 43.7	C - 31.8	D - 5.1	E - 1.0
35. Code instructions for <u>accepting special favors</u>	A - 27.0	B - 51.0	C - 15.6	D - 5.5	E - 0.9
36. Code requirements for <u>organization</u>	A - 44.0	B - 44.3	C - 10.2	D - 1.1	E - 0.5
37. Code instructions for <u>divulging information</u>	A - 14.5	B - 49.3	C - 20.0	D - 13.5	E - 2.7
38. Code instructions on <u>collaboration</u>	A - 26.4	B - 55.6	C - 15.6	D - 2.4	E - 0.5
39. Code statement of <u>PW Responsibility for personal actions</u>	A - 20.9	B - 49.6	C - 21.4	D - 6.5	E - 1.6
40. The Code of Conduct serves principally as a useful statement of personal moral and ethical values.					
	<u>%</u>				
A. Strongly agree -	18.1				
B. Agree -	59.6				
C. Undecided -	9.5				
D. Disagree -	10.4				
E. Strongly disagree -	2.4				

41. The Code of Conduct is legally binding on military personnel.

- A. Strongly agree -  $\frac{\%}{9.5}$
- B. Agree - 33.6
- C. Undecided - 17.5
- D. Disagree - 29.3
- E. Strongly disagree - 10.1

42. Do you think that the Code of Conduct is clear and understandable?

- A. All of it is clear and understandable. -  $\frac{\%}{29.8}$
- B. Most of it is clear and understandable. - 48.4
- C. Some of it is clear and understandable. - 20.3
- D. None of it is clear and understandable. - 1.6
- E. Do not know enough to answer.

43. Do you believe that the Code of Conduct contains adequate guidance for men who might become prisoners of war?

- A. Very adequate -  $\frac{\%}{11.1}$
- B. Fairly adequate - 45.7
- C. Undecided - 7.2
- D. Somewhat inadequate - 25.2
- E. Very inadequate - 10.9

44. The Code of Conduct is unnecessary.

- A. Strongly agree -  $\frac{\%}{4.6}$
- B. Agree - 6.6
- C. Undecided - 9.8
- D. Disagree - 49.8
- E. Strongly disagree - 29.2

## CODE OF CONDUCT

### Article I

I am an American fighting man. I serve in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

### Article II

I will never surrender of my own free will. If in command I will never surrender my men while they still have the means to resist.

### Article III

If I am captured I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy.

### Article IV

If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information nor take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.

### Article V

When questioned, should I become a prisoner of war, I am bound to give only my 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.

### Article VI

I will never forget that I am an American fighting man, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

~~CONFIDENTIAL~~

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