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REPORT SUPPLEMENT
OF
DEFENSE REVIEW COMMITTEE
FOR THE
CODE OF CONDUCT
1976

Volume 2

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No change per Major Rex L. Fuller, OASD/MRA&L



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SECTION I
PROPOSED IMPLEMENTING DOCUMENTS

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with Executive Order No. 11030, I am attaching a proposed amendment to Executive Order No. 10631, amending the Code of Conduct for Members of the Armed Forces of the United States, thereby clarifying its meaning and reducing conflicting training practices. I recommend that this proposal be submitted to the President for his signature.

The Code of Conduct was established on 17 August 1955, when President Dwight D. Eisenhower signed Executive Order 10631. The Code was the product of the Defense Advisory Committee on Prisoners of War, appointed by Defense Secretary Charles E. Wilson in May of 1955 to evaluate the experiences and conduct of PW's during the Korean conflict. After twenty years and numerous PW experiences in Vietnam, North Korea, Cambodia, Laos, and the People's Republic of China, enough controversy and speculation had developed to order a review of the Code to reaffirm its validity and to recommend any necessary changes in its phrasing or allied training guidelines. On 26 March 1976, at my direction, a Defense Review Committee for the Code of Conduct was convened to review the Code.

The former PW's and other experts who appeared before the Defense Review Committee overwhelmingly endorsed the ideals of the Code; they repeatedly stated that the Code provided inspiration and motivation to withstand the rigors of captivity successfully. The Committee determined that, although each Service has made extensive efforts to explain clearly to its members the intent of the Code, the wording of Article V of the Code should be amended to clarify the meaning of the Code and to eliminate confusion previously experienced in training.

Article V of the Code currently 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.

The Committee recommended deleting the word "only" and substituting "required" for "bound", so that the opening sentence, as amended, would read:

When questioned, should I become a prisoner of war, I am required to give name, rank, service number and date of birth. . . .

The Committee determined that this change would simplify the problem of understanding the intent of Article V, and it would also help to eliminate noticeable differences in individual Service training procedures.

The Services continue to retain the authority to conduct specific training and education designed to stiffen resistance to the intense and often debilitating treatment encountered in captivity. Full explanation of revisions to the Code and to its training guidance will be provided to the Services.

Sincerely,

Enclosure

EXECUTIVE ORDER _____

AMENDING EXECUTIVE ORDER NO. 10631, A CODE OF CONDUCT
FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES

The Code of Conduct has been an established standard of behavior for all members of the Armed Forces of the United States for more than twenty years. It has helped individuals in captivity to sustain their moral and physical strength and to survive extreme torture and abuse. However, experience indicates that certain words of the Code have on occasion, caused confusion resulting in training divergencies. Therefore, it is appropriate to clarify the meaning of those words.

Accordingly, by virtue of the authority vested in me as President of the United States, and as Commander-in-Chief of the Armed Forces of the United States, Article V of the Code of Conduct for Members of the Armed Forces of the United States, prescribed by Executive Order No. 10631 of August 17, 1955, is hereby amended to read as follows:

"When questioned, should I become a prisoner of war, I am required to give 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."

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with Executive Order No. 11030, I am attaching proposed amendments to Paragraphs 168, 170a, and 171b of the Manual for Courts-Martial, United States 1969 (Revised Edition) as prescribed by Executive Order NO. 11476. The recommended amendments support interservice command authority under conditions of military necessity. I recommend that this proposal be submitted to the President for his signature.

These amendments result from findings of the Defense Review Committee for the Code of Conduct, which I established on 26 March 1976. The Defense Review Committee heard testimony concerning the guidance that the Code provided to members of the Armed Forces who were recently held in PW status.

The former PW's and other experts who appeared before the Committee overwhelmingly reaffirmed the value of the Code; however, many testified that the senior member of the Armed Services must have necessary and unquestioned command authority over all other members of the Armed Services with whom he is held captive. This authority must be enforceable under the Uniform Code of Military Justice. The present wording in the Manual for Courts-Martial requires changes to provide a basis for prosecution. The proposed amended paragraphs incorporate changes that would accomplish the desired results.

Sincerely,

Enclosure

EXECUTIVE ORDER _____

PRESCRIBING AMENDMENTS TO THE MANUAL
FOR COURTS-MARTIAL, UNITED STATES, 1969
(REVISED EDITION)

Members of the Armed Forces of the United States who are captured and held prisoner by a hostile armed force are effectively outside the direct operational control of United States military authorities. Recent conflicts involving members of the Armed Forces indicate a need for establishing and maintaining a chain of command among prisoners of war or detained personnel. The senior member of all Services must be provided the necessary command authority over all members of the Armed Forces with whom he is imprisoned or detained. The present wording in the Manual for Courts-Martial should be amended to provide such authority.

By virtue of the authority vested in me by the Uniform Code of Military Justice (Title 10, United States Code, Chap. 47) and as President of the United States, I hereby prescribe the following amendments to the Manual for Courts-Martial, United States, 1969 (Revised Edition), prescribed by Executive Order Number 11476 of June 19, 1969.

Section 1. The third paragraph within paragraph 168 is amended by striking out the third sentence and inserting the following in place thereof:

"A commissioned officer of one armed force is not 'his superior commissioned officer' with respect to a member of another armed force merely because of higher rank. However, a commissioned officer of one armed force is, within the meaning of Article 89, 'his superior commissioned officer' with respect to a member of another armed force if duly placed in the chain of command over that person. In addition, when

members of more than one armed force are prisoners of war or otherwise detained by a hostile entity so that circumstances prevent resort to the normal chain of command, a commissioned officer of one armed force who is not a medical officer or chaplain is 'his superior commissioned officer' with respect to a member of another armed force who is his junior in rank."

Section 2. The first paragraph within paragraph 170a is amended by inserting the following after the second sentence:

"A warrant officer, noncommissioned officer, or petty officer of one armed force who is senior in rank to a member of another armed force is senior to that member under the same circumstances that a commissioned officer of one armed force is the superior commissioned officer of a member of another armed force for the purpose of Articles 89 and 90."

See 168.

Section 3. The first paragraph within paragraph 171b is amended by inserting the following after "See 138b":

"A member of one armed force who is senior in rank to a member of another armed force is the superior of that member with authority to issue orders which that member has a duty to obey under the same circumstances as a commissioned officer of one armed force is the superior commissioned officer of a member of another armed force for the purposes of Articles 89 and 90". See 168.

The White House,

Pages I-8 thru I-10
have been intentionally omitted.

(See Section VI for explanation.)

ASD (M&RA)

SUBJECT Training and Education Measures Necessary to Support the Code of Conduct

References: (a) Executive Order 10631, "Code of Conduct for Members of the Armed Forces of the United States," August 17, 1955, as amended.
(b) Department of Defense Directive 1300.7, Subject as above, July 8, 1964 (hereby cancelled)

I. REISSUANCE AND PURPOSE

A. This Directive reissues reference (b) to:

1. Establish policies and procedures and provide guidance for the development and execution of training in furtherance of the aims and objectives of the Code of Conduct for members of the Armed Forces (reference (a)); and
2. Provide guidance concerning the information and learning outcomes necessary in conducting consistent Code of Conduct training for members of the Armed Forces.

B. Reference (b) is hereby superseded and cancelled.

II. APPLICABILITY AND SCOPE

- A. The Code of Conduct and the provisions of this Directive are applicable to all members of the Armed Forces. The term "Military Services", as used herein, refers to the Army, Navy, Air Force, and Marine Corps.
- B. Training in support of the Code of Conduct will include the Reserve components.

III. OBJECTIVES

The objectives of this Directive are to ensure that:

- A. The Military Departments maintain energetic, uniform, and continuing training programs in support of the Code of Conduct, including instructions in methods of evasion,

escape, and resistance under varying degrees of hostile exploitation.

- B. The meaning and interpretation of the Code of Conduct is uniform at all levels of Armed Forces training and that all such training will develop in each participant the levels of learning indicated in enclosure 1.
- C. There is consistency in all Department of Defense Code of Conduct training programs, materials, and instructional information.
- D. Substantive changes to this Directive proposed to The Assistant Secretary of Defense (Manpower and Reserve Affairs) will require review and recommendations from a deliberative panel similar in charter and membership to the 1976 Defense Review Committee for the Code of Conduct.

IV. POLICIES

- A. In that the Code of Conduct has a direct impact on the Armed Forces, personnel in the Department of Defense and the Military Departments who plan, schedule, commit, or control the application of these forces should fully understand the precepts of the Code of Conduct and ensure that all personnel are appropriately trained and educated. This Directive and reference (a) are the basic policy documents for subject training and education.
- B. All Code of Conduct-related instructional material will develop in every member of the Armed Forces a uniform, positive attitude that he must and can realistically resist captor efforts to exploit him to the disadvantage of himself, his fellow prisoners and his country. The theme of all instruction will encourage this positive attitude.
- C. All training programs will impress upon every man that the inherent responsibilities of rank and leadership, military bearing, order and discipline, teamwork, devotion to fellow Service members, and the duty to realistically resist the enemy are not lessened by capture.
- D. Examples, statements, writings and materials of a seeming defeatist nature will not be used in training programs except when directed towards positive learning outcomes. The many examples of successful and heroic resistance shall be held up as ideals and will be the focal points of instruction and training on this subject. Such examples should be taken predominantly from the experiences of American prisoners of war.

- E. Indoctrination in the Code of Conduct will be initiated without delay upon the entry of an individual into the Armed Forces and will continue throughout his military career, providing periodic and progressive training appropriate to his assignment, increasing rank and leadership responsibilities. Combat tasks of the Armed Forces require significant variance in the numbers and types of persons trained and the duration and intensity of training. Realistic, stressful training is appropriate and is authorized; it must be closely supervised to prevent abuse.
- F. Detailed training policy guidance for instruction in support of the Code of Conduct is prescribed in enclosure 1. In summary, Code of Conduct-related training will be focused to three levels of understanding.
1. Level A is the minimum level of understanding for all members of the Armed Forces and will be achieved during entry level training of all personnel.
 2. Level B is the minimum level of understanding needed by personnel whose role (job, rank, or possession of information) entails moderate risk of capture.
 3. Level C is the minimum level of understanding needed by personnel whose role entails a relatively high risk of capture or makes them vulnerable to greater than average exploitation effort by a captor.

V. RESPONSIBILITIES

- A. The basic responsibility for ensuring that all members of the Armed Forces understand the requirements of the Code of Conduct lies with the Secretary of Defense, by Executive Order 10631 (reference (a)).
- B. Within the Office of the Secretary of Defense (OSD), the Assistant Secretary of Defense for Manpower and Reserve Affairs (ASD(M&RA)) has responsibility to ensure that Code of Conduct-related training programs conducted for members of all of the Military Departments are adequate, appropriately uniform, and consistent with this Directive and the Report of the 1976 Defense Review Committee for the Code of Conduct. The ASD (M&RA) will:
1. Maintain within OASD(M&RA) the central point of contact for Code of Conduct-related training matters.
 2. Serve as the focal point and be responsible for the annual evaluation of Code of Conduct-related training at the multi-Service instructor training facility

(subsection V. D.) and throughout the Armed Forces (subsection V. E.).

- a. The Inspector General of one of the Armed Services will be designated each year as executive agent to conduct the evaluation. The responsibility will be rotated among the Military Services. The team chief will be an O-6 and the team will include officers with experience in Code of Conduct training policy and training implementation.
 - b. OSD representation on the team will include, as a minimum, OASD (M&RA) and OSD International Security Affairs (ISA).
 - c. The designated executive agent (Subsection V.B.2.a.) will determine, in coordination with the ASD (M&RA), the team composition for each inspection, and request team members from the supporting Services.
 - d. All Military Services will provide representation for each evaluation conducted.
 - e. Reports will be written for each evaluation and provided to the ASD (M&RA) with copies to the Secretaries of the Military Departments. The executive agent (Subsection V.B.2.a.) will be responsible for preparing and distributing the report.
3. Supervise those functions performed by the OSD Historian pursuant to subsection V.C.
 4. Supervise the executive agent's performance of mission assigned in subsection V. D.
 5. Approve all Military Service-level Code of Conduct-related training programs, to assure conformity to this Directive. To assist in this function OASD(ISA) and the Office of the General Counsel of the Department of Defense (OGC) will participate to assure compliance with international treaties, laws, and commitments and to assure coordination with the Department of State and other agencies of the Executive branch as appropriate.
 6. Investigate, or cause to be investigated by a group such as the Interservice Training Review Organization (ITRO), feasibility of future expansion of the multi-Service instructor training activity into a larger school for all high-risk-of-capture personnel of the Armed Forces.

- C. The OSD Historian is responsible for the protection of institutional memory in all matters related to the Code of Conduct.
1. He will provide for the identification, collection, and control of a copy or copies of all documentation extant or produced in the future concerning the Code of Conduct and related topics. Documentation will include, but not be limited to: the reports of the 1955 Defense Advisory Committee on Prisoners of War and the 1976 Defense Review Committee for the Code of Conduct, all Code of Conduct training materials (manuals, pamphlets, audiovisual presentations), reports, scholarly papers, and other publications or manuscripts. These materials will be available for use, review, and research by appropriate personnel.
 2. He will provide support as required to the Executive Agent (paragraph V. D.).
- D. The Department of the Air Force is designated as executive agent to accomplish the following:
1. Operate a joint training facility (defense school) to provide Code of Conduct-related instructor training for all Military Services and for other persons as directed or approved by the ASD (M&RA). Manning of the instructor training facility should include an appropriate Service mix.
 2. Develop, in coordination with the other Military Services, and distribute multimedia training materials to support Code of Conduct-related training throughout the Armed Forces. Materials will include clear guidance concerning application of realistic, stressful training.
 3. On a continuing basis, conduct research and develop appropriate training programs, or modify existing programs, to prepare personnel to resist newly discovered captor handling techniques including abuses of captives while in confinement and other exploitive practices.
 4. Assure that all instruction at the joint instructor training facility (paragraph D. 1.) and all training materials (paragraph D. 2.) conform to this Directive and the Report of the 1976 Defense Review Committee for the Code of Conduct.

E. Each Military Service will:

1. Conduct Code of Conduct training as required, using instructors certified by the joint instructor training activity (paragraph D. 1.) and materials provided by the executive agent (paragraph D. 2.), to assure that all personnel have appropriate knowledge as prescribed in enclosure 1. Service training will conform to this Directive.
2. Support the executive agents (Subsections V.B.2.a. and V.D.) as required.

VI. RECORDS

Records will be maintained by the Military Services to indicate completion by individual personnel of Code of Conduct-related instruction.

VII. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Each Military Service will provide two copies of its implementing instructions to the ASD (M&RA) within 180 days. Copies of changes to such implementing directives or instructions will be provided to the ASD (M&RA) at the time such changes are published.

Enclosure-1

Guidance for Instruction in Support of the Code of Conduct

GUIDANCE FOR INSTRUCTION IN SUPPORT OF
THE CODE OF CONDUCT

PART I. INSTRUCTIONAL REQUIREMENTS

- A. The Code of Conduct as promulgated by Executive Order 10631 (reference (a)) and as amended by Executive Order _____ on _____ 1976, outlines basic responsibilities and obligations of members of the Armed Forces of the United States. Every member of the Armed Forces is expected to measure up to the standards embodied in the Code of Conduct.
- B. The Code of Conduct, in six brief Articles, addresses those situations and decision areas that to some degree will be encountered by all personnel. It includes basic information useful to prisoners of war (PW), and those subjected to other hostile detention, in their task of surviving honorably while resisting the captor's efforts to exploit them to the advantage of his cause and the disadvantage of their own. Such survival and resistance requires varying degrees of knowledge of the meanings of the six statements that make up the Code of Conduct.
- C. The degree of knowledge required by members of the Armed Forces is dictated by (1) the Military Service member's susceptibility to capture, (2) the amount of sensitive information possessed by the individual, and (3) the captor's or detaining power's likely assessment of the captive's usefulness and value.
 1. Consequently, the military job, specialty, assignment, level of position, rank, and seniority of some individuals require detailed training in the principles, procedures, and techniques of evasion, captivity survival, and resistance to exploitation. For others, basic explanations of the problems, duties, and obligations of the captive will suffice.
 2. The complex circumstances of detention which is not incident to an armed conflict by a foreign power will require special instructions.
 3. The degree of knowledge required by Service members will change with changes in job assignment and level of responsibility. New information may become available concerning potential enemies' PW management techniques. Supplementary training will be provided as required.

4. As a convenience to training managers, trainers and those being trained, required levels of understanding are provided, based on knowledge needed. Designation of personnel to these levels will be determined by their respective Military Service.
- D. In order to facilitate such designation and training, Part II, Articles of the Code of Conduct and Implementing Instructions, is formatted as follows for each Article of the Code of Conduct:
1. Statement of the Article of the Code of Conduct.
 2. Basic explanatory material pertaining to that Article.
 3. Training Guidance for:
 - a. Level A. Represents minimum level of understanding for all members of the Armed Forces; to be imparted during entry training of all personnel.
 - b. Level B. Minimum level of understanding for service members whose military job, specialty, or assignment entails moderate risk of capture. Examples might include: members of ground combat units and crews of naval vessels. Training will be conducted for such persons as soon as their assumption of duty makes them eligible.
 - c. Level C. Minimum level of understanding for service members whose military job, specialty, or assignment entails significant or high risk of capture and/or whose position, rank, or seniority may make them vulnerable to greater than average exploitation efforts by a captor. Examples might include: Aircrews of all Military Services and special mission forces such as SeaAirLand (SEAL) teams, Special Forces, Rangers, Marine Force Reconnaissance units, Pararescue teams, and Military Attaches. Training will be conducted for such personnel as soon as their assumption of such duties or responsibilities makes them eligible.
- E. The intent in providing subject matter guidance for use in ascending levels of understanding, is to direct the Military Services to increase each individual's depth of knowledge depending upon his needs, not to provide a checklist of topics or number of hours of instruction required. Training toward Levels B and C, for example, should include more detailed information concerning coping skills and more complex problem solving concerning leadership and command--topics which were

first introduced to the individual during Level A (entry) training.

PART II. ARTICLES OF THE CODE OF CONDUCT AND IMPLEMENTING INSTRUCTIONS

A. 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.

1. Explanation.

- a. Article I of the Code of Conduct applies to all Service members at all times. A member of the Armed Forces, as a fighting man, has a duty to support the interests and oppose the enemies of the United States regardless of the circumstances in which he may find himself, whether in active participation in combat or in captivity.
- b. Medical personnel and chaplains are granted, by virtue of their special "retainee" status under the Geneva Conventions, certain latitude under the Code of Conduct. This flexibility is directly related to the policies of the captors as to whether they adhere to the Geneva Conventions' requirement to let medical personnel and chaplains perform their professional duties. All personnel, medical, chaplain and other, should understand the latitude and limits of this flexibility (see Special Note).

2. Training Guidance. Levels A,B,C. Be familiar with wording and basic meaning of Article I as stated above, and understand that:

- a. Past experiences of captured Americans reveal that honorable survival of captivity requires the individual to possess a high degree of dedication and motivation. Maintaining these qualities requires knowledge of, and a strong belief in:
 - (1) The advantages of our democratic institutions and concepts;
 - (2) Love of and faith in our country; a conviction that our country's cause is just;
 - (3) Faith in, and loyalty to, fellow prisoners.
- b. Possessing the dedication and motivation fostered by such beliefs and trust will enable prisoners to survive long, stressful periods of captivity and return to country and family honorably and with their self esteem intact.

B. 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.

1. Explanation. As an individual, a member of the Armed Forces may never voluntarily surrender himself. Even when he is isolated and can no longer inflict casualties on the enemy or otherwise defend himself, it is his duty to evade capture and rejoin the nearest friendly forces.

- a. Only when evasion by an individual is impossible and further fighting would lead only to his own death with no significant loss to the enemy might the means to resist or evade be considered exhausted.
- b. The responsibility and authority of a commander never extends to the surrender of his command, even if isolated, cut off, or surrounded, while the unit has the power to resist, break out, or evade to rejoin friendly forces.

2. Training Guidance

a. Levels A, B, C. Training should assure that individuals are familiar with wording and basic meaning of Article II as stated above.

b. Levels B, C. Training should be specifically oriented toward additional depth of knowledge on the following topics, first introduced at Level A --

(1) Understand that an individual who is cut off, shot down, or otherwise isolated in enemy-controlled territory must make every effort to avoid capture. The courses of action available to him include concealment until overrun by friendly forces or recovered by friendly rescue forces; evasive travel to a friendly or neutral territory; and evasive travel to other pre-briefed areas.

(2) Understand that capture does not constitute a dishonorable act if all reasonable means of avoiding it have been exhausted and the only alternative is certain death.

c. Level C. Understand and have confidence in the procedures and techniques of rescue by search and recovery forces. Understand the procedures for properly utilizing specialized evasion destinations.

C. 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.

1. Explanation. The duty of a member of the Armed Forces to continue resistance to enemy exploitation by all means at his disposal is not lessened by the misfortune of capture. Contrary to the spirit of the 1949 Geneva Conventions, which intend to provide "benevolent quarantine" for PWs, enemies which U.S. forces have engaged since 1949 have regarded the PW compound as an extension of the battlefield. The USPW must be prepared for this fact.
 - a. In disregarding provisions of the Geneva Conventions, the enemy has used a variety of tactics to exploit PWs for propaganda purposes or to obtain military information. Resistance to captor exploitation efforts is required by the Code of Conduct. Physical and mental harassment, general mistreatment and torture, medical neglect and political indoctrination have all been used against USPWs in the past.
 - b. The enemy has tried to tempt PWs to accept special favors or privileges not given to other PWs in return for statements or information desired by the enemy, for promises of early release from captivity, or for a pledge by the PW not to try to escape.
 - c. A USPW must not seek special privileges or accept special favors for himself at the expense of his fellow PWs.
 - d. The Geneva Convention recognizes that a PW's country may impose upon him the duty to escape and that PWs may attempt to escape and return to their forces. Under the guidance and supervision of the senior person (often called the senior responsible officer or SRO) and the PW organization, PWs must be prepared to take advantage of escape opportunities whenever they arise. In communal detention, the welfare of the PWs who will remain behind must be considered. A PW must "think escape," must try to escape if able to do so, and must assist others to escape.

- e. 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. He will never sign or enter any such parole agreement.

2. Training Guidance

- a. Levels A, B, C. Be familiar with wording and basic meaning of Article III as stated on the previous page.
- b. Levels B and C. Training should be oriented toward additional depth of knowledge on the following topics, first introduced at Level A --
 - (1) Understand that captivity is a situation involving continuous control by a captor who may attempt to use the PW as a source of military information, for political purposes, and as a potential subject for political indoctrination.
 - (2) Be familiar with the rights and obligations of both the prisoner of war and the captor under the provisions of the Geneva Conventions of 1949 and be aware of the increased significance of resistance should the captor refuse to abide by the provisions of the Geneva Convention. Be aware that the resistance required by the Code of Conduct is directed at captor exploitation efforts, because such efforts violate the Geneva Conventions. Understand that resistance beyond that identified above subjects the USPW to possible punishment by the captor-- punishment the captor reserves for serious offenses against order and discipline or criminal offenses against the detaining power.
 - (3) Be familiar with, and prepared for, the implications of the Communist Bloc Reservation to Article 85 of the Geneva Conventions. (Article 85 offers protection to a PW legally convicted of a crime committed prior to capture.) Understand that Communist captors often threaten to use their reservation to Article 85 as a basis for judging all members of opposing armed forces as "war criminals". As a result, a PW may find himself accused of being a "War Criminal" simply because he waged war against his Communist captor prior to his capture.

The U.S. Government does not recognize the validity of this argument.

- (4) Concerning escape, understand that a successful escape by USPW's (a) causes the enemy to divert forces that might otherwise be fighting, (b) returns the escaper to country and family, (c) furnishes U.S. forces valuable information on captivity and (d) serves as an example to all members of the Armed Forces.
 - (a) Understand the advantages of early escape in that members of the ground forces are usually relatively near friendly forces. For all captured individuals, an early escape attempt takes advantage of the facts that the initial captors are usually not trained guards, and the security system is relatively lax; also, the prisoner is not yet in a debilitated physical condition.
 - (b) Be familiar with the complications of escape after arrival at an established prisoner of war camp; eg., secure facility and experienced guard system, usually located far from friendly forces, debilitated physical condition of prisoners, psychological factors which reduce escape motivation ("barb wire syndrome"), often differing racial characteristics of escaper and enemy population.
 - (c) Understand the importance of maintaining alertness for individual escapes of opportunity, especially for individual PW's immediately after capture and/or when confined alone.
 - (d) Understand the command supervisory role of the senior ranking PW (SRO) and the PW organization in escapes from established prisoner of war camps. Understand the responsibilities of escapers to their fellow prisoners.
- (5) Understand that acceptance of parole means a PW has agreed not to engage in a specified act, such as escape or bear arms, in exchange for a stated privilege and that U.S. policy forbids a PW to accept such parole.
- (6) Understand the effects on prisoner organization and morale, as well as the possible legal consequences, of accepting a favor from the enemy that results in gaining benefits or privileges not available to all prisoners. Such benefits and privileges include

acceptance of release prior to the release of sick or wounded prisoners or those who have been in captivity longer. Special favors include improved food, recreation, and living conditions not available to other PW's.

- c. Level C. Training should be oriented toward additional details concerning the above, plus -- understand the necessity for, and the mechanics of, covert organizations in captivity. Such organizations serve the captive's ends, such as effecting escape.

D. Article IV: IF I BECOME A PRISONER OF WAR, I WILL KEEP FAITH WITH MY FELLOW PRISONERS. I WILL GIVE NO INFORMATION OR 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.

1. Explanation. Officers and noncommissioned officers will continue to carry out their responsibilities and to exercise their authority subsequent to capture.

- a. Informing or any other action to the detriment of a fellow PW is despicable and is expressly forbidden. Prisoners of war must especially avoid helping the enemy to identify fellow PW's who may have knowledge of value to the enemy and who may therefore be made to suffer coercive interrogation.
- b. Strong leadership is essential to discipline. Without discipline, camp organization, resistance, and even survival may be impossible.
- c. Personal hygiene, camp sanitation, and care of the sick and wounded are imperative.
- d. Wherever located, USPWs for their own benefit should organize in a military manner under the senior person eligible for command. The senior person (whether officer or enlisted) within the PW camp or with a group of PWs will assume command according to rank without regard to service. This responsibility and accountability may not be evaded. (See Special Note.)
- e. The senior person will inform the other PWs that he is taking command and will designate the chain of command. If the senior person is incapacitated or is otherwise unable to act for any reason, command will be assumed by the next senior person. Every effort will be made to inform all PWs in the camp (or group) of the members of the chain of command, who will represent them in dealing with enemy authorities. The responsibility of subordinates to obey the

lawful orders of ranking American military personnel remains unchanged in captivity.

- f. U.S. policy concerning PW camp organization, as set forth in the foregoing paragraphs, specifies simply that the senior military person will assume command. The Geneva Convention on prisoners of war provides additional guidance to the effect that in PW camps containing enlisted personnel only (no officers), a "prisoners' representative" will be elected. USPW's should understand that such a representative is regarded by U.S. policy as only a spokesman for the SRO. The "prisoners' representative" does not have command (unless in the case of an election the PW's simplify the matter by electing the SRO). The senior person will assume and retain actual command, covertly if necessary.
- g. Maintaining communications is one of the most important ways that PWs can aid one another. Communication breaks down the barriers of isolation, which an enemy may attempt to construct and helps strengthen a PW's will to resist. Each PW will, immediately upon capture, try to make contact with fellow USPWs by any means available and will thereafter continue to communicate and participate vigorously as part of the PW organization.
- h. As with other provisions of this Code, common sense and the conditions in the PW camp will determine the way in which the senior person and the other PWs structure their organization and carry out their responsibilities. What is important is that:
 - (1) The senior person establish an organization, and
 - (2) The PWs in that organization understand their duties and know to whom they are responsible.

2. Training Guidance

- a. Levels A, B, C. Training should assure that individuals are familiar with wording and basic meaning of Article IV as stated above and understand that:
 - (1) Leadership and obedience to those in command is essential to the discipline required to affect successful organization against captor exploitation. In captivity situations involving two or more prisoners, the senior ranking prisoner will assume command; all others will obey his orders and abide by his decisions regardless of differences in service affiliations. Failure to do

so will result in the weakening of organization, a lowering of resistance, and may later result in legal proceedings under the Uniform Code of Military Justice (UCMJ).

- (2) Faith, trust and individual group loyalties have great value in establishing and maintaining an effective prisoner of war organization.
- (3) A volunteer informer or collaborator is a traitor to his fellow prisoners and to his country and later will be held accountable under the UCMJ for his actions.

b. Levels B and C. Training should be specifically oriented toward additional depth of knowledge on the following topics, first introduced at Level A --

- (1) Be familiar with the principles of hygiene, sanitation, health maintenance, first aid, physical conditioning, and food utilization, including recognition and emergency self-treatment of typical PW camp illnesses by emergency use of primitive materials and available substances (eg., toothpaste, salt, charcoal). Such knowledge exerts an important influence on prisoner ability to resist and assists an effective PW organization.
- (2) Understand the importance of and the basic procedures for, establishing secure communications between separated individuals and groups of prisoners attempting to establish and maintain an effective organization.
- (3) Be familiar with the major ethnic, racial, and national characteristics of the enemy that can effect prisoner-captor relationships to the detriment of individual prisoners and prisoner organization.
- (4) Further understand (a) that an informer or collaborator should be insulated from sensitive information concerning PW organization but (b) that continuing efforts should be made by members of the PW organization to encourage and persuade the collaborator to dissociate himself from unauthorized activities, (c) that welcoming a repentant collaborator "back to the fold" is generally a more effective PW organization resistance technique than continued isolation ("shunning"), which may only encourage the collaborator to continue his treasonous conduct, and (d) that there is a significant difference between the collaborator who must be persuaded to return

and the resister who, having been physically or mentally tortured into complying with a captor's improper demands, (eg., information or propoganda statement), should be helped to gather spiritual strength and "bounce back" to resistance.

- (5) Understand that in situations where military and civilian personnel are imprisoned together, the senior military prisoner should make every possible effort to persuade civilian prisoners that the military member's assuming overall command leadership of the entire prisoner group, based upon his experience and specific training, is advantageous to the entire prisoner community.

- c. Level C. Understand the need for, and the mechanics of, establishing an effective covert organization in situations where the captor attempts to prevent or frustrate a properly constituted organization.

E. Article V: WHEN QUESTIONED, SHOULD I BECOME A PRISONER OF WAR, I AM REQUIRED TO GIVE 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.

1. Explanation. When questioned, a prisoner of war is required by the Geneva Convention and this Code (and is permitted by the UCMJ) to give his name, rank, service number, and date of birth. Under the Geneva Conventions, the enemy has no right to try to force a USPW to provide any additional information. However, it is unrealistic to expect a PW to remain confined for years reciting only name, rank, identification number, and date of birth. There are many PW camp situations in which certain types of conversation with the enemy are permitted. For example, a PW is allowed but not required by this Code, the UCMJ, or the Geneva Conventions to fill out a Geneva Conventions "capture card," to write letters home, and to communicate with captors on matters of health and welfare.

- a. The senior person is required to represent the prisoners under his control in matters of camp administration, health, welfare, and grievances. However, it must be borne constantly in mind that the enemy has often viewed PW's as valuable sources of military information and of propoganda which can be used to further the enemy's war effort.

- b. Accordingly, each prisoner must exercise great caution when filling out a "capture card", when conducting authorized communication with the captor, and when writing letters. He

must resist, avoid, or evade, even when physically and mentally coerced, all enemy efforts to secure statements or actions which will further the enemy's cause.

- c. Such statements or actions constitute giving the enemy unauthorized information. Examples of statements or actions PW's should resist include oral or written confessions, questionnaires, personal history statements, propaganda recordings and broadcast appeals to other prisoners of war to comply with improper captor demands, appeals for surrender or parole, self-criticisms, or oral or written statements or communication on behalf of the enemy or harmful to the United States, its allies, the Armed Forces, or other PW's.
- d. A PW should also recognize that any confession he signs or any statement he makes may be used by the enemy as part of a false accusation that he is a "war criminal" rather than a PW. Moreover, certain countries have made reservations to the Geneva Convention in which they assert that a "war criminal" conviction has the effect of depriving the convicted individual of prisoner of war status and thus removing him from protection under the Geneva Convention and revoking his right to repatriation until a prison sentence is served.
- e. If a prisoner of war finds that he has, under intense coercion, unwillingly or accidentally disclosed unauthorized information, he must regroup his thoughts, muster his strength and will to "bounce back," and begin resisting again on a fresh line of mental defense.
 - (1) Experience has shown that although enemy interrogation sessions can be harsh and cruel, it is usually possible to resist more mistreatment than one previously thought possible, provided there is a will to resist.
 - (2) The best way for a prisoner of war to keep faith with his country, his fellow prisoners of war, and himself is to provide the enemy with as little information as possible.

2. Training Guidance

- a. Levels A, B, C: Be familiar with wording and basic meaning of Article V as stated above.
- b. Level B and C: In addition to the fundamentals introduced at Level A, additional understanding should be acquired at Levels B and C --

- (1) Be familiar with the various aspects of the interrogation process: its phases; the procedures, methods and techniques of interrogation; and interrogators' goals, strengths and weaknesses.
- (2) Understand that a prisoner of war is required by the Geneva Convention and the Code of Conduct to disclose his name, rank, service number, and date of birth when questioned. Understand that he must evade answering all further questions. He is encouraged to limit further disclosure by use of such resistance techniques as claiming inability to furnish additional information because of previous orders, poor memory, ignorance of answer or lack of comprehension. He may never willingly give the captor additional information; he must resist giving additional information to the maximum of his endurance even if it involves withstanding mental and physical duress.
- (3) Understand that short of death, it is unlikely that a USPW can prevent a skilled enemy interrogator, using all available psychological and physical methods of coercion, from obtaining some degree of compliance by the PW with captor demands. However, understand that if taken past his point of maximum endurance by the captor, the PW must "bounce back" as quickly as possible and resist each successive captor exploitation effort to the utmost of his ability; a forced answer on one point does not authorize continued compliance--even the same answer must be resisted again at the next interrogation session.
- (4) Understand that a prisoner is authorized by the Code of Conduct to communicate with the captor regarding his individual health or welfare and, when appropriate, on routine matters of camp administration. (Conversations on these matters are not considered to be "giving additional information" as defined in E.1.c., above.)
- (5) Understand that he may furnish limited information concerning family status and address if he fills out a Geneva Convention card. Be aware that a prisoner may write personal correspondence. Be aware that the captor will have full access to both the information on the capture card and the contents of personal correspondence.
- (6) Be familiar with captor's reasons for, and methods of, attempting to involve prisoners in both internal and external propaganda activities. Understand that a

prisoner must utilize every means available to avoid participation in such activities and that he must not make oral or written statements disloyal to his country and its allies, harmful to their cause, or detrimental to fellow prisoners of war.

- (7) Be familiar with captor's reasons for, and methods of, attempting to indoctrinate prisoners politically. Be familiar with the methods of resisting such indoctrination.

c. Level C. Provide additional details as follows --

- (1) Understand that even when coerced beyond name, rank, service number, date of birth, and claims of incapacities, he can thwart an interrogator's efforts to obtain useful information by the use of certain additional ruses and stratagems.
- (2) Understand and develop confidence in his ability to use properly the ruses and stratagems designed to thwart interrogation.

F. 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.

1. Explanation. A member of the Armed Forces remains responsible for his actions at all times. This Article is designed to assist members of the Armed Forces to fulfill their responsibilities and to survive captivity with honor. The Code of Conduct fully complies with the UCMJ, which continues to apply to each Military Service member during captivity (as a PW or in other hostile detention).
 - a. Upon repatriation, PWs can expect their actions to be subject to review, both as to circumstances of capture and as to conduct during detention. The purpose of such reviews is to recognize meritorious performance as well as to investigate any allegations of misconduct.
 - b. Such reviews will be conducted with due regard for the rights of the individual and consideration for the conditions of captivity.
 - c. A member of the Armed Forces who is captured has a continuing obligation to resist all attempts at indoctrination and to remain loyal to his country, his service, and his unit.

d. The life of a prisoner of war can be very hard. PWs who stand firm and united against enemy pressures will aid one another immeasurably in surviving this ordeal.

2. Training Guidance: Levels A, B, C. Be familiar with the wording and meaning of Article VI as stated above, and:

- a. Understand the relationship between the Uniform Code of Military Justice and the Code of Conduct, and that following the guidance of the Code of Conduct may preclude a violation of provisions of the UCMJ. Every member of the United States Armed Forces should understand that he can be held legally accountable for his actions while detained.
- b. Be knowledgeable of the national policy expressed by the President in promulgating the Code of Conduct:

"No American prisoner of war will be forgotten by the United States. Every available means will be employed by our government to establish contact with, to support and to obtain the release of all our prisoners of war. Furthermore, the laws of the United States provide for the support and care of dependents of the armed forces including those who become prisoners of war. I assure dependents of such prisoners that these laws will continue to provide for their welfare."

- c. Understand that both the PW and his dependents will be taken care of by his Branch of the Armed Forces and that pay and allowances, eligibility and procedures for promotion, and benefits for dependents continue while he is detained.
- d. Understand importance of Military Service members assuring that their personal affairs and family matters (pay, powers of attorney, will, car payments, children's schooling, etc.) are kept current through discussion, counselling and/or filing of documents.
- e. Understand that failure to accomplish the above has resulted in an almost overwhelming sense of guilt on the part of USPWs and has placed unnecessary hardship on family members.

SPECIAL NOTE

The additional flexibility afforded medical personnel and chaplains, under the circumstances cited in the explanation to Article I, is further clarified in relation to articles, as follows:

A. Article I.

- a. Medical personnel and chaplains are granted, by virtue of their special "retainee" status under the Geneva Conventions, certain latitude under the Code of Conduct if the policies of the captors adhere to the Geneva Conventions' requirement permitting these personnel to perform their professional duties.
- b. If the captors allow medical personnel and chaplains to perform their professional duties, these personnel may exercise a degree of flexibility concerning some of the specific provisions of the Code of Conduct in order to perform their professional duties.
- c. This degree of flexibility can only be employed if it is in the best interests of the medical and spiritual needs of their fellow Military Service members and their country. Like all members of the Armed Forces, medical personnel and chaplains are accountable for all of their actions.

B. Article II. No additional flexibility.

C. Article III. Under the Geneva Conventions, medical personnel and chaplains who fall into the hands of the enemy are entitled to be considered "retainee personnel" and are not to be considered prisoners of war. The enemy is required by the Conventions to allow retainee personnel to continue to perform their medical and religious duties, preferably for PWs of their own country. When the services of these retained personnel are no longer needed for these duties, the enemy is obligated to return them to their own forces.

1. The medical personnel and chaplains of the U.S. Armed Forces who fall into the hands of the enemy must assert their right as retainee personnel to perform their medical and religious duties for the benefit of the PWs and must take every opportunity to do so.
2. If the captor permits medical personnel and chaplains to perform their professional functions for the welfare of the PW community, special latitude is authorized these personnel under the Code of Conduct as it applies to escape.

3. Medical personnel and chaplains do not, as individuals, have a duty to escape or to actively aid others in escaping as long as they are treated as detainee personnel by the enemy.
 4. However, U.S. experience since 1949, when the Geneva Conventions were written, reflects no compliance by captors of U.S. personnel with these provisions of the Conventions. U.S. medical and chaplain personnel must be prepared to be subjected to the same treatment as other U.S. PWs.
 5. In event the captor does not permit medical personnel and chaplains to perform their professional functions they are considered identical to all other PWs with respect to their responsibilities under the Code of Conduct. Under no circumstances will the latitude granted medical personnel and chaplains be interpreted to authorize any actions or conduct detrimental to the PW's or the interest of the United States.
- D. Article IV. Medical personnel and chaplains are generally prohibited by law (Title 10, USC) from assuming command over non-medical personnel; Military Service regulations which restrict eligibility of these personnel for command will be explained to personnel of all Services at an appropriate level of understanding to preclude later confusion in a PW camp.
- E. Article V. This Article and its explanation also apply to medical personnel and chaplains (detainee personnel). Detainee personnel are required to communicate with a captor in connection with their professional responsibilities, subject to the restraints discussed in Articles I and VI.
- F. Article VI. No additional flexibility.

SECTION II

A SHORT HISTORY OF CODE OF CONDUCT
TRAINING PHILOSOPHY, 1955-1976

A SHORT HISTORY OF CODE OF CONDUCT
TRAINING PHILOSOPHY, 1955-1976

The Code of Conduct was established on 17 August 1955, when President Dwight D. Eisenhower signed Executive Order 10631. The Code was developed by the Defense Advisory Committee on Prisoners of War, a committee appointed by Secretary of Defense, Charles Wilson, to evaluate American prisoner-of-war (PW) experiences in Korea and to "deliberate toward the development of suitable recommendations for a Code of Conduct and indoctrination of training on preparation for future conflict."

The Committee consisted of a chairman, a vice chairman, eight members, a supporting advisory group, and a number of consultants. The Committee was provided with its own staff and secretariat. The Committee members, advisory group and staff included:

MEMBERS: Mr. Charter L. Burgess, Assistant Secretary of Defense
(Manpower and Personnel) - Chairman
General John E. Hull, USA (Retired) - Vice Chairman
Dr. Frank B. Berry, Assistant Secretary of Defense
(Health and Medical)
Mr. Hugh M. Milton II, Assistant Secretary of the Army
(Manpower and Reserve Affairs)
Mr. Albert Pratt, Assistant Secretary of the Navy
(Personnel and Reserve Forces)
Mr. David S. Smith, Assistant Secretary of the Air Force
(Manpower and Personnel)
Lt. General Frank W. Milburn, USA (Retired)
Vice Admiral C. A. Lockwood, USN (Retired)
Lt. General Idwal H. Edwards, USAF (Retired)
Major General Merrit A. Edson, USMC (Retired)

ADVISORY GROUP: Mr. Stephen S. Jackson - Committee Counsel
Mr. Theodore Roscoe - Special Advisor
Mr. Edward Wetter - Office of the Assistant Secretary
of Defense (Research and Development)

STAFF: Colonel Horace E. Townsend, USA - Staff Director
Colonel John C. Steele, USA - Deputy Staff Director
Lt. Colonel Robert B. Rigg, USA - Member
Commander Fred W. Frank, Jr., USN - Member
Lt. Colonel Robert E. Work, USAF - Member
Lt. Colonel F. B. Nihart, USMC - Member
Major Donald B. Churchman, USA - Administration

The Committee was in constant session from May to July of 1955. During that time, it reviewed the prisoner of war situation in Korea, the history of prisoners of war, and the application of the 1949 Geneva

Conventions, and produced three volumes of material describing and documenting its activities. The Committee also interviewed and consulted many prominent citizens, former prisoners of war, and governmental officials.

Although the 1955 Defense Advisory Committee considered the impact of the 1949 Geneva Conventions on American PW behavior, the fairness of the Service proceedings against former Korean War PW's accused of misconduct, and the status of those men still listed as MIA, the Committee clearly believed the creation of the Code of Conduct to be its most important accomplishment.

The Code of Conduct was formulated to provide a clear and concise guide to behavior for all servicemen in all situations, but especially in armed combat conditions. Executive Order 10631 provided these general instructions to the Services:

Each member of the Armed Forces liable to capture shall be provided with specific training and instructions 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.

The 1955 Defense Advisory Committee established training Directives which amplified the intent and scope of each of the six articles of the Code. These Directives originally appeared in the 1955 Public Report, POW: The Fight Continues After the Battle, but were not specifically attached to the DoD Memorandum to the Secretaries of the Military Departments on "Training and Education Measures Necessary to Support the Code of Conduct," dated 18 August 1955, although they were usually reprinted with the Code itself. Attached to the DoD Memorandum of 18 August 1955 was a two-page "Suggested Training and Education Guide in Support of the Code of Conduct," but this training guideline was not enforced by specific instructions or directives, at least at the Department of Defense (DoD) level, until July 1964, when DoD Directive 1300.7 was published.

The absence of DoD monitoring and detailed training guidance in the 1955 Memorandum created a situation in which the Services were eventually able to exercise wide latitude in interpreting the intent of the Articles of the Code and the training guidance associated with those Articles. As a result, Service philosophies on Code training varied noticeably in the years that followed.

In the first three years after the Code was established, no significant Service divergencies appeared, possibly because the Defense Advisory Committee on Prisoners of War continue to meet to gather information and issue progress reports on Code training and associated PW subjects. After publishing four reports, the Committee dissolved at the request of its Chairman, Mr. Charles C. Finucane, Assistant Secretary of Defense (M&RA), in August 1958.

From 1955 through 1958, the Services instituted their own Code training programs based on the guidance provided in the 18 August 1955 Memorandum. However, one year after the Defense Advisory Committee was dissolved, a new Code of Conduct pamphlet appeared which contained comments significantly altering the original training guidance.

While the directions contained in Articles II (on surrender), III (escape), IV (PW organization), and V (authorized disclosure of information) could all provide grounds for some disagreement in interpretation, the wording of Article V repeatedly caused the greatest disagreement, and it was to this Article that the strongest language of the 1959 pamphlet was directed. Article V of the Code 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.

Disagreement over the intent of this Article centered primarily on the issue of conditioning: the Army, Navy, and Marine Corps recommended teaching servicemen to adhere exclusively to the "big four" (name, rank, service number, date of birth), while the Air Force gradually began to advocate instruction in ruses and stratagems for "second line" defenses. But one passage in the 1959 pamphlet emphatically recommended adherence to the "big four" philosophy:

In the face of experience, it is recognized that you, if you should become a POW, may be subjected to an extreme of coercion. Still, you must resist to the limit of your ability. Don't expect to fall back to successive lines of resistance. Once you have gone beyond the first- your name, rank, service number, and date of birth - in almost any respect whatever, you have taken the first step that leads to collaboration. On the first line you must endeavor to stand to the end. (DoD Pamphlet 1-16, 6 August 1959, p. 137)

The thrust of this passage clearly departs from the intent of members of the 1955 Defense Advisory Committee who prepared the Code; as they indicated in their "Suggested Training and Education Guide in Support of the Code of Conduct," which was attached to the 8 August 1955 Memorandum, Code training should include instruction in "the use of ruses and stratagems to evade and avoid the disclosure of important information."

During the early 1960's, the Army, Navy, and Marine Corps followed the guidance in the 1959 pamphlet, but the Air Force continued to instruct the more sophisticated "ruses and stratagems" approach, primarily to aircrews undergoing survival, evasion, resistance, and escape (SERE) training at Stead AFB, Nevada.

The "big four" approach advocated by the Army, Navy, and Marine Corps was undoubtedly felt to be more appropriate for the training level and needs of the members of those Services; the Army and Marine Corps were primarily training combat soldiers, while the Air Force was instructing pilots occasionally flying hazardous missions. Although the Navy also was training some pilots, the majority of these were flying short-range fighters whose chances of long-term detention were considered remote. The more complex Air Force training involving "ruses and stratagems" was apparently not suited to Army, Marine Corps, and Navy needs.

In 1963, however, the Air Force approach was directly challenged by the Navy; in January of that year, after some Navy pilots had attended the Air Force Survival school at Stead AFB, CINCPACFLT sent a message to the CNO pointing out the discrepancy between Navy and Air Force training and requesting resolution of the problem. The message said, in part, that Air Force training was "in direct conflict with U.S. Navy interpretation of Article V of U.S. Military Code of Conduct as taught by Navy Fleet survival schools" and resulting confusion could jeopardize the position of detained American PW's.

The Joint Chiefs of Staff attempted to resolve the issue, but could not; on 3 October 1963, in a "split paper" to Secretary McNamara, they presented the reasoning behind their Service positions. The following passage *best describes the content of that paper and the core of the controversy that divided the Services' philosophy on Code of Conduct training for over fifteen years:

It was the contention of the Army, Navy, and Marine Corps, concurred in by the Chairman, Joint Chiefs of Staff, Gen Maxwell D. Taylor, USA, that Executive Order 10631, by which President Eisenhower had promulgated the Code of Conduct on 17 August 1955, and DoD Pamphlet 1-16, dated 6 August 1959, permitted an American when captured only one line of resistance to interrogation, namely, name, rank, serial number, and date of birth. The result of conflicting interpretations of Article V, they said, was two codes of conduct. Positing a situation wherein a senior prisoner of war would be living by one code while prisoners of war under his command would be adhering to one more demanding, they predicted a chaotic effect on PW discipline. A memorandum by the Secretary of Defense for the Service Secretaries, dated 18 August 1955, which set forth certain education and training measures required for the support of the Code of Conduct in too-permissive language, should be superseded, they recommended, by a uniform policy directing training of all US military personnel in one Code of Conduct, in conformity with Executive Order 10631 and the Conclusion on p. 137 of DoD Pamphlet 1-16, that is, training in the single line of resistance.

*...written by the late OSD Historical Consultant, Wilber Hoare, as part of an in-progress study,...

The Chief of Staff Air Force, in his turn, pointed out that the single line of resistance was "unrealistic," the word appearing in almost every USAF discussion of the Code of Conduct. The policy had not worked in past wars; with few exceptions US prisoners of war had gone beyond this line when subjected to determined interrogation, torture, or psychological duress. In addition, not only did the USAF present a higher percentage of officers vulnerable to capture than did the other Services, but the considerable technical education and other expertise of the USAF officer made him a particularly attractive target for the enemy interrogator. That officer was also more likely to be subjected to attempted exploitation for propaganda purposes, as in the forced germ warfare confessions during the Korean War. Men who would be special targets needed special training; such training was what the Air Force had been providing at Stead Air Force Base, in full conformity with the Executive Order, the Code of Conduct, and with the policies of the Secretary of Defense Memo of 18 August 1955 and its attachment, the "Suggested Training and Education Guide in Support of the Code of Conduct." This last, developed by the Defense Advisory Committee in conjunction with the drafting of the Code of Conduct, encouraged classified training in devices to avoid disclosure of important information and permitted each Service to "design its own program to the extent required to meet its particular needs in line with the broad guidance contained therein." The Chief of Staff Air Force could not concur, he said, in the views of the other chiefs that would limit training in support of Article V, nor in their recommendation for cancellation of the Secretary of Defense Memo of 18 August 1955 and its attachment. These, he recommended, should be reaffirmed, with necessary directive guidance.

In the meantime, the Air Force reviewed its survival training program at Stead AFB at the request of Air Force Secretary Zuckert. Secretary Zuckert enlisted the aid of a number of men, including Brigadier General S.L.A. Marshall (USA, Ret.), who judged that the Air Force program was valid and appropriate. Secretary Zuckert forwarded the report of that committee, the Air Force Advisory Committee on Prisoners of War, to Secretary McNamara in November 1963, which he followed, in January 1964, with a Memorandum requesting that Secretary McNamara approve Air Force Code training for all services.

Secretary McNamara responded to the Air Force request and to the JCS "split paper" by directing the Services to arrive at a method of insuring consistency in Service Code instruction. This request resulted in the publication of DoD Directive 1300.7, "Training and Education Measures Necessary to Support the Code of Conduct," dated 8 July 1964. Attached to this Directive was enclosure title "Guidance for Development

of Training Programs and Instructional Material in Support of the Code of Conduct," which stated that the phrase in the Code that instructs the individual to

evade answering questions beyond name, rank, service number, and date of birth "to the utmost of my ability," is binding on all military personnel. It is a principle that once a man is placed in a position where it is beyond his ability to resist answering further questions, further responses are made entirely on his own responsibility.

Although the strong language of the 1959 pamphlet was toned down, the Directive's emphasis on the "big four" approach was clear. In addition to DoD Directive 1300.7, a new, shorter Code of Conduct pamphlet appeared in December 1964 which contained the passage from the Directive quoted above.

After 1964, United States involvement in Vietnam increased significantly, and although one early estimate of PW treatment suggested that captured Americans might encounter benevolent captors, it soon became apparent that American PW's could expect hostile treatment. From 1965 to 1967, as the American effort in Vietnam continued to expand, the number of PW's also increased, and the Services awaited the results of their Code of Conduct and SERE training with growing concern. Although an expanded Code of Conduct pamphlet dated 5 June 1967 repeated the strong, "hard-line" language of the 1959 pamphlet, the experiences recounted by early returnee PW's in 1968 caused the Army and Navy to reassess their approach to Code training. Tales of the harsh camp conditions and brutal treatment the PW's had received at the hands of their captors convinced the other Services to adopt Air Force methods. The Navy gradually began to modify its training programs after the first returnees appeared, and by 1971 the Army had officially revised its training guidance.

In addition to the Vietnam PW situation, one other major event focused attention on the adequacy of Service Code of Conduct training: the North Korean capture of the USS Pueblo in March, 1968. A House Subcommittee chaired by Otis Pike (D-NY) examined Naval security, communications, and Code training in connection with the Pueblo's capture and recommended that the DoD give deeper consideration to Code training which would prepare servicemen for unique situations typified by the Pueblo incident.

The Services agreed that a thorough review of Code of Conduct training should be conducted, but it was determined that no definitive guidance on training should be issued and no changes to the Code considered while American military personnel were still in PW status. After the PW's held in Southeast Asia were released in the spring of 1973, DoD prepared to review the Code and in December 1973 presented a two-phase plan for that purpose.

Phase one of the plan, individual Service analysis and evaluation of PW experiences, was completed in August 1974, and the Service positions on PW/Code of Conduct training were forwarded to the DoD.

The Army recommended:

- a. That the Code of Conduct should be retained and reaffirmed as a proven, valuable, non-punitive set of guidelines to which each USPW should adhere, to the utmost of his ability. For purpose of clarification, and to enhance the value of the Code without altering its intent, some changes in the wording of Articles III, IV, V, and VI, and the explanatory material for all six Articles were suggested.
- b. That the Code of Conduct should remain a mission statement, positively oriented, designed to assist USPW's to survive with honor; it should not be converted into a punitive code of law. The Uniform Code of Military Justice should remain the authority for punitive aspects of USPW conduct.
- c. That effort should be made at the appropriate level of government to clarify the responsibilities and expected standards of conduct of U.S. civilian persons in relation to those of USPW's confined by the enemy in the same facility.
- d. That DoD Directive 1300.7, "Training and Education Measures Necessary to Support the Code of Conduct," 8 July 1964, should be reviewed by OSD in light of the USPW experience.
- e. That the Services should increase their efforts to insure the appropriate degree of uniformity of their training related to the Code of Conduct, so as to eliminate variations in interpretation of the Articles of the Code.

The Navy recommended:

- a. That no change be made to the Code because every proposed change would either weaken it or introduce new problems of interpretation disproportionate to the stated advantage of the change.
- b. That DoD Directive 1300.7 be revised to eliminate the areas of misunderstanding of Articles II through V of the Code.
- c. That a separate Executive Order be issued to explicitly establish that the senior ranking military officer, regardless of Service, has authority over all U.S. military personnel in a PW camp.
- d. That the JCS be asked to address independently the same experiences and problems of our PWs, and formulate related recommendations.

The Air Force recommended:

- a. That the Code be reaffirmed as the standard of conduct toward which the U.S. fighting man should strive while in combat or hostile detention.
- b. That DoD Directive 1300.7 and implementing Service Directives be revised to insure common guidance and consistent training.
- c. That DoD provide a standardized instructional guide on proper interpretation of the Code, and direct its use in Service training programs.
- d. That Articles III and V of the Code, concerning surrender, escape, parole, resistance and divulging information, be clarified in DoD Directive 1300.7, and consistently applied in Service training programs.
- e. That the wording of specific Articles of the Code should not be changed; however, if changes were made, Articles III and V of the Code be considered for wording change.
- f. That, if necessary, the UCMJ be amended to make it clear that the senior ranking military officer, regardless of Service, has authority over all U.S. military personnel in a PW camp.
- g. That any changes to the Code be undertaken only by a body of equivalent stature with the 1955 Defense Advisory Committee on Prisoners of War.

In September 1975 the Deputy Secretary of Defense approved an Action Memorandum which contained a recommended plan for the makeup of the Defense Review Committee, a plan which was finally approved in a Decision Memorandum dated 8 March 1976. On 26 March 1976 the Deputy Secretary implemented phase two of the review plan in his Charter of that date:

In order to formally review the Code of Conduct for members of the Armed Forces of the United States and to reaffirm the validity of the Code of Conduct for its intended purpose or to recommend such changes as necessary, the Defense Review Committee is hereby established....

The Defense Review Committee will meet at the call of the Chairman, to review the Code of Conduct, its supporting training programs, and the experiences of detainees and POW's with the Code in order to report to the Secretary of Defense its findings and recommendations as considered appropriate.

This report and its supplement contain the findings of the Defense Review Committee.

CHRONOLOGICAL LIST OF DOD PUBLICATIONS
ON THE CODE OF CONDUCT

1. August 1955: POW: The Fight Continues After The Battle;
A Report by the Secretary of Defense's Advisory
Committee on Prisoners of War
2. November 1955: The U.S. Fighting Man's Code
(DoD PAM 8-1; DA PAM 21-71; AFP 34-10-1)
3. 6 August 1959: The U.S. Fighting Man's Code
(DoD PAM 1-16; DA PAM 21-71; NAVPERS 92638;
AFP 34-10-1; NAVMC 2512)
4. 23 December 1964: Code of the U.S. Fighting Man
(DoD GEN-11; DA PAM 360-512; NAV)ERS 92483A;
AFP 34-10-10)
5. 5 June 1967: The U.S. Fighting Man's Code
(DoD GEN-28; DA PAM 360-522; NAVTRA 46901;
AFP 34-10-1; NAVMC 2512 (REV. 67))
6. 1 September 1969: PW: Your Rights and Obligations Under The Geneva
Convention (DoD GEN 35; NAVPERS 15239; AFP 35-4;
NAVMC 2628)

SECTION III

COMMITTEE COMPOSITION/METHODOLOGY

EXECUTIVE ORDER/CODE OF CONDUCT 1955

COMMITTEE COMPOSITION/METHODOLOGY

DoD intended the composition of the Defense Review Committee for the Code of Conduct to parallel that of the 1955 Defense Advisory Committee on Prisoner of War closely. Since Deputy Secretary of Defense Clements directed that the Committee should include former PW's, each Service had the option of appointing a general/flag officer or a general/flag officer and a former PW. Because of these options, the Review Committee consisted of eleven members. Dr. John F. Ahearne, Acting ASD(M&RA), served as Committee Chairman, and Lt Gen A.P. Clark, USAF (Ret), served as Vice Chairman. The Committee members included:

Mr. Vernon McKenzie, Acting ASD(HA);
Hon. Richard W. Wiley, General Counsel, DoD;
Dr. Roger E. Shields, DASD(IEA);
Maj Gen Travis R. McNeil, USAF;
Rear Adm. W.P. Lawrence, USN;
Brig Gen. R.C. Schulze, USMC, replaced by
Brig Gen. Joseph V. McLernan, USMC, on 25 May 1976;
Brig Gen. C.E. Canedy, USA;
Col. George Day, USAF; and
CWO2 Donald J. Rander, USA

The full Committee held its first session on 4 May 1976, when it adopted procedural guidelines to be employed during its deliberations. The full Committee met twice weekly for two months and held additional meetings, as required, during a third month. The Committee devoted its first four meetings to administrative matters and background presentations, the next ten meetings largely to interviews, and the last seven to formulating its report. The background consisted of briefings on the Code of Conduct and USPW's, and Service positions on the Code presented by the U.S. Army, U.S. Navy/USMC, and U.S. Air Force. An ad hoc working group drawn from Committee membership selected the individuals to be interviewed from a list of Service and OSD nominees. This working group was chaired by Dr. Roger E. Shields, DASD(IEA) and its members included Col. George Day, USAF; Capt. Kenneth L. Coskey, USN; and CWO2 Donald J. Rander, USA. On 24 May 1976, this group prepared the list of interviewees to appear before the Committee.

In order to streamline full Committee meetings, the Committee formed four permanent working groups from its membership, each headed by one of the general/flag officers on the Committee. Each of these working groups analyzed the general Code of Conduct issues considered by the Committee and prepared position statements on them. All four groups were able to draw on Service Representatives for specific expertise whenever necessary.

Working Group Number 1 consisted of Maj Gen. Travis R. McNeil, USAF, and a representative from the OSD General Counsel. Working Group Number 1 considered these General Issues: Revalidation of the Code of

Conduct; Establishment of the Code as legally binding; Relationship of the Code to the Geneva Convention; Applicability of the Code to other than declared wars and hostile peacetime detention (terrorism); Troop information concerning democracy; Interservice approach to PW awards, decorations, and efficiency/fitness reports; and Periodic Review of the Code.

Working Group Number 2 consisted of Rear Adm. W.P. Lawrence, USN, (with Capt. Kenneth L. Coskey, USN, as his alternate) and CWO2 Donald J. Rander, USA. It considered Issues concerning specific Code of Conduct Articles: Command in PW camps (Art IV--SRO authority, obligation to assume command, obligation to organize, duties of subordinates covert organizations, and relationship of military and civilian PW's; Escape (Art III); and Special favors and early release (Art III).

Working Group Number 3 consisted of Brig Gen R.C. Schulze, USMC, replaced on 25 May 1976 by Brig Gen. Joseph V. McLernan, USMC, and Maj. Edward R. Maney, USAF, and Capt. Mary A. Cochran, USAF, representing OSD(ISA). Working Group Number 3 considered the following Issues associated with Code of Conduct Articles: Applicability to military noncombatants (Art I, II, VI); Surrender (Art II); and Disclosure of information (Art V).

Working Group Number 4 consisted of Brig Gen. C.E. Canedy, USA; Col. George Day, USAF; Col. John W. Bullard, USA, representing OASD(HA); and Lt Gen. A.P. Clark, USAF (ret), ex officio. It considered Training Policy Issues: Service variations, revision of DoD Directive 1300.7; Inadequacies of Survival, Evasion, Resistance, and Escape (SERE) training; Publicizing family assistance and governmental efforts toward release; OSD monitoring of training; Interdepartmental coordination; Training for Reserve and pre-service personnel; and Potential adversary PW handling techniques. On 19 May 1976, the working group chiefs transferred responsibility for Troop information concerning democracy from Working Group Number 1 to Working Group Number 4.

Each working group received an amplified analysis of its issues, but each group devised its own specific approach to arrive at its own conclusions and recommended positions to the full Committee. These positions were then considered by the full Committee its own conclusions and recommendations.

The individuals appearing before the Committee received a copy of procedural guidelines prior to their appearance. These guidelines indicated that the Committee had a fact-finding and evaluating role. These guidelines also presented the interviewee with the topics of concern to the Committee. The Committee wished to encourage a frank exchange of ideas, full discussion of experiences, and candid statements of facts during its hearings. Since the Committee was not intended to support or determine disciplinary actions, pecuniary liability, or personal misconduct, and to preclude the introduction of irrelevant material, the Committee chairman reminded each interviewee to avoid using

names and discussing these topics. This process generally prevented the interviewees from presenting extraneous or irrelevant information. Committee members were also free to question each interviewee following his initial statement in order to clarify his thoughts on the Code of Conduct, its value, and its problems.

Working Group conclusions were evaluated at three separate levels before they became final. The first level of resolution occurred within the working group themselves. It included first draft coordination, change accommodation, word accuracy, and escalation of group disagreements. The second level of resolution consisted of a conference of the working group chiefs which involved resolution of group issues, insuring Committee policy, and escalation of group chief ideas. The final level of resolution took place in the full Committee which resolved group chiefs' issues. This resolution procedure allowed the full Committee to avoid involvement in low level discussion and to deal with larger issues more effectively.

Throughout the period in which the working groups addressed their issues, the Committee heard testimony concerning the Code of Conduct from fifty individuals. These included ex-prisoners of war, individuals detained by hostile forces in peacetime, experts in PW behavior, representatives of organizations concerned with PW affairs, and members of the 1955 Advisory Committee. The ad hoc working group which selected the individuals to be interviewed by the Committee ensured that the Committee would be exposed to a broad spectrum of opinion by recommending interviewees who held differing views on the Code of Conduct and its applicability. The Committee believed a catholicity of opinion would assist it in drawing conclusions and framing recommendations concerning the Code of Conduct. Of those invited to appear before the Committee, five individuals and the representatives of two organizations declined their invitations.

The Committee also devoted part of each meeting to discussion of the positions presented by the working groups in order to resolve the issues addressed by the Committee. During the final seven meetings, the Committee refined its considerations and positions as presented in its report.

All Committee meetings were recorded using both open and closed microphone systems. These tape recordings were on the basis of verbatim transcripts and summaries for Committee member's use. To protect the confidentiality of the information presented before the Committee, the verbatim transcripts do not accompany this report. Summaries of Committee deliberations may be found in Section VII of the Report Supplement.

A nine-member Secretariat supported the Committee. The Secretariat began its operations on 1 March 1976. The Secretariat, like the Committee,

was multi-service and consisted of:

Col. Tom Arnold, Jr., USAF;
Lt Col. Charles W. Gomon, USA;
Lt Comdr. Glenn H. Daigle, USN, replaced by
Lt Comdr. Robert B. Moore, USN, on 18 May 1976;
Maj. David K. Vaughan, USAF;
Capt. David L. Vaughn, USAF;
Capt. Arnold N. Manella, USMC;
LN2 Steven D. Settles, USN;
Sgt. Karin D. Senkarik, USAF; and
Mrs. Suzanne Massey, DAC.

The Secretariat was created by the Charter of the Defense Review Committee for the Code of Conduct. Functioning under this charter, the Secretariat performed a bibliographic search and assembled documentation concerning the Code of Conduct to serve as background material for Committee deliberation. It also conducted public affair functions, provided full administrative assistance, and prepared the final report.

Since not all members of the Committee were able to attend all Committee meetings, each member had one or more alternates. A list of alternates is also attached.

Since the review of the Code of Conduct concerned many DoD offices, observers often attended the Committee meetings. A list of observers is also attached.

EXECUTIVE ORDER

10631

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

By virtue of the authority vested in me as President of the United States, and as Commander in Chief of the armed forces of the United States, I hereby prescribe the Code of Conduct for Members of the Armed Forces of the United States which is attached to this order and hereby made a part thereof.

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 in captivity. To ensure 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.

The Secretary of Defense (and the Secretary of the Treasury with respect to the Coast Guard except when it is serving as part of the Navy) shall take such action as is deemed necessary to implement this order and to disseminate and make the said Code known to all members of the armed forces of the United States.

THE WHITE HOUSE,

III-5

August 11, 1955

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 or 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.

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.

BIOGRAPHIES
OF THE
MEMBERSHIP
DEFENSE REVIEW COMMITTEE
FOR THE
CODE OF CONDUCT

DR. JOHN F. AHEARNE, ACTING ASD (M&RA)
CHAIRMAN
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

Dr. Ahearne was born June 4, 1934, in New Britain, Connecticut. He attended Cornell University where he received a B.S. degree in engineering physics and an M.S. degree in physics in 1958. He received an M.A. degree from Princeton University in 1963 and a Ph.D. degree in physics in 1966. He is a member of the American Physical Society and of the Sigma Xi, Phi Kappa Pi, and Tau Beta Pi honorary societies.

Prior to joining the Office of the Assistant Secretary of Defense for Program Analysis and Evaluation (then Systems Analysis), Dr. Ahearne served in the United States Air Force for 11 years. During this time he served as associate professor of physics at the U.S. Air Force Academy and as nuclear effects analyst at the Air Force Weapons Laboratory.

Dr. Ahearne has served as Deputy Assistant Secretary of Defense (Program Analysis and Evaluation) since April, 1972. He had been with the Analysis office since 1969, as a staff member in 1969-1970 and, from 1970-1972, as Director of the Tactical Air Division.

Dr. Ahearne was appointed as Principal Deputy Assistant Secretary of Defense (Manpower and Reserve Affairs), effective January 19, 1975.

Dr. Ahearne is married to the former Barbara Drezek. They reside with their five children in McLean, Virginia.

LIEUTENANT GENERAL A.P. CLARK, USAF(RET.)
VICE CHAIRMAN
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

General Clark was born on Aug. 27, 1913, at Schofield Barracks, Hawaii. He is a 1936 graduate of the United States Military Academy, West Point, N.Y., and completed flying training at Randolph Field, Texas., in 1937.

He then served at Selfridge Field, Mich., and in June 1942, went to England as second in command of the 31st fighter Group, the first American fighter unit in the European Theater of Operations. He was shot down over Abbeville, France, in July 1942 and was a prisoner of war until April 1945.

After World War II, he progressed through key staff assignments with Tactical Air Command, Continental Air Command and Air Defense Command prior to a tour of duty at Headquarters U.S. Air Force.

General Clark commanded the 48th Fighter Bomber Wing at Chaumont Air Base in France, in 1955-1956, and then served as Chief of Staff of the U.S. Air Forces in Europe (USAFE).

His next assignment was as Chief of the U.S. Military Training Mission to Saudi Arabia. He was Director of Military Personnel at Headquarters U.S. Air Force for four years beginning in 1959 and was then assigned to Okinawa as Commander of the 313th Air Division.

In August 1965, he was named Vice Commander of the Tactical Air Command (TAC). He assumed duties as Commander of Air University in August 1968 and in August 1970, he was appointed Superintendent of the United States Air Force Academy.

A command pilot, he is a graduate of the Armed Forces Staff College and The National War College.

Lieutenant General Albert P. Clark is a former Superintendent of the United States Air Force Academy near Colorado Springs, Colorado.

Lt Gen Clark retired from active duty on 1 Aug 1974 and is presently living at Monument, Colorado.

He and his wife, the former Carolyn Wilbourn, are the parents of two daughters, Carolyn and Mary, and a son, Capt. Albert P. Clark, Jr., of the U.S. Air Force.

His military decorations and awards include the Distinguished Service Medal, Legion of Merit with one oak leaf cluster, Air Medal, Air Force Commendation Medal, and the Purple Heart.

HONORABLE RICHARD A. WILEY GENERAL COUNSEL DOD
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

Mr. Wiley was born July 18, 1928, at Brooklyn, New York. He received an A.B. degree with highest honors from Bowdoin College, Brunswick, Maine, in 1948; B.C.L. with honors from Oxford University, England, where he was a Rhodes scholar, 1951; and LL.M. from Harvard Law School, Cambridge, Massachusetts, 1959.

From 1959 until he joined the Department of Defense, Mr. Wiley was a lawyer with the firm of Bingham, Dana and Gould at Boston, Massachusetts, a partner in that firm since 1964 and the firm's managing partner from 1971 through 1974. From 1956 until 1958, he was an attorney for the John Hancock Mutual Life Insurance Company at Boston. From 1953 until 1956, he was a legal officer for the United State Air Force, Wright-Patterson Air Force Base, Dayton, Ohio.

Richard A. Wiley of Wellesley Hills, Massachusetts, was nominated to be General Counsel for the Department of Defense by President Gerald Ford on December 2, 1975, and sworn into office January 2, 1976.

As General Counsel, Mr. Wiley succeeded Martin R. Hoffman who became Secretary of the Army on August 5, 1975.

Professional memberships of Mr. Wiley, present and former, include American, Massachusetts and Boston Bar Associations; Foreign and International Business Law Committee of American Bar Association; Anti-Trust Committee and its Executive Committee of Boston Bar Association; Chairman, New England Conference on Legal Problems of Doing Business Abroad; member and Vice President, Board of Overseers of Bowdoin College; Council on Foreign Relations and its affiliated Boston Committee on Foreign Relations; Town Meeting, and Advisory Committee, of Wellesley, Massachusetts.

Mr. Wiley married the former Carole Jean Smith and they have three children.

He served in the U.S. Marine Corps Reserve from 1948 until 1950 and on active duty in the U.S. Air Force from 1952 until 1956, and was in the Air Force Reserve until 1973. His honors and awards include the Air Force Commendation Medal, the National Defense Service Medal, and the Armed Forces Reserve Medal.

DR. ROGER E. SHIELDS, DASD (IEA)
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

Dr. Shields was born November 8, 1939, in Salt Lake City, Utah. He attended the University of Florida where he received a B.S. degree in 1961 graduating with high honors, and an M.A. degree in 1965. He received a Ph.D. from the University at Virginia in 1969. He is a member of the following Honorary Fraternities, Beta Gamma Sigma, 1960, Pi Sigman Phi, 1960 and Phi Kappa Phi, 1961.

Prior to joining the Office of the Assistant Secretary of Defense (International Security Affairs), Dr. Shields served as Interim Assistant Professor of Economics, University of Virginia 1968, Assistant Professor of Finance, University of Texas at Austin, 1968-70 and Economist, Professional Staff, TEMPO General Electric, Center for Advanced Studies.

Dr. Shields has served as Assistant to the Assistant Secretary of Defense (International Security Affairs) for Prisoner of War/Missing in Action and Economic Affairs, 1971-73. He was appointed Deputy Assistant Secretary of Defense (International Economic Affairs), (POW/MIA Affairs) in 1973.

Dr. Shields has twice been awarded the Department of Defense Distinguished Civilian Service Medal, by the Secretary of Defense, in 1973 and 1975.

MR VERNON MCKENZIE, ACTING ASD (HA)
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

A native of California, in 1941--following attendance at the University of California -- he entered the Army as a private. In 1942, he was commissioned a second lieutenant. During his military career, he became the first officer in the Medical Service Corps of the Army, Navy, and Air Force to be awarded the Distinguished Service Medal. He was the only one of his contemporaries in the Medical Service Corps of the Army to be selected three times from below the zone for promotion. His military assignments were primarily in the plans and operations and personnel fields and included nine years in the Surgeon General's office. Specific assignments included--

Director for Special Projects and Health Legislation
Office of the Assistant Secretary of Defense
(Manpower and Reserve Affairs)

Chief, Directives and Policies Branch
Office of the Army Surgeon General

Chief of Medical Plans and Operations
Hq U.S. Army Europe

Medical Plans and Operations Officer
Hq Central Army Group (NATO)

Chief, Special Projects Branch
Office of the Army Surgeon General

and Commanding Officer, 263d General Hospital (Training)

Following his retirement from the Army in 1967, he was employed in a civilian status in the Office of the Assistant Secretary of Defense for Manpower as Director for Medical Management. Prior to his appointment as Principal Deputy Assistant Secretary of Defense, he had served for three years as Deputy Assistant Secretary for Defense for Health Resources and Programs. Mr. McKenzie has served in the Office of the Secretary of Defense in various capacities for 13 years.

Mr. McKenzie has served as Principal Deputy Assistant Secretary of Defense for Health and Environment since August, 1974. His responsibilities involve the development of policies and legislation concerning the operations of health care programs covering approximately 10 million people with an annual budget of over \$3 billion.

Mr. McKenize has also attended the University of Maryland and has lectured on health care administration at that institution, as well as at Columbia University, George Washington University, and the Army - Baylor Program in Health Care Administration.

He is married to the former Marjorie Fitzgerald of New York. The McKenzies have four children and reside in Prince William County, Virginia.

MAJOR GENERAL TRAVIS R. MCNEIL, USAF
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

General McNeil was born in Malakoff, Texas on March 4, 1924. In September 1943 he entered active military duty and under the aviation cadet program received his pilot wings and commissioned as second lieutenant in March 1945. He next completed P-38 pilot training.

In August 1946 he was transferred to Europe where he served with the 79th Fighter Group and later the 86th Fighter Group in Germany. He returned to the United States in September 1949, was assigned to the Flying Training Command, and entered the basic flying instructor course at Randolph Air Force Base, Texas. Subsequently, he served in various assignments as a flight instructor.

In October 1957 General McNeil was appointed pilot and aide to the Commander of the 7th Air Division in England. He was assigned to the 5th Bomber Wing in February 1960 and served as squadron operations officer and chief of wing standardization and evaluation.

In August 1963 he was assigned to Headquarters U.S. Air Force, Washington, D.C., as Assistant Executive Officer for the Deputy Chief of Staff, Plans and Operations. In February 1965 he was reassigned as aide to General W.H. Blanchard, Vice Chief of Staff, U.S. Air Force. He attended the National War College, Washington, D.C., from August 1965 to July 1966, and then F-4C aircraft pilot training with the 15th Tactical Fighter Wing, MacDill Air Force Base, Florida.

General McNeil was Deputy Commander of Operations, 12th Tactical Fighter Wing, Cam Ranh Bay, Republic of Vietnam, from November 1966 to November 1967. He flew 154 combat missions in the F-4 Phantom aircraft.

In December 1967 he was transferred to Eglin Air Force Base, Florida, and assigned as Chief, Programs Status Division, Headquarters Tactical Air Warfare Center, and in June 1969 became Vice Commander, 33d Tactical Fighter Wing. He was appointed Commander, 15th Tactical Fighter Wing, MacDill Air Force Base, Florida, in February 1970. The wing was redesignated the 1st Tactical Fighter Wing in October 1970.

In March 1971 General McNeil became Deputy Director, Operations, (J-3), U.S. Readiness Command, MacDill Air Force Base, Florida, (formerly STRIKE Command). He went to Korea in June 1972 where he served as Commander of the 314th Air Division (PACAF) with additional duty as

Chief, Air Force Advisory Group, Military Assistance Advisory Group, Korea; Commander, Korean Air Defense Sector; Commander, Air Forces, Korea; and Air Force Advisor to Senior Member, United Nations Military Armistice Commission.

General McNeil was appointed Assistant Deputy Chief of Staff, Personnel for Military Personnel, Headquarters US Air Force, and Commander, Air Force Military Center, Randolph Air Force Base, Texas in June 1973.

He was appointed Deputy Inspector General of the U.S. Air Force in April 1975.

He was promoted to the grade of Major General effective September 1, 1973, with date of rank February 1, 1971.

His military decorations and awards include the Distinguished Service Medal, Legion of Merit with three oak leaf clusters, Distinguished Flying Cross, Bronze Star Medal, Meritorious Service Medal, Air Medal with two oak leaf clusters, Air Force Commendation Medal with Two oak leaf clusters, Air Force Outstanding Unit Award Ribbon, and from the Republic of Vietnam, the Medal of Honor, and the Gallantry Cross with palm. He holds an aeronautical rating of command pilot with over 8,200 hours of flying time.

REAR ADMIRAL WILLIAM P. LAWRENCE, USN
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

RADM William Porter Lawrence, USN, was born in Nashville, Tennessee, January 13, 1930, and attended the public schools there. He graduated from the U.S. Naval Academy in Annapolis, Maryland, in 1951 and received his aviator's wings at Pensacola, Florida, the following year.

In his first fleet assignment in Fighter Squadron 193, homeported at NAS Moffett Field, California, he made two cruises to the Western Pacific aboard the USS ORISKANY. Next he attended the Naval Aviation Safety School at the University of Southern California and the U.S. Naval Test Pilot School at the Naval Air Test Center, Patuxent River, Maryland, where he was designated the Honor Graduate. Following graduation he served as a test pilot in the Carrier Branch of the Flight Test Division for two years and then as instructor on the Test Pilot School Staff.

RADM Lawrence, as a lieutenant, served as the Aide and Flag Lieutenant to the Commander Carrier Division Six aboard the USS SARATOGA, making one cruise to the Mediterranean and one to the North Atlantic. His next tour was assistant operations officer of Fighter Squadron 101, detachment alpha, at Naval Air Station Oceana, Virginia, followed by an assignment as navigator of the USS NEWPORT NEWS, a heavy cruiser.

Next assigned as maintenance officer of Fighter Squadron 14, Naval Air Station Cecil, Field, Florida, he made a cruise to the Mediterranean aboard the USS ROOSEVELT. RADM Lawrence then moved to the position of Senior Aide and Executive Assistant to the Commander in Chief, U.S. Strike Command, headquarters at MacDill Air Force Base, Florida.

A cruise to Vietnam aboard the USS RANGER as Executive Officer of VF-143, a fighter squadron, was followed by another cruise to Vietnam, this time aboard the USS CONSTELLATION as Commanding Officer of the squadron. RADM Lawrence was shot down over North Vietnam on June 28, 1967 and was held as a prisoner of war until March 4, 1973.

After repatriation, RADM Lawrence spent five months of convalescence at the Naval Hospital, Memphis, then attended the National War College and George Washington University, both in the nation's capital. He received a master's degree in international affairs in July 1974.

After promotion to Rear Admiral in July 1974, RADM Lawrence served until May 1975 as Commander Light Attack Wing U.S. Pacific Fleet with headquarters as the Director, Aviation Programs Division in the office of the Deputy Chief of Naval Operations (Air Warfare).

RADM Lawrence is married to the former Diane Wilcox of Montoursville, Pennsylvania. They have four children: Bill, Jr., 22, Fritz, 20, Laurie, 20, and Wendy, 16.

RADM Lawrence's awards include: Distinguished Service Medal, Silver Star, Distinguished Flying Cross, Bronze Star, Air Medal, and Purple Heart.

BRIGADIER GENERAL JOSEPH V. MCLERNAN, USMC
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

Brigadier General McLernan was born April 20, 1927 in Philadelphia, Pennsylvania where he graduated from Northeast Catholic High School in 1945. After a year of enlisted service in the U.S. Army and U.S. Navy, he entered the U.S. Naval Academy in 1946 and graduated in 1950 with a B.S. degree in Engineering and a commission as Second Lieutenant in the U.S. Marine Corps.

He attended The Basic School in 1950-51 and upon completion in March 1951 was assigned as an Infantry Platoon Leader in the 3d Battalion, 8th Marine Regiment at Camp Lejeune, North Carolina. From June 1952-March 1953, Lieutenant McLernan served successive tours as Commanding Officer of Marine Detachments aboard USS GEN. H.W. BUTNER and USS BON HOMME RICHARD. He served in Korea from June 1953 to May 1954 in consecutive billets as a Mortar Section Leader, Company Executive Officer and Rifle Company Commander in the 1st Battalion, 1st Marines and as Assistant Regimental Operations Officer, 1st Marine Regiment. He was promoted to Captain in August 1953.

From June 1954 to June 1956, Captain McLernan was an Instructor in the Department of Marine Engineering, U.S. Naval Academy. He was the Inspector-Instructor of the 25th Special Infantry Company, U.S. Marine Corps Reserve, at Huntington, West Virginia, from July 1956 to July 1959.

Following a year as a student in the Amphibious Warfare School, Junior Course, Quantico, Virginia, he was promoted to Major and was assigned as Assistant Naval Attache, Madrid, Spain, from November 1960 to November 1963. Upon his return to the United States, he reported to the G-3 Section, Headquarters, 1st Marine Division, Camp Pendleton, California. In January 1965, he joined the 1st Battalion, 5th Marines as Operations Officer and later became Battalion Executive Officer. He went with the Battalion to Okinawa in May 1965 where it was redesignated 2d Battalion, 9th Marines and in July 1965 deployed to Vietnam.

In November 1965, he was promoted to Lieutenant Colonel and assigned to the G-3 Section, III Marine Amphibious Force Headquarters. From December 1965-May 1966 he was Director, Command Center, Headquarters, III Marine Amphibious Force. He was Executive Officer and Commanding Officer of Staging Battalion, Marine Corps Base, Camp Pendleton, California, during the period June 1966 to May 1968. He commanded the Marine Barracks, Naval Ammunition Depot, Hawthorne, Nevada, from May 1968 to July 1969. Lieutenant Colonel McLernan attended the Inter-American Defense College at Fort McNair, Washington, D.C. from August 1969-June 1970.

In July 1970, he reported to the 3d Marine Division on Okinawa where he was initially assigned as Commanding Officer of the 1st Battalion, 4th Marines and from August 1970-July 1971 commanded the 9th Marine Regiment. In October 1971 he was promoted to Colonel. In July 1971, he returned to the United States and was assigned as Head, Academic Section, to Marine Corps Command and Staff College, Quantico, Virginia. On 14 June 1972 he was designated Director, Marine Corps Command and Staff College. Colonel McLernan was transferred to Headquarters Marine Corps in July 1974 as Deputy Director, Personnel Management Division, Manpower Department. On 10 March he was advanced to Brigadier General.

Brigadier General Joseph V. McLernan is Deputy Director of the Personnel Management Division, Headquarters Marine Corps, Washington, D.C.

General McLernan was designated as the Marine Corps Representative to the Defense Review Committee for the Code of Conduct on 25 May 76.

Brigadier General McLernan and his wife, the former June A. Yale of Akron, Ohio, have five children; Patricia C., Joseph V. Jr., Catherine T., Mary, and Michael.

General McLernan's decorations and medals include the Legion of Merit, the Bronze Star Medal with Combat "V", the Navy Commendation Medal with Combat "V", the Combat Action Ribbon, the Presidential Unit Citation, the Navy Unit Commendation, the World War II Victory Medal, the Navy Occupation Service Medal, the National Defense Service Medal with one bronze star, the Korean Service Medal with one bronze star, the Vietnam Service Medal with two bronze stars, the Korean Presidential Unit Citation, the Vietnam Presidential Unit Citation, the Republic of Vietnam Meritorious Unit Citation Gallantry Cross Color, the United Nations Service Medal, and the Republic of Vietnam Campaign Medal with Device.

BRIGADIER GENERAL RICHARD C. SCHULZE, USMC
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

General Schulze was born May 7, 1929, in Oakland, California, and graduated from Fremont High School there in 1947. He received his B.A. degree in Far East History from Stanford University in June 1954, and later earned an M.S. degree in Public Administration from George Washington University (August 1971). He enlisted in the Marine Corps in November 1950, and attained the rank of private first class prior to being commissioned a Marine Corps Reserve second lieutenant in May 1951.

Upon completing The Basic School, Marine Corps School, Quantico, Va., in September 1951, General Schulze was transferred to the 1st Infantry Training Regiment, Camp Pendleton, California. He remained there until December 1951, when he was ordered to Korea and participated in combat operations as a mortar section leader, and later, as an Assistant S-3 Officer, First Marines, 1st Marine Division.

He returned to the United States in September 1952, and served initially as the Assistant, and later, as Officer in Charge, Special Services Section, Marine Corps Depot of Supplies, San Francisco, California. In July 1953, he was released from active duty but served as platoon commander, and later, as Training Officer, 1st Air Delivery Company, USMCR, Naval Air Station, Moffett Field, California, while a student at Stanford. He was promoted to first lieutenant in November 1952, and to captain in March 1954. He integrated into the Regular Marine Corps in March 1955, and returned to Camp Pendleton as Commanding Officer, Company "I", 3d Battalion, Fifth Marines, 1st Marine Division. From May 1956 to June 1958, he served consecutively as a company commander, and as a battalion S-3 Officer, at Marine Corps Recruit Depot, San Diego, California.

General Schulze was assigned initially as Assistant, and later, as Officer in Charge, Officer Selection Office, San Francisco, from July 1958 until August 1961, when he was promoted to major and ordered to Okinawa as Staff Secretary, Task Force 79, 3d Marine Division. He returned to the United States in September 1962 and served as an instructor at The Basic School, Marine Corps Schools, Quantico. He later was assigned as Officer in Charge of the Commissioned Officers Mess (Closed), also at The Basic School.

He attended the Command and Staff College at Quantico from August 1965 to June 1966, and upon completing the course, was transferred to Hawaii as an Operations Briefer on the Joint Staff, Commander in Chief, Pacific. He was promoted to lieutenant colonel in September 1966.

General Schulze was ordered to the Republic of Vietnam in July 1968, and served as Operations Officer, 3d Marine Division, and later, as Commanding Officer, 3d Battalion, Third Marine Division. He was awarded the Silver Star Medal and the Legion of Merit with combat "V" for his service in Vietnam.

He returned to the United States in September 1969, as Deputy Head, Manpower Planning/Programming and Budgeting Branch, G-1 Division, Headquarters Marine Corps, Washington, D.C. He remained in that billet until August 1970, when he attended the Industrial College of the Armed Forces, completing the course in August 1971. He was promoted to colonel in May 1971.

General Schulze served as Marine Aide to two secretaries of the Navy until May 1973, when he was reassigned Commanding Officer, The Basic School, Quantico. He assumed his current assignment following his advancement to brigadier general on July 3, 1975.

General Schulze was designated the Marine Corps representative on the Defense Review Committee for The Code of Conduct on 4 May 1976, until when he was assigned as Director of Personnel Procurement, Headquarters Marine Corps, Washington, DC.

Brigadier General Schulze and his wife, the former Sally Ann Sutton of Stockton, California., have two sons, Jeffrey and Carl.

General Schulze's personal decorations and awards include the Silver Star Medal, the Legion of Merit with Combat "V" and gold star in lieu of a second award, the Navy Commendation Medal, the Presidential Unit Citation, the Navy Unit Commendation, the National Defense Service Medal, the Korean Service Medal with two bronze stars, the Antarctica Service Medal, the Republic of Vietnam Service Medal, the Republic of Vietnam Cross of Gallantry, the Vietnamese Staff Service Honor Medal (1st Class), the Republic of Vietnam Meritorious Unit Citation of the Gallantry Cross with Palm and the United Nations Service Medal.

BRIGADIER GENERAL CHARLES E. CANEDY, USA
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

Brigadier General Canedy was born in Buckland, Massachusetts, on November 11, 1931. He received his BA degree in Economics from Norwich University where he participated in the ROTC Program. He was commissioned as a second lieutenant upon graduation in 1953.

During his career General Canedy has attended the following military schools: The Armored School, Basic and Advanced courses, The United States Army Command and General Staff College and the Army War College.

In the last ten years General Canedy has held many command and staff assignments. The most notable being; Commander, 7th Squadron, 1st Cavalry, Fort Knox, Kentucky; later US Army, Vietnam; Chief, Battalion/Brigade Tactical Operations Division, Command and Staff Department, Fort Knox, Kentucky; Director, Doctrine Development, Literature and Plans, US Army Armor School, Fort Knox, Kentucky; Director, Organizational Systems Test B, Deputy Chief of Staff, Operations and Plans, Headquarters, Modern Army Selected Systems Test Evaluation and Review, Fort Hood, Texas, and Commander, 6th Cavalry Brigade (Air Combat), Fort Hood, Texas.

General Canedy's current assignment is Deputy Director for Operations and Army Aviation Officer, Officer, Deputy Chief of Staff for Operations and Plans, Washington, D.C.

General Canedy's personal decorations and awards include: the Silver Star (with Oak Leaf Cluster, Legion of Merit, the Distinguished Flying Cross (with 2 Oak Leaf clusters), the Bronze Star Medal, Air Medal (22 awards), Army Commendation medal, Purple Heart and the Master Army Aviator Badge.

COLONEL GEORGE E. DAY, USAF
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

Colonel Day was born in Sioux City, Iowa, on February 24, 1925. He holds a Bachelor of Science Degree and Doctor of Humane Letters (Honorary) from Morningside College in Sioux City. He also has been awarded a Master of Arts Degree from St. Louis University and a Juris Doctor from the University of South Dakota. He is a member of the South Dakota Bar.

Colonel Day joined the Marine Corps in 1942 and served 30 months in the South Pacific as a noncommissioned officer. He received an appointment as a second Lieutenant in the National Guard in 1950 after completing requirements for a Juris Doctorate.

Colonel Day was called to active duty in the Air Force in 1951 and entered jet pilot training. He served two tours in the Far East as a fighter-bomber pilot during the Korean war. He has flown worldwide with the 12th Fighter Wing, 4th Tactical Fighter Wing, 107th Tactical Fighter Group, 31st Fighter Wing, and 37th Fighter Wing.

In April 1967, Colonel Day was assigned as an F-100 Assistant Operations Officer at Tuy Hoa Air Base, Republic of Vietnam. He later moved to Phu Cat Air Base where he organized and became the first commander of the "Misty Super FACs" F-100 squadron.

Shot down over North Vietnam on August 26, 1967, he spent 67 months as a Prisoner of War. Colonel Day was the only POW to escape from prison in North Vietnam and then be recaptured by the Viet Cong in the South. He is also credited with living through the first "no chute" bailout from a burning jet fighter in England.

At the time of his shutdown, Colonel Day was one of the nation's most experienced jet fighter pilots, with 4,500 hours of single engine jet time, and more than 5,000 hours of flying time. He has flown U.S. fighters, from the F-80 through the F-4.

Colonel George E. Day is the Vice Commander of the 33rd Tactical Fighter Wing, Eglin Air Force Base, Florida. He has held this position since September 1974.

Colonel Day is married to the former Doris Merlene Sorenson of Sioux City. They have four children, Steven, 20, George, 13, Sandra, 11, and Sonja, 11.

Colonel Day was presented the Medal of Honor by President Ford in March 1976. Holding every significant combat award, Colonel Day has become the nations' most highly Decorated officer. He holds more than sixty military decorations and awards of which more than forty are for combat. Along with the Medal of Honor, most notable are The Air Force Cross, the Distinguished Flying Cross, the Air Medal with nine oak leaf clusters, the Bronze Star for Valor with two oak leaf clusters, the Bronze Star, and the Purple Heart with three clusters. He was presented Vietnam's highest medal for valor by President Thieu, two Vietnamese Gallantry Crosses, and Vietnam Wings. He wears twelve campaign stars.

CHIEF WARRANT OFFICER 2 DONALD J. RANDEr, USA
DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

BIOGRAPHY

Chief Warrant Officer Rander was born in the Bronx, New York on June 4, 1938. He received a New York State Regents Diploma (High Schools) in 1955.

Chief Rander enlisted in the US Army in November 1961, he attended the following military schools: Basic Combat Training, Fort Dix, NJ; Military Police School, Fort Gordon, GA; Basic Agents Course, Fort Holabird, MD; Instructor Training Course, Fort Holabird, MD; USAF Special Investigations Course, OSI, Washington, DC and the Warrant Officers Orientation Course Fort Sill, OK in 1974, when he received a direct appointment as a Warrant Officer in the US Army Reserve.

In the last ten years Chief Rander has performed many specialized area tasks, the most notable being; DCI, Fort Holabird, MD; HUE FO, 1st BN, 525th Military Intelligence Group, Rep of Viet Nam; DIS, Fort Meade, MD.

During the period February 1967 to March 1973, Chief Rander was captured in Hue RVN and held as a Prisoner of War in the Hanoi area of the Democratic Republic of Viet Nam.

Chief Rander's current assignment is an Intelligence Technician (971AD), Direct Support Branch, Operations Support Division, US Army Administrative Survey Detachment, US Army Intelligence Agency, Fort Meade, MD.

Chief Rander's personal decorations and awards include: the Bronze Star medal, Army Commendation Medal; Purple Heart with one Oak Leaf cluster; Good Conduct medal, fourth award; National Defense Service Medal; Republic of Viet Nam Campaign Medal with 12 stars; Viet Nam Service Medal w/60 Device; and the Republic of Viet Nam Cross of Gallantry w/Palm.

SECTION IV

WORKING GROUP ISSUE PAPERS

Working Group 1 Issue Paper

Major Issue: Should the Code of Conduct be revalidated?

No. 1 Is the Code effective and helpful in accomplishing
its purpose?

Service Positions:

Army recommends that a Code of Conduct is necessary, though the present Code requires wording changes for clarity. The Navy/Marine Corps recommends that the present Code should be revalidated. The Air Force recommends revalidation. All Services agree that the Code was effective and helpful in accomplishing its purpose.

Discussion:

Some clarification is required at the appropriate levels of Government as to the specific purpose(s) of the Code.

(1) The Code can be viewed from three perspectives:

a. The Code is a vehicle to protect the National interests, regardless of the cost to individual PWs.

b. The Code is a guide to PW behavior which aids him to survive captivity with honor, and though the nation should not be embarrassed by his actions, his personal survival is inherently more vital than "face."

c. The Code serves to protect both a PW and his nation by placing equal obligations on the PW and his nation to preserve mutual honor.

Conclusion:

The present Code of Conduct should be revalidated. Lack of clarity should be resolved in explanatory and/or training materials. The information on the Code of Conduct presented to both the public and the military should emphasize mutual trust, honor, and obligation between PW and nation.

Recommended Committee Position:

Brief above conclusion to Committee as a whole. Upon its adoption, seek active participation in PA function to fulfill public release aspect. Submit training proposals emphasizing the above conclusion to Subcommittee 4 on Code of Conduct training.

Informal Coordination:

USAF	CONCUR
USA	CONCUR
USN	CONCUR
USMC	CONCUR

Working Group 1 Issue Paper

Major Issue: Is the Code of Conduct consistent with the Geneva Conventions?

No. 2

Army Position:

Consistency between the Code of Conduct and the Geneva Conventions should be insured by interpretations of the Code, e.g., by limiting resistance only to counteract a captor's illegal exercise of exploitive efforts and by requiring retained medical and chaplain personnel to comply with the Code only where not "inappropriate or superfluous" to their situation.

Navy/Marine Corps Position:

Additional training is required in order to clarify GPW requirements which overlap Code requirements, e.g., GPW Article 21 regarding parole.

Air Force Position:

Emphasis on continued resistance should be qualified so the potential PW completely understands that the Geneva Convention obligations of the detaining power are based on the assumption that the prisoner is no longer a threat and can safely be treated humanely. Although the Communist States have violated the Geneva Conventions, the Air Force views any unilateral departure from the conventions by the U.S. to be contrary to international efforts to alleviate PW mistreatment and de-politicize PW issues.

Discussion:

Although the Third Geneva Convention (PW) was grossly violated in Vietnam, planning for U.S. actions in the future should not rule out the possibility that in a future conflict the Convention might be honored and provide real assistance to U.S. PW's. We cannot rely solely on this hope; neither should any U.S. unilateral action be taken which would lessen the possibility of effective international legal protection.

All Services have experienced difficulties reconciling GPW requirements with Code of Conduct requirements on such matters as parole, discipline in camp, prisoner organization, giving information, and assisting the enemy war effort. In most areas these questions have been resolved by interpretations of the Code or the Convention. A major conceptual difficulty arises in connection with the training concept of extending the battlefield into the camp. A problem also exists in rigid application of the Code to medics and chaplains who are not PW's, but may be retained in the PW camp to minister to other PW's.

Returnees have stated that a better knowledge of the international law of armed conflict would have been invaluable when interrogators made accusations of international law violations by the U.S. forces.

Training in the specific requirements of the third Geneva Convention (PW) has also been recommended. A recent DoD directive requires training in all facets of the laws of war.

Treatment of PW's during armed conflict is clearly related to other issues subject to legal regulation, such as reciprocal treatment of enemy prisoners and protection of the civilian population. Training in the laws of war will be supportive of PW morale and coping capability because individuals will have a clearer idea of the international legal standards of prisoner treatment and the other rules of armed conflict. By understanding clearly what a war crime is, he will suffer no unnecessary loss of morale in the face of spurious charges, based on allegations that the United States forces are employing illegal weapons, targets, or tactics.

Conclusions:

1. Concept of unlimited resistance leads to conflict with Geneva Conventions.
2. Training program should:
 - a. Develop skills to protect classified, sensitive information.
 - b. Require resistance only in specified circumstances, e.g., illegal exploitation.
 - c. Emphasize Geneva Convention requirements.

d. Fully explain relationship of Code and Geneva requirements relating to parole, discipline, prison organization, giving information, assisting the enemy war effort.

e. Define special status of medics and chaplains.

Recommended Committee Position:

Support Conclusions.

Informal Coordination:

USAF	CONCUR
USA	CONCUR
USN	CONCUR
USMC	CONCUR

Working Group 1 Issue Paper

Major Issue: Should the Code of Conduct be made legally binding?

No. 3

Service Positions:

Army:

No. The Code of Conduct should not be converted into a punitive code of law.

Navy/Marine Corps:

No. The Code of Conduct is properly cast as a moral creed rather than as a punitive, legal instrument.

Air Force:

No. Existing military law is adequate to deal with cases of misconduct by prisoners of war.

Discussion:

The Code of Conduct was not intended to create new criminal offenses. On the contrary, it was intended to go beyond the law and provide a standard of conduct applicable when normal processes of command and discipline are inhibited or in abeyance due to lack of communication or other conditions of confinement. The criminal law of the United States, including the UCMJ, remains fully applicable. Prosecution for such offenses as assault and murder as well as for misbehavior as a PW is possible and will occur, if appropriate, after return of PW's.

Such trials in fact occurred following the return of Korean prisoners. In all probability, more trials of returned Korean prisoners would have occurred had not the Secretary of Defense moved to discharge "turn coat" returnees immediately after their repatriation. The Supreme Court of the United States decided in 1955 that court-martial jurisdiction terminates with discharge from the armed forces, prohibiting subsequent trial by CM for offenses alleged to have been committed during active military service. *Toth v. Quarles* 350 U.S. 11 (1955).

During Homecoming planning, attention was given to the question of keeping open the option of prosecuting returnees alleged to have committed violations of the UCMJ. For this reason it was decided not to announce that a decision had been taken not to prosecute returnees for making anti-war statements. "Homecoming" plans including procedures for providing advice under Article 31 in appropriate cases but not in all cases. It was recognized that it might be necessary to delay administrative discharge pending a decision to prosecute. Debriefing of Vietnam returnees disclosed a sentiment that some few returnees should be prosecuted. When the military agencies were reluctant to prosecute, charges were filed by an officer of one Service against some returnees of another Service. These charges were later dismissed without prosecution. Although the Secretary of the Service to which the accused members belonged

announced the prosecution was barred by legal technicalities, it appears these or other charges could have been prosecuted if a policy decision to do so had been made. Failure to proceed with these or other charges may have been based on such considerations as avoiding public scandal and doubts as to the ultimate success of the prosecutions on their merits.

It has been suggested that courts-martial or non-disciplinary punishments be authorized within PW camps. The services have addressed this specific suggestion and found that there are legal and practical barriers to implementation of the suggestion. Formal disciplinary action must be deferred until after repatriation.

It has been observed that guilt feelings associated with yielding to torture and other pressure may be heightened by apprehension concerning the requirements of the law and possible prosecution for violation of the law. In addition to emphasizing that the Code of Conduct is not itself a part of the criminal law, the training program could include information about the requirements of the UCMJ, including discussion of the fact that unbearable torture can be successfully asserted in defense of a criminal charge.

Conclusion:

No changes to the UCMJ are necessary to serve the needs of military discipline in the PW situation. It would not be appropriate or possible to convene courts-martial in PW camps.

Recommended Committee Position:

Make no change in the UCMJ. Explanatory material and DoD directives should clarify:

1. The Code of Conduct is not itself a criminal law.
2. PW conduct which amounts to a criminal offense under the UCMJ may be prosecuted after repatriation.
3. No one need fear criminal prosecution for acts done under extreme duress, such as unbearable torture.

Informal Coordination:

USAF	CONCUR
USA	CONCUR
USN	CONCUR, propose Executive Order to clarify SRO's authority in a PW camp regardless of Service affiliation.
USMC	CONCUR, agree with USN Executive Order.

Working Group 1 Issue Paper

Major Issue: Applicability of Code of Conduct in:

- No. 4 (a) conflicts other than declared wars; and
 (b) peacetime detention situations, e.g., hostile terrorist kidnapping for political exploitation.

Service Position:

Army evaluation of experiences under the Code of Conduct (1974) does not specifically address this issue.

Navy/Marine Corps study group report, 19 June 1974, does not specifically address this subject.

Air Force evaluation of experiences under the Code of Conduct (1974) states that the Code is considered to apply equally to hostile detention in times of peace or active conflict. This statement was clarified by a proposed Air Force Memorandum to the Services (Dec 75).

Discussion:

All Services agree that the Code provides a military ethic (moral standard) for personnel which aids in surviving captivity. Recent PW/detention experiences have occurred in conflicts other than declared wars and in situations where the Geneva Convention (GPW) was not followed by the captors. The Code was developed for, and applies to, only military personnel; however, since captured civilians

and military personnel received the same treatment and civilian acceptance/participation in the Code was voluntary (which worked to the advantage of interrogators), the Army has proposed that this problem be addressed at an appropriate level of government. As an ethic for detained personnel to "hang on to," the Code has applicability in the situations cited above, but when used as a "guide to action," specific verbiage of the articles may have to be interpreted by the captive prior to taking a course of action. For example, efforts to escape may be inappropriate in a particular situation.

Conclusion:

Modification of Code of Conduct is not required, but guidelines to cover the above situations should be established and training should stress ramifications of possible courses of action and adherence to the intent of the articles versus exact execution of the written word. U.S. civilians who are detained along with military should follow the Code and support PW activities.

Recommended Committee Position:

Make no change in Code but establish guidelines similar to those contained in the 1975 Air Force Memorandum to cover situations other than declared war. Provide DoD support for the Army

recommendations to clarify the responsibilities and standards of conduct for U.S. civilians confined with military personnel. Further investigate applicability of the Code to such situations prior to changing the related explanatory material or regulations and training.

Informal Coordination:

USAF	CONCUR
USA	CONCUR
USN/USMC	CONCUR that the applicability of the Code of Conduct to peacetime detention situations should be examined. Both agree the proposed AF memo on Peacetime Detention Policy receive further review.

Working Group 1 Issue Paper

Major Issue: Need for common fitness/efficiency reports.

No. 5

Service Position:

All Services basically agree there is no need for an overall policy.

Discussion:

After initial discussions seeking a common approach following the Vietnam Conflict, the Services decided to develop their own approach.

The Air Force rendered efficiency reports for all periods of the PW's captivity; Army did not rate the PW's performance while in captivity; and Navy wrote letters of evaluation -- no ratings used.

A preliminary contact with each Service representative regarding this issue revealed the following:

a. Army: The Army would have to be shown that a standard approach would be better. Services have not agreed on uniform rules for peacetime evaluation policies -- would be difficult to agree on a PW system. Each Service is unique and should maintain its own system to respond to the PW environment. However, the Army contact officer felt the Army would possibly support investigating a uniform but very general rating philosophy.

b. Navy: The Navy might support very general guidelines on the type of documentation secured on PWs. Service needs differed and Services require different policies. The Navy contact pointed out that PW rating officials lost currency in rating trends and policies. Additionally, the legal standing of an evaluator assigned to write PW efficiency reports is questionable. PW reports are unfair to the system, the ratee, and the rater. For example, the Air Force experienced difficulty working with Navy evaluators who wrote Air Force PW reports, and this led to considerable education difficulties. Navy officers tended to be harder raters while the Air Force reports were more inflated. The Navy contact officer was personally opposed to PW reports because of confusion and lack of familiarity on the part of the evaluators.

Conclusion:

None of the Service representatives had any information regarding the Defense Review Committee for the Code of Conduct and would not commit their Service on such short notice. However, their informal remarks indicate an aversion to an interservice approach and a strong desire to maintain Service policies on PW fitness/efficiency reports.

Recommended Committee Position:

Services retain control over individual members' fitness/efficiency reports.

Informal Coordination:

USAF	CONCUR
USA	CONCUR
USN	CONCUR
USMC	CONCUR

Working Group 1 Issue Paper

Major Issue: Need for common awards and decorations policy

No. 6

Service Position:

All Services basically agree that there is no need for an overall policy.

Discussion:

The Joint Service Awards and Decorations Review Board was established in March 1973 to make recommendations to the Service Secretaries. It was subsequently abolished on 8 February 1974 at the request of all Service directors of personnel (joint memorandum dated 5 February 1974). Apparently there were certain PW groups which complained that the board was establishing arbitrary quotas for awards and decorations and would rather rely on the policy of their own Service for recognition. A preliminary contact with each Service regarding this issue revealed the following:

a. Army: The Army had no PW awards policy following the Vietnam Conflict. Their PWs earned awards for specific actions -- not solely for having been captured. Additionally, Army guidance to the Joint Services Review Board requested adherence to this

practice when reviewing recommendations of decorations for Army PW's. In summary, the Army believes that the Services are already in basic agreement -- awards and decorations should be managed independently by each Service.

b. Navy: The Navy and Air Force were liberal in awarding medals to PW's while the Army and Marines were stringent in their recommendations for decorations. Navy had a copy of General Flynn's letter advising them to stay away from an awards and decorations quota system. The contact officer from the Navy seriously doubted that all Services could agree to a "standardized" PW awards policy.

c. Marine Corps: The Joint Service Board did not establish arbitrary PW decorations quotas but combined recommendations, thus reducing number of decorations. Some Marine PW's with three to four medals are serving with their fellow Navy PW's who have 8 to 11 decorations. A special Marine Corps board implemented Marine Corps PW policy with the advice and consent of the Commandant. Their contact officer believes that any interservice approach to PW awards and decorations should stress Service prerogative -- Service integrity must be preserved.

d. Air Force: Could not subscribe to an "umbrella" policy.

Conclusion:

None of the Service representatives had any information regarding the Defense Review Committee for the Code of Conduct and would not commit their Services on such short notice. However, their informal remarks indicate an aversion to an interservice approach and a strong desire to maintain Service policies on PW awards and decorations.

Recommended Committee Position:

Services should retain control over PW awards and decorations.

Informal Coordination:

USAF	CONCUR
USA	CONCUR
USN	CONCUR
USMC	CONCUR

Working Group 1 Issue Paper

Major Issue: Is periodic review of the Code of Conduct necessary?

No. 7

Service Positions:

Only the Air Force position addresses periodic review. In the Air Force context, the review would be of training and supportive materials, however, NOT of the Code of Conduct, per se. Returnees from all the Services have raised this issue, though they've not qualified it.

Discussion:

A standing OSD Committee reviewed the Code and Code- related issues for 4 to 6 years after its promulgation in 1955. Subsequent to that time, Service initiated actions have addressed specific issues within the Code, but not the Code itself.

Most of the Services have either stated, or alluded to, the importance of maintenance of the Code and argued against any action viewed as diminishing its value. Repeated periodic reviews of the Code itself could serve to degrade it.

Periodic review of experiences, training, and information on, and in support of, the Code of Conduct could, however, be very beneficial to the nation. Such reviews should emphasize national heritage, honor, trust, bravery in the face of adversity, the military ethic, and unity of national and personal objectives.

Conclusion:

Periodic review of Code- related training and information is essential. The most meaningful review should be made by OSD/M&RA. Their authority and responsibility should not be abrogated.

Recommended Committee Position:

Recommend the Committee Chairman, with assistance of the Committee, propose an OSD/M&RA Standing Supervisory Committee to SECDEF.

Informal Coordination:

USAF	CONCUR
USA	CONCUR
USN	CONCUR
USMC	CONCUR

REVISED 30 JUN 76

NUMBER 1300.7A

ASD (M&RA)

DEPARTMENT OF DEFENSE DIRECTIVE

SUBJECT: Training and Education Measures Necessary to Support
the Code of Conduct

- References:
- (a) Executive Order 10631, "Code of Conduct for
Members of the Armed Forces of the United States,"
17 August 1955.
 - (b) Executive Order , "Prisoner of War Command
Organization for Members of the Armed Forces of
the United States."
 - (c) Department of Defense Directive 1300.7, 8 July 1964.

I. PURPOSE

This Directive establishes policies and procedures and provides guidance for the development and execution of training, including basic instructional material, in furtherance of the aims and objectives of the Code of Conduct for Members of the Armed Forces. (Reference (a)).

II. CANCELLATION

Reference (c) is hereby cancelled and superceded

III. APPLICABILITY AND SCOPE

This Directive and references (a) and (b) are the basic policy documents for the subject training and education. The Code of Conduct is applicable to all members of the Armed Forces at all times.

IV. OBJECTIVES

The objectives of this Directive are to ensure that:

- A. The Military Departments maintain energetic, uniform, and continuing training programs in support of the Code of Conduct, including training whereby individuals are taught methods of evasion, escape, and resistance under varying degrees of hostile exploitation.
- B. The meaning and interpretaion of the Code of Conduct is uniform at all levels of Armed Forces training and that all such training will develop in each participant. The levels of learning indicated in enclosure 1, " for instruction in support of the Code of Conduct."

- C. There is consistency in all Department of Defense Code of Conduct training programs materials and instructional information.
- D. Changes to this Directive may be proposed to OASD (M&RA) at any time. Substantive policy revisions will require review and recommendations from a deliberative panel similar in charter and membership to the 1976 Defense Review Committee on the Code of Conduct.

V. POLICIES

- A. The basic policy governing all Code of Conduct instruction and instructional material will be to develop in every member of the Armed Forces a uniform, positive attitude that he must and can successfully resist captor efforts to exploit him to the disadvantage of himself, his fellow prisoners and his country. The theme of all instruction will encourage this positive attitude.
- B. All training programs will impress upon every man that the inherent responsibilities of rank and leadership, military bearing, order and discipline, teamwork, devotion to fellow servicemen, and the duty to realistically resist the enemy are not lessened by capture.

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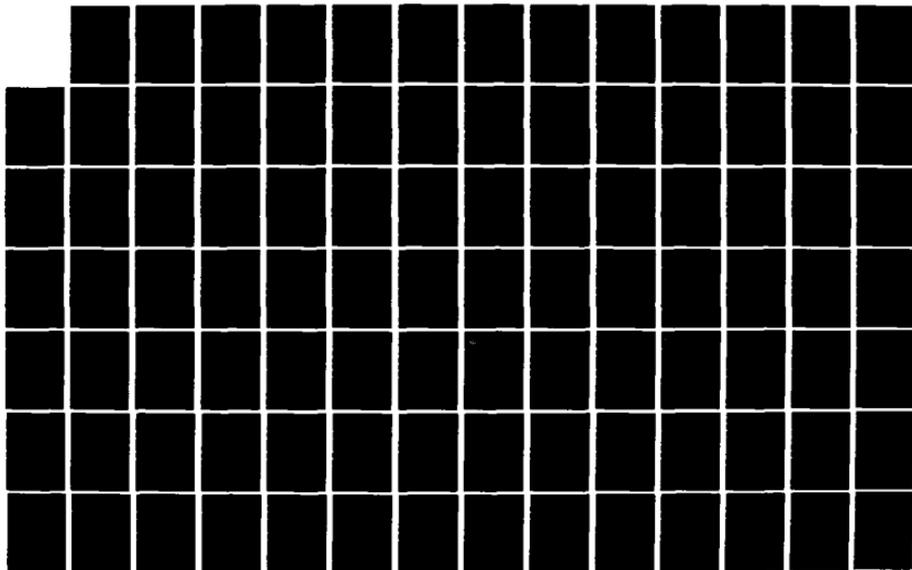
REPORT OF THE DEFENSE REVIEW COMMITTEE FOR THE CODE OF
CONDUCT VOLUME 2 SUPPLEMENT (U) ASSISTANT SECRETARY OF
DEFENSE (MANPOWER AND RESERVE AFFAIRS) WASHINGTON DC
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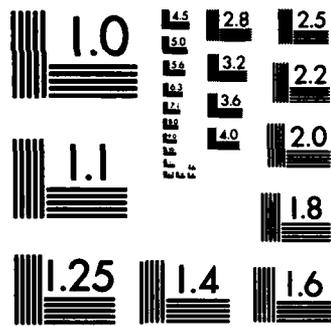
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C. Examples, statements, writings and materials of a seeming defeatist nature will not be used in training programs except when directed towards positive learning outcomes. The many examples of successful and heroic resistance shall be held up as ideals and will be the focal points of instruction and training on this subject. Such examples should be taken predominantly from the experiences of American prisoners of war.

D. Indoctrination in the Code of Conduct will be initiated without delay upon the entry of an individual into the Armed forces and will continue throughout his military career, providing periodic and progressive training appropriate to his assignment, increasing rank and leadership responsibilities. Combat tasks of the services require significant variance in the numbers and types of persons trained and the duration and intensity of training. This directive provides the latitude to establish training commensurate with service requirements.

VI. GUIDANCE FOR INSTRUCTION IN SUPPORT OF THE CODE OF CONDUCT

Guidance is set forth in Enclosure 1

VII. Responsibilities

A. The ASD(M&RA) will effect continuity and uniformity concerning the Code of Conduct and supporting training. He will:

1. Establish a single point of contact, within OSD (M&RA), for Code of Conduct training and implementation.
2. Establish a Joint Services Evaluation Team to visit and evaluate current Code of Conduct related training programs of the Services.
3. Monitor training policy and implementation to assure conformity to the guidance contained in this directive and in the Report of the 1976 Defense Review Committee on the Code of Conduct.
4. Designate an executive agent from among the Services to accomplish the missions assigned or implied in paragraph VII B.

B. The designated executive agent will:

1. Operate a joint training facility (defense school) for all high-risk-of-capture personnel (Service identified) and for other persons as directed by OSD.
2. Provide Code of Conduct related instructor training as required by the Services to support Service training.

3. Develop and distribute multi-media training materials to support Code of Conduct related training throughout the Services.
4. Conduct research for and develop appropriate training programs to prepare personnel to resist newly discovered captor handling techniques and abuses of captives while in confinement.
5. Act as an archivist and central repository for the reports of the 1955 Defense Advisory Committee on Prisoners of War and the 1976 Defense Review Committee on the Code of Conduct, for Code of Conduct training manuals, reports, and other publications on Code of Conduct/POW related topics.
6. Assure that instruction (paragraphs 1,2, and 4 above) and supporting materials (para 3 above) conform to guidance in this directive and in the Report of the 1976 Defense Review Committee on the Code of Conduct.

C. The Services will:

1. Conduct such Code of Conduct related training as may be required (instruction not provided by the executive agent) to assure that all personnel have appropriate knowledge as indicated as Enclosure 1. Service training will be in conformity with this directive.

2. Provide results of periodic Service evaluations of their Code of Conduct related training to OASD(M&RA).
3. Support the OSD-designated executive agent as required.

VIII. RECORDS

Records will be maintained by the Services to indicate completion by individual personnel of Code of Conduct related instruction (Incl 1).

IX. IMPLEMENTATION AND EFFECTIVE DATE

This Directive is effective upon publication. Each Service will provide a copy of its implementing directive to OASD(M&RA) within 90 days of publication of the Directive. Copies of changes to Service implementing directives will be provided to OASD(M&RA) at the time such changes are published.

Working Group 2 Issue Paper

Major Issue: Command in POW Camp

- a. SRO Authority
- b. Obligation to assume command
- c. Obligation to organize
- d. Duties of Subordinates
- e. Covert organizations

No. 8

Army Position:

Army wants emphasis placed on the legal aspects of taking command (i.e. the importance of informing all subordinates).

Navy/Marine Corps Position:

Desires a clarification of multi-serviced command authority.

Air Force Position:

Desires clarification of multi-service command authority and emphasis placed on the individual's obligation to actively participate in the organization.

Discussion:

The Geneva Convention has no conflict with Article IV of the Code or any of the Service positions. The SRO's authority and obligation to assume command are clearly stated in the Code itself, along with the duty of subordinates to obey lawful orders. The obligation to organize is implicit to take command, and the explanatory section immediately following this article, in DoD Directive 1300.7, as currently written, further emphasizes this, including the responsibility to form covert organizations, if needed.

However, the most recent returned POW's strongly emphasized the importance of active individual participation in the covert organization, even at the risk of punishment by the captor. Therefore, an additional paragraph should be added to the explanatory section in the existing DoD 1300.7 directive to provide added emphasis to this responsibility of individual POWs.

A conflict does exist between Article IV of the Code and the UCMJ. This conflict is best explained in the Navy's position paper which is quoted in part: "The Code of Conduct requires the Senior POW officer to step forward and take command and all POWs junior to him to obey the senior's lawful orders and support him in every way, all without regard to Service. The UCMJ and MCM, in conjunction with each other, recognizes the authority of a senior officer over juniors only if they are of the same Service or if the same unit organization. To make his intent of the Code of Conduct, which is advisory in nature, and thus to clarify the relationship of seniors to juniors in a POW situation -- a separate legally binding instrument in the form of a proposed Executive Order is included at Tab B. It is recommended that this be forwarded for signature by the President."

Recommended Committee Position:

1. Modification of the wording of the Code of Conduct is not required. An additional paragraph should be added to the explanatory section immediately following Article IV in DoD Directive 1300.7. The revised explanatory section would then be read as follows (added portions are underlined):

Informing or any other action to the detriment of a fellow prisoner is despicable and is expressly forbidden. Prisoners of war must avoid helping the enemy identify fellow prisoners who have knowledge of particular value to the enemy, and may therefore be made to suffer coercive interrogation.

Strong leadership is essential to discipline. Without discipline, camp organizations, resistance, and even survival may be impossible. Personal hygiene, camp sanitation, and care of sick and wounded are imperative. Officers and noncommissioned officers of the United States will continue to carry out their responsibilities and exercise their authority subsequent to capture. The senior officer or noncommissioned officer within the prisoner of war camp or group of prisoners will assume command according to rank (or precedence) without regard to Service or speciality/corps within a Service. This responsibility and accountability may not be avoided. If the senior officer or noncommissioned officer is incapacitated or unable to act for any reason, command will be assumed by the next senior. If the foregoing organization cannot be effected, an organization of elected representatives as provided for in Articles 79 through 81 of the Geneva Convention Relative to Treatment of Prisoners of War, or a covert organization, or both will be formed.

Efficient communications are essential to an effective organization. Every prisoner of war will, immediately upon capture, endeavor to make his presence known to fellow American prisoners and functions vigorously as a part of such prisoner organization as may be in existence or thereafter organized.

2. To clarify any multi-service command confusion, and to make the SRO authority legally binding, the Executive Order, as proposed by the Navy, be submitted for signature by the President. The Navy's proposed Executive Order reads as follows:

EXECUTIVE ORDER

PRISONER OF WAR COMMAND ORGANIZATION FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES

By virtue of the authority vested in me as President of the United States, as Commander in Chief of the Armed Forces of the United States, I hereby prescribe and order as follows:

THAT, for members of the Armed Forces of the United States who become prisoners of war, the senior officer eligible for command or noncommissioned officer in captivity at a given place of detainment or imprisonment shall take command over all subordinate members of the Armed Forces regardless of their Service affiliation. All those subordinate members of the Armed Forces as a given place of detainment or imprisonment, shall, regardless of their Service affiliation, obey the lawful orders of those appointed over them.

Working Group 2 Issue Paper

Major Issue: Escape (III)

No. 9

Service Positions:

Army Position:

Desires expanded discussion on this subject in the explanatory section, immediately following Article III in DoD Directive 1300.7, with emphasis on the legal right and duty to escape under guidance and policies of the prisoner organization.

Navy/Marine Corps Position:

Desires additional explanatory comments in DoD Directive 1300.7, citing the need for a POW to understand Articles 91-94 of the Geneva Convention which relate to escape.

Air Force Position:

Holds same general views as Army with respect to guidance/approval of the prisoner in command.

Discussion:

The Geneva Convention has no conflict with the "escape" portion of the Code or with any of the Service positions.

The wording of the Code is adequate to provide proper guidance. However, because of the degree of confusion once the obligation to escape, regardless of the consequences, additional explanatory comments are desirable.

Recommended Committee Position:

Modification of the wording of the Code of Conduct is not required. The explanatory section should be rewritten to include amplifying comments on resistance and escape. A complete recommended revision of these explanatory comments is set forth in the Conclusions/Committee Position section of Major Issue No. 3.

Working Group 2 Issue Paper

Major Issue: Special Favors and Early Releases (III)

No. 10

Service Positions:

Army Position:

Recommends a change in Article III of the Code which will:

a. Eliminate the word "parole" and emphasize communication and aiding others to resist.

b. Increase the explanatory section that discusses the realities of exploitation, harassment, torture, etc.) along with the promises, statements, etc.

Navy/Marine Corps Position:

Recommend no change to Article III of the Code or any change to the explanatory section in DoD 1300.7 that is concerned with special favors and early release. (The Navy does desire further explanation of "resistance posture" while in a POW camp.)

Air Force Position:

Recommends a change in Article III of the Code, the last sentence to read "I will neither negotiate my own release nor accept parole or special favors from the enemy." In addition, the Air Force desires an increased discussion of parole, early release, and special favors in the explanatory section.

Discussion:

The Geneva Convention has no conflict with the Code with respect to special favors or early release. However, Resistance in a POW Camp, as exhorted by Article III of the Code, could possibly be interpreted as being in conflict with the Geneva Convention. Both the Navy and Air Force commented on this possible conflict. As stated in the Air Force position paper, "A more serious problem is created by the basic inconsistency between an underlying purpose of the Code, to 'continue the battle,' the basic assumption of the GPW that the prisoner of war is no longer a threat to the detaining power and therefore the captor incurs no costs or risks in extending humane treatment."

Recommended Committee Position:

Modification of the wording of the Code of Conduct is not required. The explanatory section immediately following Article III of the Code in DoD Directive 1300.7 should be rewritten, with amplifying comments on escape, special favors, early release, and resistance in the POW camp. The recommended rewrite of the explanatory section is as follows (added portions underlined):

"The duty of a member of the Armed Forces to continue resistance by all means at his disposal is not lessened by the misfortune of capture. The resistance required is opposition to enemy efforts at interrogation indoctrination and exploitation. The means of resistance at a prisoners disposal are those means consistent with his prisoner of war status under the Geneva Convention. Article 82 of the Geneva Convention pertains and must be explained."

"A prisoner will escape if able to do so, and will assist others to escape. The Geneva Convention recognizes the prisoner's right and military obligation to escape. The provisions of Article 9 & 94 of the Geneva Convention pertain and must be explained. Escapes from a prisoner camp are subject to the policies and directives of the existing prisoner organization. In the absence of a prisoner organization, escapes of opportunity are an individual matter."

"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 a lessened restraint. He will never sign or enter into such a parole agreement. A prisoner shall not negotiate for his own release nor accept voluntary release ahead of the sick and wounded."

Working Group 2 Issue Paper

Major Issue: Relationship of Military and Civilian personnel confined in same POW camp under same rules.

No. 10A (formerly No. 8f.)

Service Positions:

Army Position:

Army recognizes the problem and states, ". . . that an effort should be made at the appropriate level of government to clarify the responsibilities and expected standards of conduct of U.S. civilian persons in relation to those of U.S. PWs confined by the enemy in the same facility." Additionally, the Army recommends a rewording of the Code, to read "I am an American" instead of "I am an American Fighting Man."

Navy/Marine Corps Position:

Recognizes the issue, but makes no specific recommendations.

Air Force Position:

Has no position and makes no recommendation.

Discussion:

The Geneva Convention contains no provision that establishes any relationship between civilian and military POWs. It does provide that civilians who fall into enemy hands are to be interned separately from the military POWs.

Recommended Committee Position:

The Committee has no final recommendations at this time. The policy to define relative seniority between Federal service personnel held captive by a detaining power during war must be made above the Department of Defense level, logically at the Executive or Congressional level.

The Code of Conduct clearly expresses that a military POW has the responsibility to protect the interests of the U.S. and his fellow prisoners. Implicit in this responsibility is the duty to take control of civilian prisoners if such action would best serve the country and the prisoner organization. Perhaps it would needlessly complicate the Code to address an issue of such complexity and with so many diverse ramifications as the military-civilian prisoner relationship. Perhaps it is best that this relationship be regarded as one of the many human relations situations which may be encountered in a prisoner environment and which personnel on the scene must work out among themselves under the general guidance of the Code.

The working group therefore recommends that at this time in the interest of the simplicity, the Code and its explanatory section in DoD Directive 1300.7 not be modified specifically to address the military-civilian prisoner relationship.

WORKING GROUP 3 ISSUE PAPER

Major Issue: Applicability of the Code of Conduct to military non-combatants and others not considered "Fighting Men".

No. 11

Service Positions:

Army Position: The Army specifically addressed the responsibility of medical personnel and chaplains under the various articles of the Code of Conduct. The essence of their position is that medical personnel and chaplains are accorded special noncombatant status under the Geneva Conventions and as such are granted the following latitude under the Code of Conduct:

Article I - They have a duty to refrain from hostile acts.

Article II - Their remaining with those under their care does not constitute voluntary surrender.

Article III - They are obligated to assert their rights under the Conventions and minister to the PWs; they do not have an obligation to escape or aid others to escape as long as they are treated as retained personnel.

Navy/Marine Corps Position: The Navy/Marine Corps position did not specifically address medical personnel or chaplains, however, their position is that the Code of Conduct is applicable to all members at all times.

Air Force Position: The Air Force position did not specifically address medical personnel, chaplains, or any other special group. It did, however, suggest that there may be a basic inconsistency between the Code of Conduct's implied purpose to "continue the battle" and the notion in the Geneva Conventions of benevolent quarantine.

Discussion: The wording of Executive Order Number 10631, 18 August 1955, leaves little doubt as to whom the Code of Conduct applies, stating that action shall be taken to make the Code known to all members of the Armed Forces. The term "American fighting man" is generally accepted as generic, not exclusionary, including women and personnel not actively engaged in a combat role.

Therefore, there is no conflict with the current Executive Order, the specific wording of the Code of Conduct, or its applicability to all members of the uniformed services. Contained in the Executive Order is the mandate that every member of the Armed Forces is expected to measure up to the standards embodied in the Code, and that compliance with the Code as a "philosophy" or "moral guide" does not contravene the U.S. Government's being a High Contracting Party to the Geneva Conventions. Article 33 of the Geneva Conventions Relative to the

Treatment of Prisoners of War states: "Members of the medical personnel and chaplains while retained by the Detaining Power with a view to assisting prisoners of war, shall not be considered as prisoner of war. They shall, however, receive as a minimum the benefits and protection of the present Convention, and shall also be granted all facilities necessary to provide for the medical care of, and religious ministrations to prisoners of war." The phrase "as a minimum" clearly indicates that treatment of prisoners of war shall be regarded as a minimum standard and that medical personnel and chaplains should have a privileged position, and thus invites belligerents to give them additional advantages over and above those expressly provided for in the Conventions, whenever it is possible to do so. In deciding not to place retained personnel on the same footing as prisoners of war, the intention of the Conference on the Geneva Conventions was to enable the former to carry out their medical and spiritual work in behalf of prisoners under the best possible conditions.

The next paragraph of Article 33 states that "They shall continue to exercise their medical and spiritual functions for the benefit of prisoners of war,..."

The words "shall continue" clearly suggest that, although the capture and subsequent retention of medical personnel and chaplains places them in a new environment and under different authority, their functions remain unchanged and should continue without hindrance and practically without a break. This reading is affirmed by the Conference, which felt

it necessary to grant the supra-national and quasi-neutral character of personnel whose duties placed them outside the conflict. By virtue of their neutral character alone, such personnel should be repatriated, and they are retained only as an exceptional measure with one purpose in view -- namely, relief work carried out with the consent, and even, in a manner of speaking, on behalf of the Power of Origin.

The Jean S. Pictet Commentary on the Geneva Convention for the Armed Forces in the Field contains a definition of medical personnel and chaplains. It includes:

1. Medical personnel of the Armed Forces exclusively engaged in the search for, or collection, transport or treatment of the wounded and sick, or in the prevention of disease.
2. Personnel of the Armed Forces exclusively engaged in the administration of medical units and establishments.
3. Chaplains attached to the Armed Forces.
4. Members of the Armed Forces specially trained for employment, in the case of emergency, as hospital orderlies, nurses or auxiliary stretcher-bearers.

Recognizing that the provisions of the Conventions were based on a belief of a recognition of humanitarian law, the respect for the personality and dignity of human beings constitutes a universal principle which is binding even in the absence of any contractual undertakings. Further such a principle demands that, in time of war, all those not actively engaged in the hostilities and all those placed hors de combat, or out of the battle, by reasons of sickness, wounds, capture, or any other circumstance, shall be given due respect and have protection from the effects of war, and those suffering shall be tended without distinction of race, nationality, religious belief, political opinion or any other quality.

Examining the underlying principles behind the Code of Conduct and the Geneva Conventions suggests an apparent dichotomy. On the one hand we could be faced with a detaining power that adheres to the precept of a basic humanitarian law and strictly abides by the provisions of the Geneva Conventions that advocate that a prisoner of war is no longer a threat and therefore the captor incurs no costs or risks in extending humane treatment. In this case total, literal, interpretation of the Code of Conduct on the part of medical personnel and chaplains, and possibly all others pertaining to contrived resistance would not be consistent with the U.S. Government's advocacy of this same humanitarian law. Further, in the case of neutral country interment, allowable under the Geneva Conventions, there would be no benefit to antagonizing the neutrals. On the other hand, we could have the case of a captor that

in no way adheres to any premise of humanitarian law but attempts to exploit, manipulate, and harass its prisoners. In this second case, where all personnel are treated as prisoners, there does not appear to be any useful purpose in separate policies pertaining to conduct for medical personnel and chaplains compared to the remainder of the military population.

Recommended Committee Position: The Code of Conduct applies to all members of the Armed Services of the United States. Every service member is responsible and accountable for his individual actions. For the Code of Conduct to be a viable precept when needed most, during captivity, it is essential that the service member understand and have knowledge of their obligations to the Code. Therefore, the training doctrine should be as simple as possible so that the captured individual can recall it with proper understanding. This premise is critical when dealing with medical personnel and chaplains because they are the only two segments of the military that might require special guidance on the Code of Conduct because of the differentiation accorded medical personnel and chaplains by the Geneva Conventions. By the same token, the remaining members of the uniformed services should be aware of the Code of Conduct policy as it pertains to medical personnel and chaplains.

That basic policy should be that in the case of medical personnel and chaplains it includes adequate flexibility in case of detaining power recognizes and adheres to the retained status provisions of the Geneva Conventions. In that case the onus should logically be placed on the

individual medical personnel or chaplain. If, in the opinion of these individuals, they must digress from the tenets of the Code of Conduct because compliance would not be in the best interests of the medical and spiritual needs of their fellow prisoners, they should have the latitude and authority to make such determination. This in no way should impinge on their ultimate accountability for their actions. However, if the retained personnel are not allowed to see other prisoners and minister to them, but are treated as prisoners of war, they should feel compelled to abide by the Code of Conduct. The same flexibility should pertain to other provisions of the Code but should never include not keeping faith with fellow prisoners or disloyalty to the United States.

The new paragraph to DoD Directive 1300.7 (Section V) should be included to delineate the policy on medical personnel and chaplains. Since the policy on medical personnel and chaplains could be interpreted by the remaining members of the Armed Forces, in a captivity environment, as being in variance with the overall policy on the Code of Conduct, it is essential that all personnel be acquainted with this specific guidance. TAB A provides a proposed new paragraph to DoD Directive 1300.7 to satisfy this requirement.

V. POLICIES

E. Members of the medical personnel and chaplains, by virtue of their roles and missions and special "retained status" under the Geneva Conventions, are granted certain latitude under the Code of Conduct while in captivity. This flexibility is directly related to the policies of the detaining power as to whether they recognize and adhere to the tenets of the Geneva Conventions. Only if the captors adhere to the Conventions may members of the medical personnel and chaplains digress from some of the specific provisions of the Code of Conduct and only if such action is the best interests of the medical and spiritual needs of their fellow servicemen and their country. However, this flexibility never extends to not keeping faith with their fellow prisoners or the United States, and, like all other members of the Armed Forces, these personnel are accountable for all of their actions.

TAB "A"

WORKING GROUP 3 ISSUE PAPER

Major Issue: Clarification of the Policy Concerning Surrender
(Article II)

No. 12

Service Positions:

Army Position: Army recommends no change to the Code itself, but desires expanded discussion on this subject in the explanatory section. The purpose: to illustrate extreme situation examples wherein an individual might surrender without violating the Code of Conduct.

Navy/Marine Corps Position: Recommend no change to the Code itself nor the explanatory section.

Air Force Position: Recommends no change to the Code itself nor the explanatory section.

Discussion: No major problems indicating lack of understanding of the meaning of Article II have been surfaced by the Review Committee. Seven of the interviewees, all former POW's, have specifically addressed Article II. Four of those interviewed have endorsed Article II and the supporting material as written. One of the endorsers cited the imperative need for thorough training in evasion techniques which "... must not be

left to chance, but rather planned as a military operation." The other three interviewees, all aviators, specifically questioned the validity of Article II. Objections ranged from problems with the absoluteness of the word "never" to the vagueness of the expression "means to resist". One aviator interviewee specifically noted the difference between a contingent of ground forces and an airman landing alone well behind enemy lines.

The Navy/Marine Corps Study Group found as a result of their POW returnee questionnaire that, although the USS Pueblo and SEASIA returnee respondents found the language of Article II to be clear and precise, a significant number felt the requirements of this Article were not completely realistic. The principal objection centered around the rigidity of the words, "never surrender of my own free will". A frequently cited question pertains to a pilot who has ejected and is surrounded on the ground by vastly superior numbers of the enemy who are heavily armed. Has he "voluntarily" surrendered when he fails to shoot it out with his .38 caliber revolver? Does he still have the means to resist?

The Navy/Marine Corps Study Group took the position that a downed pilot has lost his primary weapons system, and that his revolver does not constitute the means to resist against such superior enemy forces. Most returnees correctly interpreted the Article by reading into it the implied understanding there is a point at which resistance becomes fanatical and that, normally, suicidal stands in the face of impossible odds are not required.

Of further consideration is the fact that although much of the focus of the criticism regarding Article II has been aviator oriented, the Code was and is established for all American fighting men. Ground combat troops are frequently in contact with the enemy and because of their mission and organization are generally better prepared and situated to resist capture than is the lone aviator who typified the POW capture situation in Vietnam. Article II in consonance with the other five Articles sets high and demanding ideals for American fighting men which would, perhaps, be compromised if the language were altered to accommodate recent POW experiences. In any case, there have been no specific recommendations from any quarter as to how the Article II "bold face" language might be improved. The Army has recommended a change to the explanatory section in order to clarify extreme situations wherein the individual means to resist or evade are exhausted. The examples cited parallel many of the capture experiences of our returned POW's and may serve to further clarify, without mitigating, the high principles of the basic Article.

Recommended Committee Position: There is no substantive evidence to support any change to the "bold face" of Article II. Because of doubts raised by a significant number of returnees regarding the seeming "suicidal" requirements of Article II in certain individual situations, however, further clarification of that Article by expansion of the supporting material would seem appropriate. Although there is an implied

understanding that suicidal stands without obvious purpose in the face of overwhelming odds are not required, there is considerable support for the wisdom of spelling this out. It is therefore recommended that Article II explanatory section be changed in DoD Directive 1300.7 to reflect an extreme situation wherein the individual's means to resist or evade capture may be exhausted. The recommended rewrite of the explanatory section is as follows (added portions underlined):

Explanation: As an individual, a member of the Armed Forces may never voluntarily surrender himself. When isolated and he can no longer inflict casualties on the enemy, it is his duty to evade capture and rejoin the nearest friendly forces. Only when evasion by an individual is impossible and further fighting would only lead to his own death without loss to the enemy might the means to resist or evade be considered exhausted. 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. When isolated, cut off, or surrounded, a unit must continue to fight until relieved or able to rejoin friendly forces by breaking out or by evading the enemy.

WORKING GROUP 3 ISSUE PAPER

Major Issue: Article V - The nature and extent of information which can be divulged to captors and under what conditions, e.g., to what extent should a U.S. POW endure torture before revealing nonclassified information in order to minimize the captor's net gain?

At issue is the interpretation of Article V, whether it should be interpreted strictly, i.e., permitting divulgence of only name, rank, serial number and date of birth (NRSB) or more liberally and whether or not changing the wording of Article V will clarify the DoD position on this issue.

No 13

Service Positions: All services asserted that the absolute and strict adherence of giving only NRSB is unrealistic. The Army recommended changing the Code wording while the Air Force recommended that a revision of Article V be considered. The Navy recommended no word changes.

All services recommended changes to DoD Directive 1300.7 and increased emphasis on instructional guides and training.

Discussion: The interpretation issue must be viewed from its historical perspective, returnee comments, the Geneva Conventions and the Service positions. The Secretary of Defense 18 August 1955 Memorandum which

provided the implementation policy for Executive Order 10631 did not state that only NRSB should be given to the captor. Rather, training was to be given to equip the individual to resist enemy interrogation by various means including;

"methods and techniques of thwarting interrogation and exploitation; the use of ruses and stratagems to evade and avoid disclosure of important information; (and) the necessity of concealing vital military information."

A problem surfaced in the ensuing years when it became apparent that there was a disparity among the Services' positions on this issue. The situation which had occurred resulted in some promulgating a strict interpretation of NRSB despite the 1955 policy and one Service teaching the more liberal interpretation in line with the memorandum. The problem was resolved by DoD and a revised DoD Directive 1300.7 was issued in July 1964. This Directive, unchanged since 1964, reflected a complete reversal of the earlier DoD policy and stressed that there must be "dogmatic refusal to answer a question... to claim inability to think... ignorance...". Instruction was to be so explicit that each serviceman understood the consequences of not holding to NRSB and that "further responses are made entirely on his own responsibility". Thus, the official written policy made a drastic swing from a liberal to strict interpretation in the first decade of existence. Despite the rigidity set forth in the revised Directive, the liberal interpretation of the

Code was not something forgotten. It continued to be taught to some servicemen prolonging the split implementation of policy - a situation increasingly exacerbated by the PW experience associated with the Vietnam war.

The returned PWs indicated that the different teaching caused them significant difficulty. Depending on when, where or by whom an individual was trained on the Code dictated whether or not he adhered to only NRSD or gave additional information. Almost without exception, the interviewees recommended that teaching the "NSRD only" rule is impractical, unrealistic and a disservice to PWs. The recommendation by the majority has been to teach successive resistance and a rebound philosophy, i.e., the PW who gives more information than he should must not be defeated, but must "bounce back", continue to resist and again provide as little information as possible.

This concept does not conflict with the Geneva Conventions which states in Article 17 that every PW is "bound to give only his surname, first name and rank, date of birth... serial number...". Further, other Articles (57, 70, 71, 76 and 78) address various aspects of PW communication but none preclude the more liberal interpretations of giving more than NRSD.

The final aspect for consideration is the current Service positions. After evaluating the experiences of the returned PWs, all Services have concluded that the policy of requiring that only NRSD be given simply will not work. Unlike in previous years when a split existed on the

interpretation of the Code itself, the 1976 Committee is not faced with this problem.

In summary, the issue of what the DoD policy should be on the interpretation can be disposed of with little controversy since the Services and returnees agree that a liberal interpretation is reasonable. This does not contravene international law. The critical and more difficult task is how to best convey the DoD interpretation - through proper training of the current Code or by changing the Code words themselves and teaching such changes. Pros and cons exist on changing the Code. Regardless of the end decision the explanatory material in DoD Directive 1300.7 must be amplified to reflect the more liberal interpretation. A proposed revision to the pertinent section of the Directive is at TAB "A".

The question of changing the wording of Article V is an emotion packed issue but valid reasons do exist to support as well as not to support such change. The overwhelming reason to change the Code is to clarify it so that PWs have a realistic idea of what they properly can say and not say. Interviewees before the Committee have repeatedly indicated that interpretative difficulties existed with Article V. Three basic refinements as indicated at TAB "B" may make clearer the DoD policy on the release of information. The more simple the wording, it seems, the better the Code will be. Consider that in a future war the majority of PWs may well be lower grade ground troops who have more limited educational backgrounds. The Code should be clear and simple and not require

extensive interpretation. Further, a refined Code will better serve the PW who is held in captivity alone without the aid of fellow prisoners to help him arrive, through group process, at "what the Code really means". A final reason to support the word change is that the PW - if he remembers the Code - could rely upon it even if he did not recall the training. The revised Code, being more simple and direct, will come closer to being self-explanatory.

Reasons do exist which may override the above reasoning. The Code is considered by many persons as a classic, almost holy, document. These persons, among them many returnees, believe that changing the Code is synonymous with weakening the Code. These persons further contend that training is the proper method to convey the DoD policy - not changing the Code. A judgment has been voiced that a wording change to the Code will be perceived by the public and the press negatively and an admission that the Code failed to accomplish its goal during the Vietnam conflict. A final comment on not modifying the Code is the possible precedent it might establish, i.e., that if the Code did not work during a particular captivity experience it will be changed following that experience. This implication carries grave considerations on the impact for future PWs and DoD's expectations of PW behavior.

Reasons for leaving the Code as written and making training the vehicle for change can also be substantiated. A primary reason not to alter the word "bound" to "required" is that the word "bound" is used in Article 17 - Geneva Conventions. Consistency in language with international law where possible has merit. The view also exists that the

guilt which a PW normally experiences if he fails to meet the high and absolute standards of the Code is the best way to insure that a minimum amount of information is divulged. Finally, the returnees are not in agreement on the issue of word changes. In the absence of agreement on so sensitive a subject, it may be prudent to make no changes.

Recommended Committee Position:

1. DoD official policy on interpretation should revert to that expressed in the SECDEF 1955 memorandum.

2. DoD Directive 1300.7 should be amplified to explain the broader policy. Recommended changes are at TAB "A".

3. The decision to make changes to the basic Code is fundamental and far-reaching. If change is deemed appropriate, three possible word changes to Article V as indicated at TAB "B" are provided for consideration.

Current Version

When questioned, a prisoner of war is required by the Geneva Convention and permitted by this Code to disclose his name, rank, service number, and date of birth. A prisoner of war may also communicate with the enemy regarding his individual health or welfare as a prisoner of war and, when appropriate, on routine matters of camp administration. Oral or written confessions true or false, questionnaires, personal history statements, propaganda recordings and broadcasts, appeals to other prisoners of war, signatures to peace or surrender appeals, self-criticisms, or any other oral or written communications on behalf of the enemy or critical or harmful to the United States, its allies, the Armed Forces, or other prisoners are forbidden. A detainee is required to adhere to the same standards as are required of a prisoner of war.¹

Proposed Revision

When questioned, a prisoner of war is required by the Geneva Convention and permitted by this Code to disclose his name, rank, service number, and date of birth. A prisoner of war may also communicate with the enemy regarding his individual health or welfare as a prisoner of war and, when appropriate, on routine matters of camp administration. A prisoner may complete the Geneva Convention capture card and write letters home. Oral or written confessions true or false, questionnaires, personal history statements, propaganda recordings and broadcasts, appeals to other prisoners of war, signatures to peace or surrender appeals, self-criticisms, or any other oral or written communication on behalf of the enemy or critical or harmful to the United States, its allies the Armed Forces, or other prisoners are forbidden.

¹This sentence is deleted in the proposed revision due to the ambiguity of the word "detainee". This word, undefined for Code purposes, has broad connotations thus creating confusion as to whom and under what circumstances the word applies.

TAB "A" (1)

It is a violation of the Geneva Convention to place a prisoner of war under physical or mental torture or any other form of coercion to secure from him information of any kind. If, however, a prisoner is subjected to such treatment, he will endeavor to avoid by every means the disclosure of any information, or the making of any statement or the performance of any action harmful to the interests of the United States or its allies or which will provide aid or comfort to the enemy.

It is a violation to the Geneva Convention to place a prisoner of war under physical or mental torture or any other form of coercion to secure from him information of any kind. If, however, a prisoner is subjected to such treatment, he will endeavor to avoid by every means the disclosure of any information, or the making of any statement or the performance of any action harmful to the interests of the United States or its allies or which will provide aid or comfort to the enemy.

It must be kept constantly in mind that the enemy has often viewed PWs as valuable sources of military information and propaganda which can be used to further the enemy's war effort. Accordingly, each prisoner of war must exercise great caution when communicating with the enemy and must resist, avoid, or evade, even when physically and mentally coerced, all enemy efforts to secure statements or propaganda actions which will further the enemy cause.

If a prisoner of war finds that he has disclosed unauthorized information or been used for propaganda purposes, he must regroup his thoughts and begin resistance again on the original line of defense. The best way for a prisoner of war to keep faith with his country, his fellow prisoners of war, and himself is to provide the enemy with as little information as possible.

Under Communist Bloc reservations to the Geneva Convention, the signing of a confession or the making of a statement by a prisoner is likely to be used to convict him as a war criminal under the laws of his captors. This conviction has the effect of removing him from the prisoner of war status and according to this Communist Bloc device denying him any protection under terms of the Geneva Convention and repatriation until a prison sentence is served.

Under Communist Bloc reservations to the Geneva Conventions, the signing of a confession or the making of a statement by a prisoner is likely to be used to convict him as a war criminal under the laws his captors. The conviction has the effect of removing him from the prisoner of war status and according to this Communist Bloc device denying him any protection under terms of the Geneva Convention and repatriation until a prison sentence is served.

TAB "A" (3)

Code of Conduct

Article V

Current Version

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 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.

Proposed Revision

"When questioned, should I become a prisoner of war, I am required 1 to give 2 my name, rank, service number and date of birth. To the utmost of my ability, I will evade answering further questions or making oral or written statements disloyal to my country and its allies or harmful to their cause. 3

WORKING GROUP 4 ISSUE PAPER

Contents:

1. Major Issues Concerning Training (#14-20).
2. Summary of Working Group 4 Effort.
3. Summary of Service positions.
4. Development of Policy Guidance 1955-76.
5. Service Briefings: Current Status of Training.
6. Information from Committee Deliberations.
7. Conclusions.
8. Working Group Recommendations.

1. Major Issues Concerning Training:

No. 14. Variations between Services in interpreting the Code of Conduct; need for common policy guidance and doctrine as well as revision of DoD Directive 1300.7.

No. 15. Inadequacies of SERE (Survival, Evasion, Resistance, and Escape) training related to Code of Conduct according to returnees.

No. 16. Need for better dissemination of information (PRE-CAPTURE) regarding government assistance to families of POW/MIA's and efforts to be expected from government to obtain release of POW's.

No. 17. Need for OSD-level watchdog (Office or Committee) to monitor SERE training of the Services, in support of the Code of Conduct, to preclude variant interpretations.

No. 18. To what extent should the content and scope of Code of Conduct instruction (initial training and subsequent instruction) be controlled or evaluated by DoD? How should civilian instruction (State Dept, and others) be coordinated with DoD's?

No. 19. Effectiveness of training programs for Reserve components and for "Pre-service personnel" (Civilians who may serve in the Armed Forces).

No. 20. Assessment of present and likely future methods of prisoner interrogation (potential enemy's POW handling techniques).

2. Summary of Working Group 4 effort.

a. The Working Group considered the above issues as a package concerning training in support of the Code of Conduct. (Issue #5 was transferred from Working Group 1 to Working Group 4 and is treated separately (see page VII-76)).

(1) In addressing these issues, the Working Group examined the Service positions as provided to OASD (M&RA) in 1974. These positions concerning training are summarized below.

(2) The Working Group reviewed the development of training policy guidance and the Services' practices between 1955 and 1976.

(3) The Services were requested to present briefings to the Working Group concerning their current policies, programs, and practices for training in support of the Code of Conduct. These briefings were conducted on 27 May 1976.

(4) The Working Group considered the testimony of interviewees before the full Committee and the discussions held during plenary sessions.

(5) As result of examination of the 1974 Service position papers, a review of the development of guidance between 1955 and 1976, analysis of the 27 May 76 Service presentations concerning current status of Code of Conduct related training, and consideration of Committee deliberations, Working Group 4 decided that a thorough revision to DoDD 1300.7 was imperative. The Working Group elected to concentrate on drafting a revised DoD Directive 1300.7 rather than to coordinate separate Issue Papers on each training topic (Issues 14-20).

b. Although the Working Group's general conclusions are included in this Issue Paper, detailed recommendations concerning Issues #14 through 20 are embodied in the draft DoDD 1300.7 attached.

3. Summary of Service positions concerning Code of Conduct related training (from 1974 Reports to OASD (M&RA)):

a. ARMY POSITION/RECOMMENDATIONS

(1) OSD guidance (DoDD 1300.7 dtd 1964) needs review and updating in light of recent experiences of USPW's.

(2) A standardized interpretation of the meaning of each Article of the Code of Conduct is essential.

(3) Missions and training (student) populations vary widely among the Services; therefore, performance of training in support of the Code of Conduct should remain a Service responsibility.

(4) An appropriate degree of uniformity of training among the Services is desirable and can be accomplished through interservice coordination.

b. NAVY/MARINE CORPS POSITION

Navy/Marine Corps identified misunderstandings of the Code of Conduct materials pertaining to Articles II through V and drafted by the 1955 Defense Advisory Committee as a basic cause of PW problems.

Navy/Marine Corps Recommends:

That greater training emphasis be placed upon the relationship of the 1949 Geneva Convention and the Code of Conduct.

That DoD Directive 1300.7 "Training and Education Measures Necessary to Support The Code of Conduct," be revised.

c. AIR FORCE POSITION

The Air Force identified confusion and contradiction between service interpretation of the Code and training policies as primary causes of PW problems in Southeast Asia (SEA).

The Air Force Recommended That:

DoD Directive 1300.7 and all other Code of Conduct Directives be revised to contain proper interpretations of the Code and that such interpretations provide the uniform or standard for future service Code training programs.

That Code training programs and supporting directives be periodically reviewed by a Joint Service Committee under the auspices of OSD(M&RA) to preclude misinterpretations and erroneous inferences.

4. Development of training policy guidance and Services' implementation, 1955-76:

a. History

(1) It must be understood that in the matter of validating or not validating the existing Code of Conduct of 1955, and cogent training statements appended thereto, that this committee is in large part reinventing the wheel. The Code and training prescribed thereunder were done very well in 1955. It was only in ensuing years that a good thing got off the track. A brief summary is required to put the current situation in perspective. Subsequent to the WWII experience, worthwhile agitation commenced by war-time intelligence interrogators to reduce the vulnerability of US POW's to fruitful exploitation by the enemy. These persons recognized (and perhaps authored officially) the more current notion, that a POW will have to respond with more than the "Big Four", (name, rank, serial number, and date of birth) to certain barbarous captors. Indeed, General Douglas MacArthur advised that the "Big 4" would not satisfy the WWII Japanese captor-prisoner relationship. General MacArthur understood that some second line of defense posture was required to minimize the exploitation by captors.

(2) A 1951 JCS study, "Training Manual for US Armed Forces Liable to Capture" recognized the burgeoning problem of the captive detained by a non-signatory or exceptee to the Geneva Conventions of 1949 and directed the services to commence training in response to the problem. US Air Force crews commenced training in a secondary line of answers, or a "fall back" defense posture and had some limited successes in the arena of the Korean War. This was primarily a Strategic Air Command program with emphasis on escape, evasion, survival, and resistance to interrogation. It was implemented in General Military Training. Limited training was conducted at the Air Force Air University Squadron Officer School as early as 1953. One particularly good training film was generated oriented primarily at a bomber crew, but of high value to anyone flying in the European environment. Survival, evasion, resistance, and escape training was a task delegated to the flying squadron or operational level, and as the Korean War ground on, training received significant emphasis in the Air Force. (Primarily, it is believed, for high risk persons in Strategic Air Command). The Commander of Air Force in Europe committed to an "area" concept SERE school in the 1956-1960 time frame, teaching these skills to some fighter aircrews. The school was of high quality, but did not have heavy command emphasis, even after the Code of Conduct was published. The school taught the "fall back from the Big 4 if tortured" and was highly practical but did not get their message to a numerically significant group of graduates.

(3) With the rise in power of the Communist states and the exceptions cited by them to the Geneva Conventions, the captive became exposed to their distorted interpretation of the Nurenburg Judgements. This matter requires some elaboration. International law consists of 3 bodies, to wit: Customary International Law, (including courtesies), Conventional Law (Treaties, etc.) and General Principles of International Law. One of the primary defenses invoked by the defendants to charges of genocide was basically that this was not covered by international law or German national law, therefore the specifications of a crime were not properly constituted. In pressing these charges to a verdict of guilty, the Nurenburg tribunal held German official actions to be "crimes against humanity" under General Principles of International Law. In short, it is a violation of human decency to murder whole segments of humanity and regardless of codes, customs, conventions, etc., any rational man knows a crime has been committed.

(4) In following the Communist twisted logic of just wars, people's wars, etc; almost every action against a Communist state is described by them as illegal, imperialistic, genocidal, etc; and as such a "crime against humanity." In short, all captives may expect to be called criminals and treated as criminals. Thus is the fragile protection of the captive stripped away in favor of substantial violation of the Geneva protections. These Communist actions were so manifest in Korea as to revalidate the requirement to give the captive some flexibility and a recognition of his captors propensities and abilities. As a result, the US Secretary of Defense convened a working committee to

develop a fighting man's code, designed to give the future POW both a legal and moral standard of conduct. The intent was to produce a better prepared, better disciplined, better informed, and better guided fighting man. The Code is scarcely required when dealing with a civilized power that adheres to the Geneva Conventions on POW's, but is an absolute necessity when dealing with Communist or other authoritarians who refute those sections of international conventions which prohibit prisoner abuse and exploitation.

(5) The 1955 Code of Conduct consisted of six articles couched in reasonably understandable language developed by ex-POW's, intelligence interrogators, psychologists, attorneys, doctors, military members and advisors, and high level defense department members. The consensus of this expertise recognized the need for the basic six articles, the embodiment of the second line of resistance to interrogation after torture, the need for supporting explanatory material for the Code, and "marching orders" to the military services to put the Code into effect in the Services, conduct initial and follow on training thereunder, keep records of the training, and assure themselves by "coordination" with other Services that instruction was generally uniform. Initially, it appears that most services commenced some training, with the degree of aggressiveness being quite variable. Most basic recruits of each Service were given about 3 hours of instruction in the Code. Aviators and similar high risk Air Force, Navy, Marine Corps, and a few selected Army members were given intensive training in escape, evasion, resistance, and survival (8-10 days duration). Compounds were developed, training for Far East and European, Arctic, desert, etc., were implemented for high risk subjects. The semi-standardized thread ran through this fabric that individuals could be forced to answer questions, but that there were ways of not answering what the captor wanted.

(6) In 1959, Sec Def Neil M. McElroy signed off on a new DoD training directive entitled DoD PAM 1-16, DA PAM 21-71, etc., and applicable to all services, which was the reincarnation of the unworkable "Big 4" (or the Spartan Code). The pamphlet stated "In the face of experience, it is recognized that you, if you should become a POW, may be subjected to an extreme of coercion. Still you must resist to the limit of your ability. Don't expect to fall back to successive lines of resistance. Once you have gone beyond NRS...you have taken the first step that leads to collaboration."

(7) To those hundreds who have been victims of Communist torture, this departure was inconsistent with reality. One now sees the pre 1959 trainee with a different set of values than the post 1959 trainee. The first position was fall back if tortured. The second-group now recite "Big 4 and nothing more". It makes better poetry than sense.

(8) A third DoD pamphlet DoD Gen-11 was published in 1964. In the explanation to Article V, it explained that physical or mental coercion (Torture) was possible. In that event "he will endeavor to avoid by every means the disclosure of any information, or making any statement or the performance of any action harmful to...the US." This statement was considered by the users to be a waffling between the "fall back" and the "Big 4."

(9) Subsequent to 1959, the USAF had continued to teach "fall back" however, the Army, Navy, and Marine Corps were committed to the "Big 4." AF Chief of Staff Curtis Lemay continued to hold that the 1959 DoD instruction pamphlet 1-16 was a violation of Executive Order 10631. AF Secretary Zuckert agreed and sent BGen S.L.A. Marshall (retired Army historian, publicist, and consultant to the 1955 Committee) to Stead AFB, Nevada to examine the USAF program.

(10) Brigadier General S.L.A. Marshall agreed that the USAF position was correct, and the Air Force continued to teach "fall back". The dichotomy in the USAF position and that of other services was elevated to the JCS and to Sec Def McNamara. The Sec Def advised the services in straight forward stern language that it would be "Big 4" and nothing more, thus JCSM-461-64, 28 May 64 was drafted. Under this direction "fall back" and successive lines of resistance was temporarily buried. The Air Force commenced teaching the "Big 4," but reluctantly.

(11) On 8 July 1964, the current DoD Directive 1300.7 was published. The training guidance under this Directive advised the instructor to advise his students to answer NRSD, and if tortured "to claim inability to think, claim ignorance, to claim inability to talk, etc." Obviously, this guidance varies from DoD Gen 11, 23 December 64 somewhat, and varies substantially with the hard line position of 1959. There is considerable variance in those documents published in 1964.

(12) What is highly significant about the previous two paragraphs is that both the 1959 training manual (DoD PAM 1-16) and the 1964 manual (DoD Gen 11) were violations of the intent and spirit of the 1955 Defense Advisory Committee on POW's "Code of Conduct" and supporting documents. The 1955 Code and its supporting directions on troop education clearly spelled out the need for the POW to understand interrogation techniques and how to respond. Thus, even though the wheel had been invented, and was workable, staff personnel reversed the 1955 board through the power of the pen. And although they now had the wheel, they would insist on installing it incorrectly or on the wrong vehicle. The pen became indeed mighty, for they used it to publish a new policy...rejected by the 1955 Committee and known to be unworkable by everyone who had "been there". The power was surreptitious, since they did not take the 1955 Code and instructional material back to a committee as prestigious as the 1955 group for revision. Instead they merely took it to their printer, reversed the meaning, and printed it.

(13) The corruption did not stop with the 1959 and 1964 Code of Conduct training manuals, but continued on into a 1967 manual which leaned most toward NRSD, but also had a little for the other side as well.

(14) By this time (1967), the Air Force was well back into teaching the secondary line of resistance as they had started in the late 1940's, and the Army and Marine Corps continued to teach the "Big 4". The Navy went "second line" from 1955-59, then went "Big 4" until a point in the late sixties when they commenced to teach "second line" in some of their schools.

(15) After the return of the 1969 early released POW's who knew of murders, of tortures of other POW's (though never tortured themselves) the obvious became more obvious. The Air Force probably muttered "I told you so", and the Navy fully implemented "second line defense" training for all aviators. The Army and Marines marched on with "Big Four". Army training policy directives did not deemphasize the "Big 4" approach until 1971.

(16) Certain momentum was generated in the late sixties to reconvene the Defense Advisory Committee to re-examine the Code, instructional materials, and DoD 1300.7 of 1964 to see if revision was required. The consideration was advanced that the war was continuing, considerable diversities already existed, and such action might only exacerbate the problems of new POW's and their commanders in Vietnamese confinement.

b. Resulting Situation.

(1) We now stand in 1976 at that point where the Defense Committee found itself in 1955, excepting that we now have a sizeable contingent of POW's who have "been there", and there is a documented consensus among VN POW's that the 1955 philosophy was correct, and that the tampering with a working engine was poorly conceived.

(2) The guidance in Sec Def Wilson's 18 August 1955 letter to the service secretaries (and its attached 11 July "Suggested Training Guide in Support of the COC") clearly spelled out the marching orders to the services. The letter stressed the need for education in support of the objectives of the Code, it outlined a clear and simple program of instruction, it spelled out the mechanics of progression of training and supporting documentation. The peculiar force composition and training problems of each service were recognized by the direction to design their own program in support of the Code and training instruction.

(3) Considerable latitude was taken in this area of "write your own program," and that is how it should be. Each service has its own requirements. What is good for an infantry private is not meat for a B-52 pilot. However, the deviations were broader than just how many

hours of training are needed, etc. There seemed to be either some willful decisions not to comply, or at best a benign neglect of the Sec Def's intent. While Sec Def Wilson may have directed some specific method of reviewing and standardizing actions by the services, we have not been able to find such a directive.

(4) This problem was clearly addressed in DoD Directive 1300.7 of 8 July 1964, which require the "military departments maintain energetic, uniform, and continuing programs" in support of the COC. One cannot be uniform with others by ignoring what the sister service is doing.

(5) Moreover, in DoD Directive 1300.7, it stated "the Secretary of each military department - - - will establish a system of exchanging experiences and materials related to the Code of Conduct in furtherance of coordination and improvement of knowledge." There seems to be little evidence that coordination, efforts at uniformity, or communications between the Services have been other than a lip service matter.

(6) Where the principal problems seem to have occurred was in the failure to monitor what happened after the COC was adopted or a lack of continuum of knowledgeable persons monitoring the original intent. Either, or both in concert, effected a permissive disintegration of a beautifully conceived and well written policy.

5. Comprehensive briefings by the Services were an early step in evaluating the current state of training throughout the Armed Forces.

a. On 27 May 76, Group #4, chaired by BGEN Canedy, received presentations from the Army, Navy, Air Force, and Marine Corps in an attempt to establish:

(1) Is Code of Conduct (COC) training being conducted in all services (as prescribed by DoD Directive 1300.7)?

(2) If it is being conducted, is it adequate as to content and intent to comply w/DoD instructions?

(3) If it is adequate, is it standardized?

(4) Will current training programs produce COC trained personnel either now or in the near future?

(5) What are the principal shortfalls in training or programs, if any?

(6) Does the current DoD Directive 1300.7 provide adequate guidance to the Services?

Service Briefing Teams, 27 May 76

(In order of presentations)

US Air Force:	LTC Neveu	HQ, USAF
US Navy:	CDR Colgan CDR Ferrazano LCDR Fant	OCNO SERE Sch, FASOTRAGRUPAC SERE Sch, FASOTRAGRALANT
USMC:	MAJ Land MAJ Bolen CAPT Scholly	HQMC (C of C Training Officer) Tng, Officer MCAS, Cherry Pt, NC. SERE Crs, Cherry Point, NC.
US Army:	Brig Gen. Rhiddlehoover MAJ Gall LTC Weston MAJ Green CAPT Duke LTC Burchell LTC Nader	HQ, Tng & Doctrine Comd HQ, Dep of Army HQ, Tng & Doctrine Comd TJAG School Transportation School HQ, Forces Comd XVIII Abn Corps

b. SUMMARY EVALUATION OF SERVICE PRESENTATION (Answers to Working Group questions, above):

(1) As a generality, it can be said that Code of Conduct training is being conducted in all services. The Navy and Air Force conduct training thru a comprehensive, highly structured, academic and practical application program for selected high risk personnel. Training for USMC personnel is limited, but within the spirit of directives. Training in US Army units is less capable of specific definition. Based on the Service presentations, the status of compliance appears to range from minimal to satisfactory, depending on the unit examined.

(2) Basic guidance and complimentary C.O.C. training plans appear to be adequate in all services. The breakdown occurs between DoD direction and service application. Although previous DoD guidance specified immediate, uniform, comprehensive (etc) applications of a training program in support of the Code of Conduct, a study of existing programs and past training accomplished are revealing of widespread and significant shortfalls. The bulk of such shortfalls evidence either various service interpretation or energy expended in application. It might be fair to comment that more comprehensive guidance could have been applied to the services, but it does not appear from this examination that such guidance was demanded. It is clear that the Vietnam experience would suggest that significant improvements could be made in both guidance and training.

(3) Standardization. Past and current guidance have prescribed and expected a standardized training program. Such expectations have been only partially fulfilled.

(a) Currently, it would seem that programs are generally standard on broad principles, but that significant variances occur at the level of the lowest common denominator. Across the board understandings by students of terms such as parole, requirements of the "Big Four", etc., are extremely diverse. Solid evidence indicates that philosophical postures have vacillated significantly thru the years, from coast to coast, and from service to service. The results are predictable.

(b) On the positive side, some cross fertilization has occurred with USN instructors attending AF schools, and vice versa. Army instructors sometimes attend other COC schools to improve both their abilities and to reduce broad variances in instructive materials. Inferentially, the Service presentations seemed to highlight a requirement for a central, highly standardized COC instructor school.

(4) Concerning the comprehension of Service members who may be captured in the future, it follows from discussion of previous COC training and non-standardization that significant variances exist particularly among persons trained several years past. It appears that except for the Marine Corps, little or no follow-on or remedial training exists in the Services. Many service members have had only 3 hours or less of low level COC training, which is of questionable content and questionable currency. It appears possible that some high-risk and many moderate-risk Army personnel may not have been trained. Procedures for insuring that transfer from zero-low risk tasks to high risk tasks often do not require COC training as a prerequisite to transfer. Testimony indicates that some Vietnam ex-POWs do not understand the modifications to "Big Four" training, etc. It appears that all of the problems encountered in the Korean War and Vietnam War will surface again, in event of near future hostilities. However, the overall status of training has improved, and can be further improved with proper emphasis.

(5) Principal shortfalls in training or programs:

(a) Verbiage of Code of Conduct presents problems to some.

(b) Service directives may not be standard.

(c) Execution of training is not standard.

(d) Policy on training needs expansion and some revision.

(e) The general level comprehension by service members needs improvement both in quantity and quality.

(f) There has been inadequate effort in monitoring and evaluating the quantity, quality, and uniformity of training between services.

(g) Reserves, National Guard and certain potential high risk persons may not have COC training in event of capture.

(h) There is no central constituted body to monitor training. History indicates a need to correct this perceived discrepancy.

(i) In perceiving the threat, and probability of capture, the unit with the most persons subject to capture is least prepared.

(j) That lessons learned from the Vietnam experience are not universally applicable to other situations, owing to the age of the prisoners, and their general level of training.

(k) That confusion exists in the forces about the status of the COC as a legal document or a moral guide.

(6) Adequacy of DoD 1300.7, 1964: It is a sound foundation upon which to address problems which have surfaced over the years. Some significant oversights exist. Lessons have been learned which alter requirements. There have been understandable variances in interpretation. In the main, it was a solid document which never quite achieved its desired purpose owing to non-compliance, misunderstanding, or absence of a viable control mechanism.

c. DISCUSSION

(1) The Service briefings were presented with candor and high professionalism, and the participants generally were well informed. However, comparison of the Services' approaches to training in support of the Code of Conduct highlighted shortfalls, voids, and interpretive inconsistencies. Such variations were not apparent (or have not appeared significant) to the Services in the absence of an effective mechanism to assure thorough interservice exchange of expertise and ideas.

The Working Group became convinced that inconsistencies and shortfalls exceeded the normal variations to be expected based on differing Service missions or different unit missions within a Service.

(2) It appeared regrettable, to the Working Group, that little progress was evident in some Services--despite the availability of "lessons learned" information--to update training materials (doctrinal publications, audiovisual aids, etc.) or training coverage (little or no training in Army, Navy or Air Force for personnel other than pilots). One Service stated, for example, that the "get well" target date for update training materials (incorporation of recent lessons learned) is FY 78.

(3) To this Armed Forces-wide indictment there are notable exceptions. Outstanding training is provided by several Services to selected groups of high-risk-of-capture personnel, primarily aircrews.

There are other isolated cases (some Service schools and a few units/vessels) where Code of Conduct related training is attempted. A few training films have been made, but the evident shortfall in qualified instructors, updated training materials, and command emphasis coupled with the small number of personnel actually receiving training forced the Working Group to an unfavorable assessment of the effectiveness of Code of Conduct related training across the Armed Forces.

(4) Despite the excellent work being done by small groups of dedicated SERE instructors at several Service locations, the small number of personnel receiving effective training compared to the enormous Service populations receiving little or no meaningful training make it a temptation to conclude that the Armed Forces as a whole have only the beginnings of a Code of Conduct training program. The words of the 1955 Executive Order come to mind: "...every member of the Armed Forces... specific training...fully instructed...." Clearly, a great deal remains to be done to comply with the Executive Order.

6. Information from Committee interviews and deliberations.

a. Deliberations in the full Committee sessions and information provided by interviewees offered views on past training and recommendations on future training. In regard to past training, these views emphasized such factors as lack/inadequacy/ poor timeliness of training and the impact of changing service interpretations of the Code on PW behavior. As to future training, the returned PW interviewees recommended meaningful, unified training as a primary method of alleviating future PW problems.

b. Such views addressed/concluded:

(1) The absence of high level guidance, and monitoring which resulted in varying service emphasis on training, and varying (and changing) service interpretations of existing guidance.

(2) Definitions of surrender--training should not imply suicide is expected before surrender.

(3) Roles of medical & chaplain personnel in captivity should be clarified.

(4) PW organization--fundamental importance should be stressed.

(5) Geneva Conventions in relation to resistance and PW organization--clarify.

(6) Resistance to exploitation (interrogation/political indoctrination/propaganda) resistance--provide more and better information on "how to" resist.

(7) Definition of parole--clarify.

(8) Senior ranking prisoner authority--restore authority perceived by everyone to have been lost through nonprosecution of collaborators from Vietnam.

(9) Joint military civilian captivity situations--clarify relationship.

(10) Communist reservation to Article 85 of the Geneva Convention--provide guidance.

(11) Relationship of the Code of Conduct, the Geneva Conventions and the UCMJ--clarify.

(12) PWs need for assurance concerning family, pay, and promotion--emphasize in training.

(13) Prohibition on PW acceptance of a special favor such as early release--emphasize in training.

(14) Relationship of the Code of Conduct to military personnel in non-hostile captivity or detention--clarify.

(15) Escape--training should not imply "escape at all costs regardless of consequences."

(16) Provide high standards, but "tell it like it is" concerning what to expect from the enemy if captured and from one's own body and mind if tortured. Reduce (try to remove) fear of unknown.

c. The Working Group took into account the fact that the full Committee had decided, prior to completion of the Working Group's effort on Issues 14-20, that:

(1) Many of the Articles of the Code of Conduct could be clarified and improved by better wording, however--

(2) The majesty and tradition which has become attached to the 1955 Code wording over the past 20 years make it difficult to make any clarifying wording changes without a popular misconception of "weakening the Code" ensuing.

(3) Except for Article V, rewording of the Code Articles will not be attempted by the Committee.

7. CONCLUSIONS:

a. The intent of the 1955 Code of Conduct Committee recommendations concerning training are fundamentally sound and applicable for present and foreseeable circumstances.

b. Identified problems are capable of solution.

(1) Execution of the intent of the 1955 Code and supporting guidance is not being adhered to by all of the Services; Department of Defense Directive 1300.7 July 1964 does not adequately support the 1955 Code and needs updating and expansion to meet identified problems.

(2) Training administered within the Services, and training materials are not uniform and not in keeping with the intent of the 1955 COC.

(3) There is a positive demonstrated need for a strong central control in DoD (M&RA) to monitor and enforce Service compliance with the COC.

(4) That analysis of the COC history surfaces a strong requirement for an inspection function to monitor Services COC training.

c. That the proposed DoD 1300.7 and the expanded training guidance is the first required step in correction of the problems.

8. WORKING GROUP 4 RECOMMENDATIONS concerning Issues 14-20: That the attached DoD Directive 1300.7 be adopted by the Committee and forwarded to the Secretary of Defense as part of the Committee Report with recommendation for approval and implementation.

Inclosure; Proposed DoDD 1300.7

DRAFT

NUMBER 1300.7A

ASD (M&RA)

DEPARTMENT OF DEFENSE DIRECTIVE

Subject: Training and Education Measures Necessary to Support the
Code of Conduct

References: (a) Executive Order 10631, "Code of Conduct for Members
of Armed Forces of the United States," 17 August 1955
(b) Department of Defense Directive 1300.7 of 8 July 1964

I. PURPOSE

This Directive establishes policies and procedures and provides basic guidance for the development and execution of training, including instructional material, in furtherance of the aims and objectives of the Code of Conduct for Members of the Armed Forces. (Reference (a)).

II. CANCELLATION

Reference (b) is hereby cancelled and superseded.

III. APPLICABILITY AND SCOPE

This Directive and reference (a) are the basic policy documents for the subject training and education. The Code of Conduct is applicable to all members of the Armed Forces at all times.

IV. OBJECTIVES

The objectives of this Directive are to ensure that:

- A. The Military Departments maintain energetic, uniform, and continuing training programs in support of the Code of Conduct, including training whereby individuals are taught methods of evasion, escape, and resistance under varying degrees of hostile interrogation.
- B. All training programs in the Code of Conduct develop in each member of the Armed Forces:
 1. A uniform understanding of his obligations, his responsibilities, and the behavior expected of him in combat and captivity.

2. A knowledge and appreciation of national, service, and unit history and tradition, including an understanding of the operation and advantages of our democratic institutions.
3. A knowledge and understanding of the national policy expressed by President Eisenhower in promulgating the Code of Conduct:

"No American prisoner of war will be forgotten by the United States. Every available means will be employed by our government to establish contact with, to support and to obtain the release of all our prisoners of war. Furthermore, the laws of the United States provide for the support and care of dependents of members of the armed forces including those who become prisoners of war. I assure dependents of such prisoners that these laws will continue to provide for their welfare."

4. An understanding of promotion policies, pay and allowances, and benefits for dependents which assure the POW that both he and his dependents will be taken care of. It should be clear that no prisoner will return destitute, and that not less than 25% of the POWs pay will be held inviolate until he is repatriated.
5. A uniform understanding of the meaning of the Code of Conduct, including its status as a moral guide.
6. A familiarization with the relationship between the Uniform Code of Military Justice and the Code of Conduct, including an understanding that, while the Code of Conduct is not legally binding, failure to abide by its provisions most frequently constitutes a violation of the provisions of the Uniform Code of Military Justice, which are legally binding. Every prisoner can expect to be legally accountable for his acts.
7. A knowledge of the rights and obligations of a prisoner of war under the 1949 Geneva Convention Relative to the Treatment of Prisoners of War and an understanding of the relationship which the Code of Conduct bears to this international convention.
8. It should be understood that the POW situation is analogous to a martial law situation. In the event that both military and civilians are held in the same camp, the senior military person will assume command. (Medics, chaplains, etc., are excluded from the requirement to assume command).
9. A knowledge of the essential need for a strong military organization in a prisoner of war camp, the physical and mental aspects of prisoner of war conditions with respect to survival, resistance, and well-being, and the values of group and individual loyalties; and a conviction that an informer or voluntary collaborator is a traitor both to his fellow prisoners of war and to his nation.

10. An understanding of the most likely future captors, i.e., Communists, guerillas, terrorists, or popular oncoming threats; and a knowledge of enemy methods of coercive interrogation, exploitation, and indoctrination. Training should be geared both to past confinement experience and expected experience.
 11. A uniform understanding of and confidence in the methods and techniques of successful resistance to enemy interrogation, exploitation, and indoctrination; and understanding of the responsibility and advantage of adherence to name, rank, service number, and date of birth to the utmost of his ability; and understanding of the use of ruses and stratagems in the evasion and avoidance of the disclosure of important information; and an understanding of the necessity of concealing vital military information.
- C. There is consistency in all Department of Defense Code of Conduct training programs and training materials.

V. POLICIES

- A. The basic policy governing all Code of Conduct instruction and instructional material will be to develop in every member of the Armed Forces a positive attitude that he can and must oppose and defeat absolutely, mentally and physically, any enemy of his country. To encourage this positive attitude, the central theme of all instruction will feature:
1. Article I - "I am an American fighting man I am prepared to give my life"
 2. Article II - "I will never surrender"
 3. Article VI - "I will never forget that I am an American fighting man, responsible for my actions"
- B. All training programs will impress upon every man that the inherent responsibilities of rank and leadership, military bearing, order and discipline, teamwork, devotion to fellow servicemen, and the duty to resist the enemy are not lessened by capture. To sustain a positive attitude under conditions of captivity, instruction in this area will emphasize:
1. Article III - "I will continue to resist I will make every effort to escape."
 2. Article IV - "I will keep faith with my fellow prisoners If I am senior, I will take command. . . ."

3. Article V - "I am bound to give only name, rank, service number, and date of birth I will evade answering further questions" "I will make no oral or written statements"

- C. Defeatist treatises, writings, and materials will not be used in training programs. On the contrary, the many examples of successful and heroic resistance shall be held up as ideals and will be the focal points of instruction and training on this subject. Such examples should be taken predominantly from our own country's history.
- D. Training in the Code of Conduct will be initiated without delay upon the entry of an individual into the Armed Forces and will continue throughout his military career, providing periodic and progressive indoctrination appropriate to his increasing rank and leadership responsibilities. Combat tasks of the services require significant variance in the numbers and types of persons trained. This Directive provides the latitude to establish the training required commensurate with service tasking.
- E. The Secretary of Defense herewith requires that an impartial board of review conducts an evaluation of service programs for sufficiency and standardization within one year following implementation of this Directive and to report their findings to the Secretary of Defense. Subsequent reviews will be conducted every three years.

VI. GUIDANCE FOR INSTRUCTION IN EACH ARTICLE OF THE CODE OF CONDUCT

Guidance is set forth in Enclosure (1).

VII. RESPONSIBILITIES

- A. The Assistant Secretary of Defense (Manpower and Reserve Affairs), in coordination with the Secretaries of the Military Departments, will ensure that all joint training materials conform with the above policies and the guidance contained in the enclosure hereto.
- B. The Secretary of each Military Department will develop training programs and instructional materials in support of this Directive and will establish a system of exchanging experiences and materials related to the Code of Conduct in furtherance of coordination and improvement of knowledge.

VIII. RECORDS

Receipt of instruction in the Code of Conduct will be recorded in the records of each Serviceman.

IX. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective upon publication. Two copies of implementing instructions will be forwarded to the Assistant Secretary of Defense (Manpower and Reserve Affairs) within ninety (90) days.

Enclosure (1) To be provided

Working Group 4 Issue Paper

Major Issue #5--Need for expanded troop information program for contrasting Communist ideology with US Democracy.

DISCUSSION:

Working Group 4 (Training) concurred that a broad knowledge of the democratic process in the United States is essential and of inestimable value to the individual charged with resisting exploitative captivity of the nature of the Korean and Vietnam experiences.

This subject was likewise treated in depth by the 1955 Code of Conduct board, who recognized that this training starts in early childhood, and is not capable of short time resolution. In an attempt to correct the problem in light of the post-Korean experience, Secretary of Defense Charles Wilson exhorted his department in 1955 to investigate the feasibility of correcting this problem by effective pre-service training. Coordination with other departments, such as HEW, Labor, etc., took place, but this Working Group found no significant evidence that comprehensive remedies were effective on a national basis. The scope of this problem far exceeds the charter of this committee, and the Working Group.

WORKING GROUP RECOMMENDATIONS:

No further action on this matter be undertaken by this group.

SECTION V

ADDITIONAL CONCLUSIONS/RECOMMENDATIONS

MILITARY-CIVILIAN RELATIONSHIP UNDER CONDITIONS OF DETENTION OR CAPTIVITY

The Code of Conduct was unquestionably designed to apply exclusively to U.S. servicemembers. The Committee expressed reluctance to address policy guidance for civilians liable to capture. It would be difficult if not impossible to arrive at a clearly-defined resolution of this issue, since no authority exists for directing civilians to comply with this or any other Code under conditions of detention or captivity. The Geneva Convention prescribes no fixed relationship between civilian and military PW's; it provides, in fact, that civilians who fall into enemy hands are to be interned separately from military PW's.

If civilians incarcerated with military PW's follow the Code of Conduct, they might lose privileges accorded them under the Conventions. However, in the likely case in which the captor makes no distinction between civilians and military personnel, civilians may benefit by cooperating with military personnel and living under the Code. The Code of Conduct clearly indicates that a military PW is responsible to protect the best interests of the United States and his fellow prisoners; this guideline implies that a PW may have to look after the welfare of civilian prisoners as well as his own.

Responsible testimony indicated that the ramifications of the military-civilian PW situation are very complex and unpredictable. Permitting personnel involved in a PW situation to work out their own organizational relationships under the general guidance of the Code, appears to be the best course of action.

Conclusions: The Committee concluded that the principles of the Code should be made known to U.S. civilians vulnerable to capture by hostile forces, but that this guidance should more properly come from the agency to which they are assigned. Greater military-civilian cooperation in matters of Code education and training would be beneficial in the event of future incidents of joint-military incarceration at the hands of hostile captors. In such situations civilians should be urged to adhere to the Code in support of PW activities, and should be encouraged to place themselves under the command of the military SRO, because of his training and qualifications for the prison command role.

Recommendations: The Committee recommends that the DoD sponsor the study of this issue by an interdepartmental working group to define recommended patterns of cooperation and behavior expected of U.S. civilians who might be held by hostile captors and placed in confinement with U.S. servicemembers and to facilitate indoctrination of civilians susceptible to capture.

APPLICABILITY OF THE CODE OF CONDUCT IN OTHER THAN ARMED CONFLICT

Most interviewees agreed that the Code of Conduct provides moral guidance for assisting servicemembers held by hostile captors in an obvious combat environment. However, when questioned on the applicability of the Code in "hostile detention" situations, such as the capture of the Pueblo crew or terrorist kidnapping of U.S. Embassy personnel, interviewees expressed widely divergent opinions. Some said that the Code applied;

some said that the Code might apply in some instances; and some said the Code did not apply at all. Although the Committee realized that Servicemen had not been provided with detailed guidance covering the applicability of the Code in such situations, it seemed that many Servicemen were forgetting that they are obliged to observe the guidance of the Code of Conduct simply by virtue of status as members of the Armed Forces of the United States.

Committee members differed as to the degree of compliance the Code required, but all agreed that Servicemembers caught in unusual predicaments should be guided by the spirit and intent of the Code and must carefully consider the degree to which its precepts govern their actions. The Committee was especially concerned about this aspect because several members of the Pueblo crew and others in similar predicaments appear to have arbitrarily dismissed the Code's relevance in conditions which clearly seemed to call for its guidance.

Careful implementation of certain articles of the Code may be required of members of the Armed Forces subjected to detention which is not incident to an Armed Conflict. In such instances the Code's guidance concerning evasion, escape, and limited communication with the captor must be implemented with discretion. Individual Services should provide their members with more detailed guidance for these circumstances. However, to protect the best interests of the United States, departure from the basic requirement for honorable conduct will not be authorized or condoned.

Conclusions: The Committee concluded that the Code of Conduct applies

to all members of the Armed Forces over a wide spectrum of circumstances. A serviceman taken captive for any reason should remember that his status as a military man automatically places him under the general applicability of the Code; he should understand that he will be expected to use reasonable judgement in applying the Code to any situation which may occur. The Servicemember in captivity should consistently conduct himself in a manner that will avoid discrediting himself and his country.

Recommendation: The Committee recommends that training guidance be amplified to cover special Code of Conduct considerations when servicemembers are detained in situations other than armed conflict.

SERVICE FITNESS/EFFICIENCY REPORTS AND AWARDS AND DECORATIONS POLICIES
FOR PWs DURING PERIODS OF CAPTIVITY

Committee discussion on the issue of common fitness/efficiency reports centered on the extreme difficulty of obtaining full and accurate assessments of PW behavior under camp conditions. A PW cannot represent himself in an unbiased light because his captors control his apparent performance. The captors influence the rater's performance as well as the rater's observations of the prisoner to be evaluated. In effect, the captor can manipulate information that the rater might use in developing fitness/efficiency reports, directly precluding an objective evaluation. This situation is especially true when the PW is isolated or closely confined. Both the ratee's ability to perform effectively and the rater's ability to perceive that performance clearly are severely limited by camp conditions.

There is, however, a real benefit in accomplishing fitness/ effectiveness reports on PW's, because they can provide meaningful contributions to PW personnel records for Service assignment selection procedures. Written evaluations will also reinforce the senior-to-subordinate relationship by recognizing good and bad performances. The incentive to perform well applies in the PW environment as well as in a normal military situation. SRO's repeatedly exhorted their men to withstand torture and to resist interrogation by reminding them that their efforts would eventually be documented and rewarded. The knowledge that their actions would be recognized after release provided added motivation for PWs to revitalize their wills to resist following temporary setbacks during enemy interrogation. SRO's in Southeast Asia felt they could arrive at fair evaluation of their personnel in spite of camp conditions and information gathered from PW debriefings clearly demonstrated that accurate assessment of PW performance was possible.

The Committee discussed the question of using a common fitness/ efficiency report for PW's of all Services, but it was agreed that each Service should control its own evaluation process. The Air Force and Marine Corps accomplished efficiency reports on its Vietnam returnees; but the Army directed no formal rating of PW performance; and the Navy prescribed letters of evaluation. Since the Services used widely varying promotion systems normally, there seems to be little need for a common PW System.

The preceding rationale applies to PW awards and decorations policy as well; a joint board comprised of former Vietnam PW's

reviewed awards recommendations for the majority of PW's held in Hanoi, and sent its recommendations to the individual Services for evaluation. This procedure appears to have been satisfactory.

Conclusions: The Committee concluded that many factors affect the objective achievement of PW fitness/efficiency reports; Services should insure that all evaluations of PW behavior are determined fairly. Appropriate awards and decorations for PW's should be recommended carefully and equitably. A common fitness/efficiency report and awards and decorations policy for PW's from all Services is unworkable, undesirable, and unnecessary.

Recommendations: The Committee recommends that the Services should determine their own needs for fitness/efficiency reports but should exercise great caution in evaluating PW behavior, regardless of mode of evaluation, since unbiased evaluation of PW behavior may be severely inhibited in the PW environment. Services should establish their PW awards and decoration policies; however, when PW's from more than one Service have been held captive together, an effort should be made subsequent to release to effect joint Service review of PW awards recommendations prior to submission for final approval.

SECTION VI

COMMENTS OF THE JOINT CHIEFS OF STAFF

AND THE

JOINT SERVICE COMMITTEE ON MILITARY JUSTICE

(With Committee consideration of these comments)

SUMMARY OF SECTION VI

Draft Report was provided to the Joint Chiefs of Staff (JCS) on 16 Aug 76 with request for review and comments. On 17 Aug 76, the draft Report was provided to the Joint Service Committee on Military Justice (JSCMJ), the interservice standing committee of judge advocate representatives.

The Defense Review Committee for the Code of Conduct reviewed the comments of the Joints Chiefs of Staff (JCS) provided in JCSM-393-76, 6 Dec 76, "Draft Report of the Defense Review Committee for the Code of Conduct," and JCSM-394-76, 6 Dec 76, "Public Announcement of the Report of the Defense Review Committee for the Code of Conduct." The comments of the Joint Service Committee on Military Justice (JSCMJ) provided in a Memorandum for the Acting Assistant Secretary of Defense (Manpower and Reserve Affairs), 10 Sep 76, have also been reviewed.

TOPICS ADDRESSED IN THE JSCMJ/JCS RESPONSES INCLUDED:

- a. Proposed wording changes to Article V.
- b. Training, including proposed revision of DoD Directive 1300.7.
- c. Proposed Executive Order (EO) on command authority in PW camps.
- d. Proposed EO mandating post repatriation review of PW conduct.
- e. Report's use of the term, "legal right to escape."
- f. Report's use of the expression, "loss of PW status."
- g. JCS proposal for a public affairs plan.

A twenty-second plenary session of the Committee was convened 8 Dec 76. JCS and JSCMJ comments were considered at this session.

Results of the Committee's consideration of these comments are provided in the following pages.



THE JOINT CHIEFS OF STAFF
WASHINGTON, D.C. 20301

DEC 8 10 30 AM '76

OFFICE OF THE
SECRETARY OF DEFENSE

JCSM-393-76
6 December 1976

MEMORANDUM FOR THE SECRETARY OF DEFENSE

Subject: Draft Report of Defense Review Committee for the
Code of Conduct

1. Reference a memorandum by the Acting Assistant Secretary of Defense (Manpower and Reserve Affairs) (ASD(M&RA)), 16 August 1976, "Review of the Code of Conduct," which forwarded the draft report of the Defense Review Committee for the Code of Conduct for comment.
2. The Joint Chiefs of Staff concur in the finding of the 1976 Defense Review Committee for the Code of Conduct and the reaffirmation of the Code of Conduct which has served as a standard of military behavior for over 20 years. While recognizing resistance to any modification, it is considered that the recommended changes of specific words of the Code provide clarification. The Joint Chiefs of Staff believe the overall draft report provides a basis for future action to increase the vitality of the Code of Conduct.
3. The entire question of training (including DOD Directive 1300.7, "Training and Education Measures Necessary to Support the Code of Conduct," designation and role of a Service Inspector General, establishment of an executive agent, operation of a joint training facility, and guidance for instruction in support of the Code of Conduct) is innovative and complex. As such, this area should be referred to the Defense Management Education and Training Board and to the Services for detailed study, appropriate modification, and staffing prior to implementation.

4. The proposed Executive order (EO) "Prescribing Amendments to the Manual for Courts-Martial, United States, 1969 (Revised Edition)," which would promulgate changes to the Manual for Courts-Martial (MCM) to provide a command authority in PW organization, has been referred* by the Acting ASD(M&RA) to the Joint Service Committee on Military Justice for concurrence or comment. Upon completion of this review, the recommendation for an EO should be reevaluated to consider other possible options such as a DOD directive establishing a command line for PWs while in captivity. The Joint Chiefs of Staff recommend that, prior to forwarding the EO to the Office of Management and Budget, it be staffed with the Services.

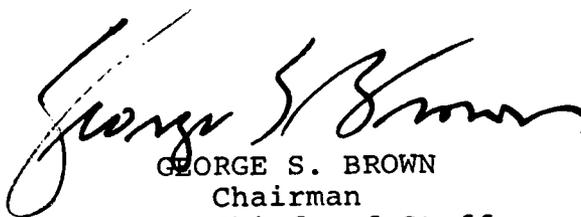
5. The Joint Chiefs of Staff nonconcur in the proposal for an EO "Providing for Review of Actions of Captured or Detained Members of the Armed Forces of the United States Following Repatriation or Release." Investigations are normally conducted when there is a reasonable belief that a crime has been committed and it appears that the establishment of an automatic investigation procedure is counter to the American concept of presumption of innocence. The current MCM and Uniform Code of Military Justice provide adequate means to identify, charge, and prosecute those who violate the laws while in PW status. The Joint Chiefs of Staff further recommend that the results of the review of the proposed EO by the Joint Committee on Military Justice be staffed with the Services.

6. The Joint Chiefs of Staff recognize the duty of a PW to attempt to escape; however, the legal right of PWs to attempt to escape is not substantiated within the draft report. The lack of documentation defining this right may cause problems during future conflicts. The Joint Chiefs of Staff also recommend that a follow-on study be conducted to document the "legal right of escape."

7. A detaining power may subject PWs who commit acts of violence to its penal law; however, a PW cannot be deprived of PW status until release or repatriation under the "Geneva Convention Relative to the Treatment of Prisoners of War."

While the Joint Chiefs of Staff recognize that some detaining powers may illegally deprive a PW of his status, they believe it to be in the best interest of future PWs that no implication of the United States accepting this illegal deprivation should appear in this report. Therefore, the Joint Chiefs of Staff recommend that phrases, such as the one appearing on page 23, lines 2 and 3 of the draft report, "... discontinue according him the privileges and status of a Prisoner of War and" be deleted.

For the Joint Chiefs of Staff:



GEORGE S. BROWN
Chairman
Joint Chiefs of Staff

Reference:

- * Memorandum by the Acting ASD(M&RA) for the Joint Service Committee on Military Justice, 17 August 1976, "Report of the Defense Review Committee for the Code of Conduct"



THE JOINT CHIEFS OF STAFF
WASHINGTON, D.C. 20301

JCSM-394-76
6 December 1976

MEMORANDUM FOR THE SECRETARY OF DEFENSE

Subject: Public Announcement of the Report of Defense
Review Committee for the Code of Conduct

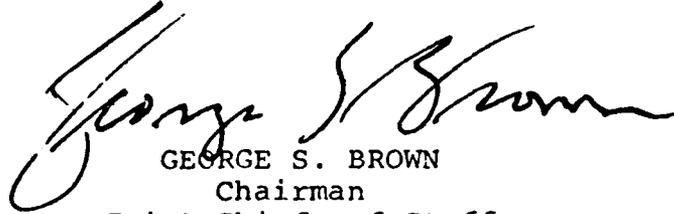
1. The Joint Chiefs of Staff recognize that the pending release of the Report of Defense Review Committee for the Code of Conduct will engender serious discussion by national veterans groups and the national news media. Public discussions and potential misinterpretations of the Code of Conduct can be expected and undoubtedly will be similar to those which occurred in 1955 when the code was promulgated. Public attention that focused on PW matters during and subsequent to the Vietnam conflict has encouraged segments of the US population to take strong positions on any subject related to such matters. Whatever action is taken with regard to the report recommendations, particularly the recommendation to change the wording of Article 5, will evoke strong and conflicting public reactions. The Department of Defense must clearly outline to the public that the 1976 Code of Conduct Review was undertaken to:

- a. Reaffirm the validity of the Code of Conduct.
- b. Recommend such changes as necessary.

2. The Joint Chiefs of Staff recommend that a public affairs plan be developed and implemented which will assure that the announcement of the committee's report is handled in such a way as to convey clearly to the American public the careful consideration given to its content and the approved recommendations. This plan should be thoroughly staffed

with the Services and supporting plans and programs developed which will insure that their Service members fully understand the "Report of Defense Review Committee for the Code of Conduct." Only through detailed preparation can it be assured that the outstanding work of the committee and its approved recommendations will be understood.

For the Joint Chiefs of Staff:

A handwritten signature in cursive script, appearing to read "George S. Brown".

GEORGE S. BROWN
Chairman
Joint Chiefs of Staff



DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON, D.C. 20310

10 SEP 1975

REPLY TO
ATTENTION OF:

MEMORANDUM FOR: ACTING ASSISTANT SECRETARY OF DEFENSE
(MANPOWER AND RESERVE AFFAIRS)

SUBJECT: Report of the Defense Review Committee for the Code
of Conduct

1. The Joint Service Committee on Military Justice has reviewed the proposed implementing Executive Orders of the attached report of the Defense Review Committee for the Code of Conduct. The Committee concurs in the need for an amendment to the Manual for Courts-Martial, 1969 (Revised edition) to clarify the definition of a "superior commissioned officer" in a prisoner of war situation. The language below is suggested as a better definition in lieu of that in Section 1 of the proposed Executive Order.

A commissioned officer of one armed force is not 'his superior commissioned officer' with respect to a member of another armed force merely because of higher rank. However, a commissioned officer of one armed force is, within the meaning of Article 89, 'his superior commissioned officer' with respect to a member of another armed force if duly placed in the chain of command over that person. In addition, when members of more than one armed force are prisoners of war or otherwise detained by a hostile entity so that circumstances prevent resort to the normal chain of command, a commissioned officer of one armed force who is not a medical officer or chaplain is 'his superior commissioned officer' with respect to a member of another armed force who is his junior in rank.

2. The Committee concurs in principle in Sections 2 and 3 of the proposed Executive Order, but suggests the following language be substituted.

a. Section 2 be amended to read:

SUBJECT: Report of the Defense Review Committee for the Code of Conduct

The first paragraph within paragraph 170a is amended by inserting the following after the second sentence: 'A warrant officer, noncommissioned officer, or petty officer of one armed force who is senior in rank to a member of another armed force is senior to that member under the same circumstances that a commissioned officer of one armed force is the superior commissioned officer of a member of another armed force for the purpose of Articles 89 and 90.' See 168.

b. Section 3 be amended to read:

A member of one armed force who is senior in rank to a member of another armed force is the superior of that member with authority to issue orders which that member has a duty to obey under the same circumstances as a commissioned officer of one armed force is the superior commissioned officer of a member of another armed force for the purposes of Articles 89 and 90. See 168.

3. The Committee does not concur in the proposed Executive Order entitled "Providing for Review of Actions of Captured or Detained Members of the Armed Forces Following Repatriation or Release." This proposed Executive Order requires an investigation of the conduct of all repatriated prisoners of war to determine violations of the Uniform Code of Military Justice and further mandates that disciplinary action will be taken where warranted. Objection to the proposed Executive Order is based on four reasons. First, the mandatory treatment of all returnees as suspects of violations of the Uniform Code of Military Justice is contrary to established statutory and regulatory military criminal law procedures. Under these procedures, investigations are instituted upon complaint or available evidence rather than upon an individual's mere status. Current procedures are adequate for investigation of alleged misconduct on the part of prisoners of war. These procedures also provide necessary due process safeguards against damage to a serviceman's career arising out of unsupported accusations elicited in such an investigation. The concept that an entire class of persons is so suspect as to be subject to a general

SUBJECT: Report of the Defense Review Committee for the Code
of Conduct

inquisition is inconsistent with the presumption of innocence. Second, the mandated requirement for some action to be taken where warranted is subject to misinterpretation. Because it is embodied in an Executive Order, commanders could with reason determine that their discretion in this area has been circumscribed. Consequently, such an Executive Order is subject to criticism as a form of command influence. Third, mandatory treatment of all returnees as suspects demeans the Code of Conduct. The Committee's report concluded that the Code of Conduct is a valid guide of continuing vitality. If these conclusions have meaning, it is inappropriate to engage in a general inquisition premised on an assumption of the commission of prosecutable offenses in captivity. Fourth, a mandatory investigation to determine violations of the Uniform Code of Military Justice does not restrict subsequent prosecutorial discretion. Even under such an Executive Order, a decision not to prosecute could again be made, rendering the whole inquisition nugatory.

Wayne E. Alley

1 Incl
as

WAYNE E. ALLEY
Colonel, JAGC
Chairman, Joint Service
Committee on Military Justice

Proposed Wording Changes to Article V

DISCUSSION: The JCS concur in the changes to Article V as proposed in this report.

CONCLUSION: Administrative action to affect the proposed changes to Article V, Code of Conduct, may be initiated without delay. Additional coordination and staffing is not required.

RECOMMENDATION: The proposed Executive Order which provides changes to Article V of the Code of Conduct should be forwarded promptly to the President for signature.

Training, Including Proposed Revision of DoD Directive 1300.7

DISCUSSION: The JCS recommendation that this entire subject be referred to the Defense Management Education and Training Board (DMETB) and the Services for detailed study, modification and staffing has been considered. An examination of this aspect by the Director for Training, OSD(M&RA), (Planning and Requirements) provided by memorandum, 27 September 1976, a determination that the DMET Board monitors education/training covering "general management principles----for specific functions, such as personnel, finance procurement and logistics." Further, "assigning a role to the DMET Board in the PW training field does not seem appropriate because it would require a considerable departure from the Board's assigned area of interest."

CONCLUSION: The JCS recommendation should be supported only with respect to referral to the Services.

RECOMMENDATION: The proposed DoD Directive 1300.7 should be referred without delay to the Services for coordination.

Proposed Executive Orders (EO) on Command Authority in PW Camps

DISCUSSION: The Committee recognizes that there are lengthy arguments supporting the view that the UCMJ and the MCM are adequate and identifies no inadequacy in the UCMJ. It is the wording within the Manual for Courts-Martial which has been highlighted through testimony before the Committee as providing an unintended shield of legal defense for those who chose to disobey orders given by their superiors while in captivity or in an isolated group as defined in the proposed amendments to the MCM. For this reason, other alternatives would always leave open the "legal loophole" contained within the specific wording of the MCM. The substitute wording proposed by the JSCMJ addresses only captivity situations. It does not address situations in which units or individuals are isolated making communication with higher headquarters impossible. The Committee recognizes that by excluding the aspect of isolation more precise wording may be employed.

CONCLUSION: The Committee considers the proposed changes to the MCM to be the best alternative to provide the necessary command authority to the senior member of all Services in isolated or captivity situations. The JCS recommendation that the proposed Executive Order be staffed with the Services is not required since it has been reviewed by the JSCMJ. The substitute wording proposed by the JSCMJ is acceptable; and this proposed

Executive Order may be modified to include this substitute wording.

This is a desirable step in providing the senior member of all Services the necessary command authority over all members of the Armed Forces with whom he is imprisoned or detained.

RECOMMENDATION: This proposed Executive Order (when modified by the substitute wording proposed by the JSCMJ) amending the MCM should be supported by the Secretary of Defense as the proper action for providing the necessary command authority to the senior member of all Services in captivity situations. This proposed Executive Order should not be submitted for additional staffing and should be forwarded to the President for signature.

Proposed EO Mandating Post Repatriation Review of PW Conduct

DISCUSSION: The JCS and the JSCMJ view this proposal as counter to the "concept of presumption of innocence." The Committee deliberated at length on this point concluding that the proposed Executive Order serves to confirm an individual's innocence rather than abandoning the individual to perpetual suspicion and identity with the dishonorable image with which captors have dogmatically sought to mark their captives. It must be realized that an individual in an isolation or captivity situation is completely cut off from his own society. He does not enjoy the daily observation of his own community and the presumption of innocence which is carried by life under the Constitution. Frequently, his own witnesses are his captors who may dictate conditions and events which shed unchallenged

dishonor upon his performance. The returning detainee deserves more than a presumption of innocence; he deserves a confirmation; that is, a clear accounting that will separate him from the shadow cast by his captors and any dishonor that may have been committed by others. Those "questions" which have been cast by the detaining force cannot be ignored in hopes that they will evaporate.

The Committee recognizes that the proper mechanism exists to investigate for cause and prosecute. The disappointing failure to investigate and prosecute following the PW returns from Vietnam was caused by a lack of resolve, not an inadequate mechanism. The establishment of an automatic review of PW conduct does not guarantee resolve of future decision makers.

Rather than modify the mechanism, the Committee searched for an alternative to accomplish the objectives of the proposed EO which would not run counter to the concept of presumption of innocence. A strong statement which reflects the Committee's concern over the investigations which followed the return of Vietnam PWs could be entered into the report. Further, procedures for debriefings could be developed and implemented in directives to surface sufficient information to identify cases of misconduct.

CONCLUSIONS: Reflecting upon the above discussion, the Committee concluded:

1. A strong statement which reflects the above concern should be placed in the report.
2. Procedures should be implemented which require that thorough debriefings of all future repatriated PWs be conducted and included as a minimum, the following elements:
 - a. Intelligence information concerning the enemy.

b. Description of captivity, e.g., for the purpose of considering any possible modifications in the Code, its interpretation or its training implementation.

c. Instructions that any individual having any information concerning possible violations of law, regulation or policy shall be required to report this information to the proper authorities.

3. The proposed EO should not be forwarded for implementation but should be included in this section of the report for historical reference.*

RECOMMENDATION: The Secretary of Defense should direct the appropriate staff element to initiate action which will structure mandatory debriefing requirements as outlined in Conclusion 2.

Report's Use of the Term "Legal Right to Escape"

DISCUSSION: The JCS questioned the Committee's use of the phrase, "legal right to escape," (of a PW). A substitute expression might be, "duty to attempt to escape." The Committee acknowledges that the phrase, "legal right" is subject to opposing interpretations. The important issue is that American Servicemembers must be trained to understand that should a PW attempt to escape, his actions may be judged by his captors as exceeding those sanctioned by the Geneva Convention, e.g., murder and destruction of property not directly related to the escape attempt. Such judgment may cause the captors (upon recapture of the PW) to subject the PW to punishment under some Code of Law other than disciplinary punishment codes specifically established for PWs.

* Pages VI-15 and VI-16.

DRAFT
EXECUTIVE ORDER _____

PROVIDING FOR REVIEW OF ACTIONS OF CAPTURED OR DETAINED MEMBERS
OF THE ARMED FORCES OF THE UNITED STATES FOLLOWING
REPATRIATION OR RELEASE

All members of the Armed Forces of the United States are subject to the risk of possible capture or hostile detention. Under such conditions, as at all times, they are responsible for their actions and are subject to the Uniform Code of Military Justice. Because each member is accountable for his conduct while in captivity or hostile detention, his conduct while so confined should be scrutinized by appropriate authorities following repatriation or release to provide equal accountability to all who are captured or detained by hostile forces. This scrutiny should take the form of review to determine whether the individual has conducted himself in accordance with the requirements of the Uniform Code of Military Justice while in captivity or detention.

Accordingly, by the authority vested in me as President of the United States, and as Commander-in-Chief of the Armed Forces of the United States, it is ordered as follows:

The Secretary of Defense shall cause a review to be made of the conduct during captivity or hostile detention of each captured or detained member of the Armed Forces of the United States when such member has been returned to the control of United States military authorities. When this review, or information otherwise available, so

warrants, disciplinary action will be initiated in accordance with the Uniform Code of Military Justice for any misconduct by any member of the Armed Forces while in captivity or detention.

The White House,

CONCLUSION: The phrase, "legal right to escape," should be deleted from the report, and the phrase, "duty to attempt to escape," substituted. The JCS recommendation to conduct a follow-on study would therefore be inapplicable.

RECOMMENDATION: Amend the report to support the above conclusion.

Report's Use of the Expression "Loss of PW Status"

DISCUSSION: The JCS proposed deletion of the phrase, "discontinue according him the privileges and status of a Prisoner of War." A detaining power cannot remove the PW status until release or repatriation under the "Geneva Convention Relative to the Treatment of Prisoners of War."

CONCLUSION: The phrase, "discontinue according him the privileges and status of a Prisoner of War," should be deleted from the Report.

RECOMMENDATION: Amend the Report to support the above conclusion.

JCS Proposal For A Public Affairs Plan

DISCUSSION: The JCS proposed public announcement of the Report. Although this aspect is not addressed within the Report, it was included in the staffing plans of the Committee.

CONCLUSION: The staffing plans of the Committee are satisfactory and

agree with the JCS proposal.

RECOMMENDATION: Not required.

SECTION VII
SUMMARIES
OF
COMMITTEE DELIBERATIONS

SUMMARIES OF COMMITTEE DELIBERATIONS

A. The Defense Review Committee for the Code of Conduct met in twenty-one plenary sessions, averaging three hours per session, between 4 May and August 1976. * Half of these plenary sessions (11), were devoted to informal discussions with interviewees, while the other plenary sessions were used to discuss procedures, testimony, issues and the content of the final report to the Secretary of Defense.

B. A master agenda is attached, followed by a summary of each session.

C. Each interviewee was advised concerning the informal, non-judicial, deliberative nature of the interview sessions. Sample form used for this purpose is attached at page VII-216.

* A final (22nd) session was held 8 December 1976.

DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

MASTER AGENDA

<u>SESSION</u>	<u>DATE</u>	<u>PURPOSE</u>	<u>PAGE</u>
1	4 MAY 76	Orientation, Tasking Outline	VII- 4
2	6 MAY 76	Service Presentations: U.S. Army and U.S. Navy/Marine Corps	VII- 12
3	11 MAY 76	Service Presentation: U.S. Air Force; Work Gp organization	VII- 24
4	13 MAY 76	Definition of Issues; Proposed List of Interviewees	VII- 35
5	18 MAY 76	Interviews: STOCKDALE, SAKSA, McDANIEL, THOMPSON, CANAAN	VII- 42
6	20 MAY 76	Interviews: SMITH, ANZALDUA, McMURRAY	VII- 53
7	25 MAY 76	Interviews: WILLIAMS, 7602d AIG, SCHRUMP, STRATTON	VII- 58
8	27 MAY 76	Interviews: FLYNN, STRICKLAND, YUILL, MURPHY, CIUS	VII- 78
9	1 JUN 76	Interviews: REID, KLUSMAN, ROBERTSON, KUSHNER, FLORA	VII- 87
10	3 JUN 76	Interviews: THRASH, WHITE, COKER, OVERLY, INGVALSON	VII- 99
11	8 JUN 76	Interviews: BIDERMAN, MORGAN, PURCELL, DUNN, GUY, LAW	VII-117
12	12 JUN 76	Interviews: MARSHALL, BUCHER, HARRIS, HOFFMAN	VII-133
13	15 JUN 76	Interviews: MANHARD, RAMSEY, SIEVERTS, WILBER, POLLARD, MacPHAIL	VII-142
14	17 JUN 76	Interviews: PLAG, WORK, RAYFORD, DRAMESI, HEGDAHL	VII-153
15	22 JUN 76	Deliberation of Issues	VII-174

<u>SESSION</u>	<u>DATE</u>	<u>PURPOSE</u>	<u>PAGE</u>
16	25 JUN 76	Interview: JOHNSON; Deliberation of Issues	VII-184
17	8 JUL 76	Deliberation on Draft Committee Report	VII-189
18	13 JUL 76	Deliberation on Draft Committee Report	VII-196
19	15 JUL 76	Deliberation on Draft Committee Report	VII-202
20	19 JUL 76	Deliberation on Draft Committee Report	VII-210
21	22 JUL 76	Deliberation on Draft Committee Report	VII-214
22	8 DEC 76	Committee Approval of Final Draft of Report	VII-217

SUMMARY

First Session, 4 May 1976

Summary of Administrative remarks:

- The Executive Secretary, COL Arnold, presented a series of view-graphs to the Committee, outlining the projected schedule of events for Committee deliberations.
- Included in the presentation were slides depicting the master agenda, weekly time table, etc., also potential major issues were presented to the Committee. This list of key issues was compiled from the Services' reports to OSD (1974), from returnee recommendations and debriefs, and from the OASD(M&RA) 1973 draft plan for review of the Code of Conduct:

General Issues

1. General revalidation of the Code of Conduct as effective/helpful in accomplishing its purpose.
2. Possible establishment of Code of Conduct as legally binding order.
3. Relationship of the Code of Conduct to the Geneva Conventions.
4. Applicability of Code of Conduct in: (A) conflicts other than declared wars, and (B) peacetime detention situations (eg., hostile terrorist kidnapping for political exploitation).
5. Need for expanded troop information program for contrasting communist ideology with U.S. democracy.
6. Need for common, interservice approach to awards, decorations, and fitness/efficiency reports for POW's.
7. Determination as to whether there should be periodic review of the Code of Conduct, eg., every four, five, ten years.

Code of Conduct Articles

8. Chain of Command in POW camps (Article IV).
 - A. Derivation and extent of SRO authority.
 - B. Obligation of SRO to assume command.
 - C. Obligation to organize.

(First Session - continued)

- D. Duty of subordinates to participate, communicate, and obey.
 - E. Covert organizations.
 - F. Relationship between military personnel and civilians confined in same POW camp under same rules, eg., civilian standards of conduct and whether senior responsible person in camp should be civilian or military.
9. Obligation to escape (Article III).
10. Clarification of policy concerning special favors and early release (Article III).
11. Applicability of Code of Conduct to military noncombatants and others not considered "fighting men" (eg., medical personnel, clergy, and females). (Articles I,II,VI.)
12. Clarification of policy concerning surrender (Article II).
13. Nature and extent of information which can be divulged to captors and under what conditions, eg., to what extent should a US. POW endure torture before revealing nonclassified information in order to minimize the captor's net gain? (ARTICLE V.)

Training Policy Issues

14. Variations between Services in interpreting the Code of Conduct; need for common policy guidance and doctrine as well as revision of DoD Directive 1300.7.
15. Inadequacies of SERE (Survival, Evasion, Resistance, and Escape). Training related to Code of Conduct according to returnees.
16. Need for better dissemination of information (pre-capture) regarding government assistance to families of POW/MIA's and efforts to be expected from government to obtain release of POW's.
17. Need for OSD-level watchdog (office or committee) to monitor SERE Training of the Services, in support of the Code of Conduct, to preclude variant interpretations.
18. To what extent should the content and scope of Code of Conduct instruction (initial training and subsequent instruction) be controlled or evaluated by DoD? How should civilian instruction (State Dept. and others) be coordinated with DoD's?
19. Effectiveness of training programs for reserve components and for "pre-service personnel" (civilians who may serve in the Armed Forces).

20. Assessment of present and likely future methods of prisoner interrogation (potential enemy's POW handling techniques).

Summary of presentation by guest speaker Mr. Claude WATKINS,
7602nd Air Intelligence Group.

- Mr. WATKIN's presentation concerned U.S. POW experiences from WWII to the present. Pertinent points set forth were:

Mr. Watkins showed a slide which listed the various purposes for which prisoners of war have served through the years.

1. Revenge
2. As a source of slaves
3. For use as hostages
4. As a source of military information
5. To deny the enemy a source of troops
6. As a source of labor
7. For political purposes
 - a. propaganda
 - b. subversion of loyalty (against own country through political indoctrination)

In the earliest days of warfare captured survivors were usually killed. Then the need for cheap labor led to the retaining of the able-bodied prisoners for use as slaves. More recently, with the advent of the Christian era, a more humanistic viewpoint has resulted in exchange of prisoners for money or prisoners held by the opposing side.

During World War I new mechanized weapons systems of warfare increased the need to obtain military information. During World War II obtaining such information was the primary captor use of POW's although allegedly toward the end of the war, Hitler proposed taking all the Allied POW's to the Bavarian Alps in the hopes of using them as hostages.

Treatment of the POW's by the Japanese was bad, primarily as a result of the low regard they held for prisoners. The Japanese did not hesitate to use physical abuse and torture to obtain military information. They also used them as a source of labor.

The hostage value of POW's was apparent again during a U.S. Cabinet debate on whether or not to drop the atomic bomb on Japan. About half the Cabinet favored warning the Japanese we were going to drop it and tell them when so they could marvel at its power and then, supposedly, surrender. The Secretary of War carried the day, Mr. Watkins said, when he suggested the Japanese would move the POW's

(First Session - continued)

to the proposed location to prevent our dropping it. Therefore it was decided to drop the bombs without warning.

In Korea, although the war was shorter than WWII against Japan, 30% of the POW's died in captivity compared to 34% deaths in Japanese prison camps. In German POW camps in WWII less than 1% of POW's died. It was during the Korean War that the POW's began to be used for political purposes besides obtaining military information. The political purposes could be divided into two sub-divisions. 1) for propaganda and 2) for subversion of their loyalties. American POW's in North Korea with few exceptions had to continuously cope with captor efforts to obtain false confessions, statements, admissions and accusations, useful for internal and external propaganda. Additionally, until the Chinese conceded failure in the last months of the war, the prisoners had to cope with captor efforts to indoctrinate them with Communist beliefs. In the process the captors made hostage value. Their existence certainly influenced the negotiations when ending the war by truce.

In January 1968 while the Vietnam conflict was in progress, the USS Pueblo was captured. The use of these captured men was for the purpose of obtaining military information, propaganda, and as hostage value. As a result, the North Koreans gained an admission of guilt of violating their territory and an apology from the U.S. Government even though the U.S. concurrently stated that the admission was an extorted falsehood.

In Vietnam, the POW's were utilized for purposes of obtaining military information, for political purposes and for their hostage value.

(First Session - continued)

Summary of presentation by guest speaker LTC Norman THORPE, USAF, of the Office of the Air Force Judge Advocate General.

- LTC THORPE's presentation dealt with the interrelationship of International Law and the Geneva Conventions to the Code of Conduct. Pertinent points set forth were:

- The Code of Conduct is not based on the premise that the enemy is a signator of the Geneva Conventions nor that he is complying with it. To the contrary, the Code came into being because of a recognition that the enemy was not complying with the edicts of the Conventions; therein lies the principle utility of the Code.

- There is a body of international law regarding prisoner treatment which exists separate from the technical terms of the Geneva Conventions but which supports the ethical terms therein. An example was given to support this premise regarding the Nuremburg Trials after WWII. The case regarded the trial of German officers accused of murdering and abusing Soviet prisoners during the war. The defense counsel claimed that they could not be convicted because the Soviet Union was not a party to the 1929 Geneva Convention.

The international tribunal held that was wrong. Inhumane treatment violates positive standards of law that are not dependent on treaty obligations. The Geneva Conventions recognize the existence of this independent body of law also in Article 142.

- As detailed by an Air Force returnee, LTC Norris, an expansion of training on the laws of war in general are needed as a major improvement in the training of U.S. personnel. It would help prisoners maintain their morale and self respect in the face of war crime charges and other interrogator techniques.

- The major reason for the failure of the '49 Convention to provide a major amount of protection for U.S. prisoners has been its inability to come to grips with the political value of prisoners.

- The purpose of international law for prisoner treatment is to reduce the suffering and hardship of victims of war. The secondary purpose is to avoid exacerbating the hatred between combatants which makes any settlement more difficult.

- The purpose of the Code of Conduct is best stated by Mr. Carter Burgess, Chairman of the 1955 Committee on Prisoners of War: "The purpose of the Code of Conduct is to provide our fighting forces with a standard of conduct direct from the Commander-in-Chief....It is designed to aid the fighting men of the future. If ever they fall

into such an enemy's hands, they'll fight for their minds, their loyalty, and their allegiance to their country. The Code provides no penalties. It is not definitive in its terms of offenses; rather it leaves to existing laws and the judicial process the determination of personal guilt or innocence of each individual case." Thus, LTC Thorpe said, the purpose of international law and the Code of Conduct are the same in that they both seek to promote the welfare of POW's. They are not congruent, however, because the Code has the additional purpose of protecting the national interest against political damage that might be caused by political action. That is not a part of international law.

- Over the years there have been questions that have been repeatedly raised regarding the consistency of the Code with international law, the Geneva Conventions and the UCMJ. The same answer as provided by Mr. Burgess was reached by a decision during the (Vietnam) war when it was decided in this building (the Pentagon) that the Code is a moral standard and not a legal obligation, LTC Thorpe said.

- The Code is fully consistent with the UCMJ. The question of consistency of the Code with the Geneva Conventions and international law is a bit more complicated, he said. There are basically five areas of contention:

(1) The Code's requirement that prisoners attempt to escape:

The Geneva Conventions and international law recognize that most prisoners are obliged to escape if possible. If recaptured any punishment would be illegal. He has no legal right to kill or injure the enemy during the escape, however.

LTC Thorpe did bring up the problem of medics and chaplains as POW's. They are "detainees" - not POW's - and if the Conventions are adhered to by the enemy I have conceptual difficulty with putting the duty on them to escape, he said.

(2) The Code's mention of "parole" and "special favors":

The Geneva Conventions foresaw a good deal of difficulty in this area, LTC Thorpe said. It was recognized that the detaining power would not necessarily know what the rules were of the country to which the prisoners belong with regards to parole. The Conventions require, therefore, that the detaining power receive advice from the other state as to what their rules are; it requires that the detaining power not offer parole in a manner that's illegal. Whether early release such as took place during the Vietnam conflict was parole is questionable

if taken in the context as to what the authors of the 1949 Convention meant, he said. Probably, it's a special favor but clearly there's no violation of the Geneva Conventions if a U.S. prisoner does what U.S. policy and the senior ranking officer tells him to do. I don't find any difficulty finding that those provisions of the Code are consistent with the law because it's possible for a person to act consistent with both.

- (3) The mandate of the Code for the senior to take command.

This provision of the Code raises the question of conflict with the Geneva Conventions provision which calls for the election of prisoner representatives; this provision applies only in prison camps where all the prisoners are enlisted. The prisoners could comply with both the Conventions and the Code if they elected the senior enlisted man. LTC Thorpe said that this hasn't caused any problem in the past to his knowledge but it is something that requires full explanation in the training programs if we're going to have full understanding of both positions.

- (4) The Code requirements for providing only limited information during interrogation:

The requirements of the Code to resist giving information reportedly causes difficulty when placed in conjunction with the mention in the Geneva Conventions concerning "capture cards." The prisoner is entitled under law to inform his family and the prisoner of war information bureau that he is a captive and what his state of health is. In order to fill out the form such information as the POW's father's name, address, and occupation are called for. Air Force instructions in this regard were issued in an effort to conform to the Code and the law by saying it's up to the PW to use his good judgement. If one can put the information on the card which is not going to damage himself, his fellow prisoners, or the United States then they are instructed by all means to go ahead and do it. The important thing, he said, is that the capture card is a prisoner right, not an obligation.

- (5) The Code's imposition of a resistance posture:

"All of the statements made about the Code at the time of its promulgation in 1955 said that we are going to extend the battlefield into the prison camp. The basic premise of

(First Session - THORPE - continued)

the Geneva Conventions is that the prisoner has laid down his arms, is no longer a threat to the enemy," and therefore there "is no risk to the detaining power whatsoever in extending humane treatment." The extension of the battlefield into the prison camp is difficult to reconcile with that provision. If the enemy is abiding by the Geneva Conventions regarding POW treatment, then those portions of the Code that imply physical resistance are simply not applicable, LTC Thorpe said. I think the Code's interpretation will have to be limited in that way in order to keep it square with the law.

In summary, the purpose of the international law is to avoid unnecessary suffering of prisoners; the United States should support this purpose to its fullest by requiring other programs to be consistent with international law and the Conventions. The Code of Conduct can be and should be interpreted so as to be consistent with the UCMJ and international law. Training programs should make U.S. military personnel sufficiently informed concerning international law and Code of Conduct training should be consistent with DoD directives.

SUMMARY

SECOND SESSION, 06 MAY 1976

Summary of Administrative remarks:

Dr. Shields stated that the Sub-committee on Interviewees met on 5 May 1976 for nearly three (3) hours. The first interviewee list to evolve consisted of 54 individuals which could be further reduced. The final list is expected by Tuesday, 11 May 1976.

The first speaker was LTC William D. Daniel, USA, who put forth the Army position on the Code of Conduct. In establishing its views, LTC Daniel emphasized that the position was not arrived at lightly. An Army ad hoc committee was formed as a result of an ASD(M&RA) memorandum dated 9 January 1974, which directed the Services to review the Code of Conduct in light of their recent Southeast Asia PW experience. In the establishment of its position, the Army has attempted to obtain a Code of Conduct that has universal application with respect to theaters of operation, types of conflict to include those situations short of war, opposing enemy forces, and U.S. personnel that might be involved. The Southeast Asia experience was extensively reviewed but not from an all prevailing viewpoint such that it received too much emphasis. The Army PW experience in Vietnam was considerably different from that of the Navy or Air Force. Army PW's were confined in small groups, dispersed in jungle camps, and were moved often.

The Army's large number of high risk (of capture) personnel has always and continues to have significant impact on its view of the Code and related training matters. Today the Army consists of about 16 divisions of 16,000 men each, for example. These men come from a wide variety of cultural backgrounds with education levels extending from those with almost no education to those who are well educated. With all these factors in mind, LTC Daniel said, the Army's conclusion and recommendations were drafted.

Summary of the Army's Recommendations

Clarified wording for the Articles of the Code and their explanatory material are provided in the enclosure to the Memorandum for the Deputy Secretary of the Army (M&RA) dated 1 JUL 74.

a. That the Code of Conduct should be retained and reaffirmed as a proven, valuable, non-punitive set of guidelines to which each USPW should adhere, to the utmost of his ability. For purpose of clarification, and to enhance the value of the Code without altering its intent, some changes are appropriate. The Articles are not meant for use as a recitation item between a trainer and a trainee.

(Second Session - Army Position - Continued)

The explanatory remarks should be considered an integral part of the Code. LTC Daniel explained that the Army War College undertook a Code of Conduct Study which was a student effort prepared in part by Col. Purcell, the Army's senior Vietnam returnee. Some interesting conclusions in the study show that a high percentage of individuals, both PW and non-PW, believe they can comply all the time, or at least frequently, with the Code. When the same individuals were asked about whether the "average American military man of today" could understand it, their belief in regards with being able to comply with the Code falls off significantly. Non-PW's perceive Article V, II, and I, in that order, to be the most difficult to comply with while the returnee themselves consider Articles V, III, and II to be the most difficult to live with. No returnee who responded and this includes all Services-recommended elementation of the Code but a majority did recommend a revision to the Code to enhance its understanding and effectiveness. In drafting any clarifications, however, nothing should be done to appear to deemphasize the Code of Conduct, to lower standards of expected conduct, or to make PW status more attractive.

b. The Code of Conduct should remain a mission statement, positively oriented, designed to assist USPW's to survive with honor; it should not be converted into a punitive code of law. The Uniform Code of Military Justice should remain the authority for punitive aspects of USPW conduct.

c. That an effort should be made at the appropriate level of government to clarify the responsibilities and expected standards of conduct of U.S. civilian persons in relation to those of USPW's confined by the enemy in same facility.

LTC Daniel was asked how the Army would propose to solve this issue. Much discussion followed but LTC Gomon pointed out that the Army decided not to address solutions because it felt it was beyond the Army tasking at the time. It was suggested, however, that the problem was serious and must be addressed but solutions were not officially proposed, he said.

Part of the discussion pertaining to the military-civilian issue pertained to consistency. If only those were trained who were deemed likely to be captured then what about the possibility of just about anyone being captured by terrorists? Dr. Shields mentioned the difficulty of communicating and controlling portions of the civilian population such as those passing through an area while on a steamer, for example. Then there are security guards who have no real ties with the Government. You really need some sort of statutory resolution for the pure civilian, Mr. Wiley said.

(Second Session - Army Position - Continued)

Col. Day brought up the possibility of a retired officer working as a civilian when captured who, on the basis of his former military rank, is senior--"but would he be the SRO?," he asked.

Dr. Shields asked if LTC Daniel felt that it's absolutely essential that the military-civilian relationship be clarified or does it have to be such that the senior military officer assumes command. LTC Daniel expressed his opinion that it is more important to clarify the situation rather than necessarily place one subordinate to the other.

The Vice Chairman said the Code would have to be rewritten if it were to apply to civilians. You're never going to get civilians to say "I am an American fighting man". CWO2 Rander replied that the Army group that briefed General Abraham has proposed the Code state "I am an American", by deleting the "fighting man" term.

d. That DoD Directive 1300.7, "Training and Education Measures Necessary to Support the Code of Conduct, "8 July 1964, should be reviewed by OSD in light of the USPW experience. It should be revised from an implication and influence of the "Big 4 and nothing more "hard line to the "flexible approach" for example.

e. That the Services should increase their efforts to assure the appropriate degree of uniformity of their training related to the Code of Conduct, so as to eliminate variations in interpretation of the Articles of the Code. Although the original intent of the Code was to provide realistic guidance for PW's concerning standards of conduct, the wording of the directive has been interpreted to demand a more rigid approach to the captivity situation than is required by the Executive Order for the Code of Conduct or than has proven practicable for prisoners in recent experiences. Supporting SERE or survival training should receive additional emphasis in accordance with revised guidelines from DoD. However, it is felt that a new school is not required.

During the post presentation period, discussion arose about the changing of the explanatory portions supporting each Article as opposed to the changing of specific wording of the Articles of the Code. LTC Daniel said that is the Army's position that the changes submitted are essential--especially in regard to Article V. It has been the Army's experiences that there is misunderstanding regarding the Articles, they are unclear, and that they do not accurately describe what we would like our prisoners to ascribe to, he said.

(Second Session - Continued)

The second presentation consisted of a joint Navy/Marine Corps position on the Code of Conduct by CDR Jack Colgan and MAJ Pete Van Ryzin.

First it was pointed out that the briefing consisted of findings, conclusions, and recommendations of a joint Navy/Marine Corps study group which was formulated, as was the Army Committee, as a result of the ASD (M&RA) memorandum of 9 January, 1974. Applicable instructions and regulations, Code of Conduct films and pamphlets, and individual Southeast Asia POW debriefs were some of the materials used during their review. In addition, interviews were conducted with 34 Navy and Marine Corps POW returnees and a questionnaire was formulated by the study group and sent out to 178 Southeast Asia returnees and 31 of the Pueblo crew members.

The study group determined that most POW returnees did not understand at the time of capture that the Code of Conduct was never intended to be a legally binding instrument. This misunderstanding was attributed to erroneous training the result of which (1) severe guilt feelings of those POW's who went beyond the provisions of the Code - even after mental and physical duress; and (2) great frustration when those who grossly violated the Code were not prosecuted.

Regarding the six Articles of the Code, no specific problems were found with I and VI. Concerning the other Articles:

ARTICLE II

The principal objection centered around the words "never surrender of my own free will?" Did a pilot who ejected over enemy territory still have the means to resist? The position of the study group was no, a revolver does not constitute the means to resist against a superior enemy force. No basis for changing the wording of the Article could be found.

ARTICLE III

The principal objection with this Article pertained to the rigidity of the words "make every effort to escape." Most who thought this was unrealistic believed they had an absolute obligation to escape. A minority felt as a result of the Code's mandate that an SRO or escape committee's order prohibiting an escape would be an unlawful order. Some interviewees recommend the insertion of the word "reasonable" so the Article would read "I will make every reasonable effort to escape." The study group rejected this proposal, however, noting it would open the obligation to interpretation. Considering the circumstances of their imprisonment, it was felt the prisoners had made every reasonable effort to escape.

(Second Session - Navy/Marine Corps Position - Continued)

The word "parole" was not understood by a significant number of returnees. The study groups noted however, that this word is specifically defined in the instructional material published beneath Article III of the Code of Conduct and is the primary topic of Article 21 in the Geneva Conventions. This points again to inadequate training in support of the Code of Conduct, CDR Colgan said.

The study group found no substantive basis for changing the existing language of Article III.

Dr. Shields asked, were the early releasees in fact paroled? The North Vietnamese said, no, these are outright releases, there's no parole involved whatsoever, these men are free to do whatever they want. North Vietnam suggested that we should be guided by the Geneva Conventions, however, which state they shouldn't be sent back to the war again but there were no conditions of their release; their releases are outright, unconditional releases. COL Day said, however, that one of the conditions of their release was the fact that they signed a statement saying that they would not come back and fight which is basically what parole is all about. But some of the individuals stated that they had signed nothing, Dr. Shields said. The discussion ended when Dr. Shields said that clarification of the SRO's authority is very important because the early releasees were devastating to the morale of the men who stayed behind.

ARTICLE IV

Some have suggested that at the beginning of the second sentence, "To the utmost of my ability" be inserted so it would read: "To the utmost of my ability I will give no information or take part in any action which might be harmful to my comrades." This was rejected by the group because the addition might serve to weaken the obligation somewhat.

The problem of determining just who was senior during a prolonged period was quite significant. The Navy/Marine Corps study group did not attempt to develop a policy in the belief that this was beyond the scope of their charter. There may be a need to establish a DoD policy on seniority determination in prolonged imprisonment situations, however.

Regarding the portion of the Article which states "I will obey the lawful orders of those appointed over me. . .", most POW's obeyed SRO orders willingly.

Rear Admirals' Stockdale and Denton stated the case clearly in words to the effect, "In a POW situation, the senior ranking officer's word must be law." The study group found that from the wording of the instructional material printed beneath Article IV which reads "The senior

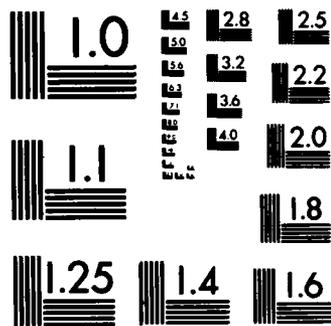
(Second Session - Navy/Marine Corps Position - Continued)

line officer or noncommissioned officer within the prisoner of war camp or group of prisoners will assume command according to rank or precedence without regard to service. This responsibility and accountability may not be evaded. " It was clearly the intent of the 1955 Defense Advisory Committee, and President Eisenhower in issuing the Executive Order which promulgated the Code, that it is incumbent upon all who are junior to the SRO to obey his lawful orders, without regard to service affiliation.

The Code of Conduct is advisory in nature and morally binding, not legally binding. As pointed out by the Judge Advocate General of the Navy in his memorandum to the study group, there is conflict between this "without regard to service" feature of the Code of Conduct on the one hand, and the Uniform Code of Military Justice and Manual for Courts-Martial, 1969, on the other. Basically, Article 90 of the Uniform Code of Military Justice prohibits a member of the Armed Forces from disobeying the orders of his superior commissioned officer. The Manual for Courts-Martial provides that a senior member of service is to a junior member of the same service, "His superior commissioned officer," for the purposes of Article 90 of the Uniform Code of Military Justice, by virtue of rank alone. The Manual for Courts-Martial however, interprets the Article 90, UCMJ phrase, "His superior commissioned officer," as requiring more than superiority in rank alone if the two individuals are not members of the same service. The pertinent interpretive language of the Manual for Courts-Martial is as follows; with respect to a person who is a member of one armed force, a commissioned officer of another armed force who is duly placed in the chain-of-command over that person is, within the meaning of Article 89 and 90, "his superior commissioned officer," but an officer of another armed force would not be "his superior commissioned officer" merely because of higher rank. The Navy/Marine study group concurred with the Judge Advocate General's opinion that in a POW situation where the senior POW is a commissioned officer and the camp population is composed of members of different services, the existence of a command relationship between the senior POW and POW's of other services is essential to the enforcement of the authority of the senior POW over other POWs. The study group believes that to remove this inconsistency will clarify the legal authority of the SRO to the extent required. This can best be done by the promulgation of an executive order designed for that purpose. A proposed Executive Order was included in the Navy/Marine report.

Discussion followed pertaining to methods used by the POW's in Vietnam to determine seniority - such as using the POW with the earliest date of shoot down (capture).

Maj Van Ryzin then continued the brief.



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

(Second Session - Navy/ Marine Corps Position - Continued)

Post presentation discussion began with conversation concerning the carrying on of resistance in a POW camp as being in conflict with the spirit and intent of the Geneva accords. If we're silent on it, in future wars some prisoners may feel justified in conducting espionage and sabotage, the Vice Chairman said. COL Day said that as far as he's concerned, if the enemy breaches the provisions of the Geneva Conventions then the prisoner is not bound by any of its provisions either. This led into the point, however, by Dr. Shields that by very closely adhering to the provisions of the Geneva Conventions ourselves during the Vietnam conflict, we used it as a gauge to which their treatment of our POW's should be concerned. This was the only thing we had to appeal to world public opinion, he said.

The difficulty then, the Chairman said, concerns the phrase, "I will continue to resist by all means available" in Article III. We'll have to examine that, he said.

Next, the question was raised about the portion of the Code which states, "I will make no oral or written statements disloyal to my country and its allies or harmful to their cause." Does the portion previous to this, "I will evade answering further questions to the utmost of my ability" apply? After much discussion Maj Van Ryzin said that although the study group made no recommendation to change the wording of Article V that research of the apparent intent of the drafters of the Code led the group to resolve that oral or written statements signed or issued under extreme duress was not a violation of Article V.

Some discussion followed reflecting the bitterness felt as a result of the decision not to prosecute the POW's who were members of the so called "peace committee." The Chairman expressed his concern about the fact that the Code has no legal backing and therefore, seemingly, a person can violate the Code with impunity. It's a matter of proof Dr. Shields said. Also, there is the "hang-up" concerning the authority of the SRO not being supported by the MCM, MAJ Van Ryzin said, in cases where different services were involved. It seems to me the phrase "to the utmost of my ability" is too subjective, CAPT Coskey said. "I think we're really talking about morality," COL Day said. We're talking about a POW's compliance in a moral way of giving the enemy nothing other than that required ordinary standards of international law - name, rank, and serial number, and date of birth; that's a Geneva Conventions requirement. Then, the part which says, "I will make no statements that are disloyal," its a legal statement. It says you will not commit treason. All the charges should have been made based on the last line of Article V, he said. The discussion ended at that point.

CDR Colgan stated that all the recommendations of the Navy/Marine Corps study group end on the point that the President sign a new Executive Order concerning SRO authority.

FINDINGS

- o MAJORITY OF USN/USMC POW'S:
 - CONSIDERED THE CODE OF CONDUCT A VALUABLE AND NECESSARY INDIVIDUAL CANON OF ETHICS AND A READY CONSCIENCE TO INFLUENCE POW BEHAVIOR
 - INDICATED THAT ARTICLES II, III, IV AND V WERE SUBJECT TO MISINTERPRETATION
 - ACKNOWLEDGED SIGNIFICANT TRAINING DEFICIENCIES IN:
 - * CODE OF CONDUCT
 - * GENEVA CONVENTIONS
 - * USMC/NAVY REGULATIONS

FINDINGS (cont).

o WITH ADEQUATE, SUPPORTIVE TRAINING, NO CONFLICTS EXIST BETWEEN THE CODE OF CONDUCT AND:

- GENEVA CONVENTIONS

- UCMJ

o INCONSISTENCIES EXIST BETWEEN THE CODE OF CONDUCT AND:

- NAVY REGULATIONS, I. E. TRAINING ORIENTED PRIMARILY FOR ENLISTED PERSONNEL AND DUTIES AND RESPONSIBILITIES OF NAVAL PERSONNEL AS POW'S NOT DEFINED

- MCM PERTAINING TO SRO AUTHORITY

o PROVISIONS OF DOD DIRECTIVE 1300.7

- NOT CURRENTLY PROMULGATED WITHIN THE NAVY

- NEEDS FURTHER AMPLIFICATION

FINDINGS (cont.)

o THE CODE OF CONDUCT IS ABSOLUTELY CLEAR IN SPIRIT AND INTENT

WITH REGARD TO THE PREVENTION/REDUCTION OF POW:

— COLLABORATION

— ACCEPTANCE OF PAROLE

— "RATTING" ON FELLOW PRISONERS

— FAILURE TO ORGANIZE OR TO

ADHERE TO POW ORGANIZATIONS

— FAILURE TO RENDER MUTUAL SUPPORT

— FAILURE TO ATTEMPT ESCAPE

RECOMMENDATIONS

FOR THE SECRETARY OF DEFENSE

- o THAT CHANGE IN EXISTING CODE OF CONDUCT OR ORIGINAL INSTRUCTIONAL MATERIAL IS NOT RECOMMENDED.
- o THAT DOD DIRECTIVE 1300.7 BE REVISED AS RECOMMENDED IN THIS REPORT.
- o THAT THE PROPOSED EXECUTIVE ORDER CONTAINED IN THIS REPORT WHICH ESTABLISHES THE AUTHORITY OF THE SENIOR OFFICER IN A POW SITUATION BE FORWARDED FOR SIGNATURE BY THE PRESIDENT OF THE UNITED STATES.

CONCLUSIONS

- o THE CODE OF CONDUCT IS A NECESSARY AND UNIVERSALLY APPLICABLE CREED
- o ARTICLES II, III, IV AND V WERE FREQUENTLY MISUNDERSTOOD BY POW'S
- o SUPPORTIVE TRAINING IN THE CODE OF CONDUCT IS NONSTANDARD, INSUFFICIENT WITHIN THE ARMED FORCES AND A PRIME CONTRIBUTOR TO POW MISUNDERSTANDINGS
- o STATUS AND AUTHORITY OF THE SENIOR OFFICER SHOULD BE ESTABLISHED FOR ALL SERVICES
- o CHANGE TO THE PRESENT CODE OF CONDUCT IS NEITHER REQUIRED NOR RECOMMENDED
- o DOD DIRECTIVE 1300.7 SHOULD BE REVISED TO INCLUDE ADDITIONAL SUPPORTING INSTRUCTIONS

SUMMARY

Third Session, 11 May, 1976

Summary of administrative remarks:

- The Chairman announced that Assistant Secretary of Defense (Public Affairs), the Hon. William I. Greener, Jr., had passed on the request that if any one member or participant of the DoD Committee reviewing the Code of Conduct was contacted by the press, that person should refer the press to Mr. Greener's office.

Summary of the Air Force Review of the Code of Conduct (presented by Major R. Winstead, USAF, Deputy Directorate for Plans & Policy and LTC Wolfer, Program Coordinator, Southeast Asia Captivity Analysis).

- In response to OASD(M&RA) tasking; on 5 August, 1974, the Air Force presented its position on the Code of Conduct which could be summarized as follows:

- a. That the Code be reaffirmed as the standard of conduct toward which the U.S. fighting man should strive while in combat or hostile detention.
- b. That DoD Directive 1300.7 and implementing Service Directives be revised to ensure common guidance and consistent training.
- c. That DoD provide a standardized instructional guide on proper interpretation of the Code, and direct its use in Service training programs.
- d. That Articles III and V of the Code, concerning surrender, escape, parole, resistance and divulging information, be clarified in DoD Directive 1300.7, and consistently applied in Service training programs.
- e. That Articles III and V of the Code be considered for change.
- f. That, if necessary, the UCMJ (E.O. 11476) be amended to make it clear that the senior ranking military officer, regardless of Service, has authority over all U.S. military personnel in a POW camp.
- g. That any changes to the Code be undertaken only by a body of equivalent stature with the 1955 Advisory Committee.

Since that time the Air Force has continued researching past captivity experiences in preparation for its presentations to this important Committee, MAJ Winstead said. Research has not led to any changes in the Air Force position.

The findings of the Air Force's analysis program was then presented to the Committee.

FIRST ISSUE: Should the Code of Conduct be revalidated?

The conclusion has been that throughout Southeast Asia captivity experience that the Code of Conduct has served as a useful and necessary personal standard for guiding the behavior of captive U.S. military personnel.

(Third Session - AIR FORCE POSITION - continued)

RECOMMENDATION: That the Code of Conduct be reaffirmed as the standard toward which the U.S. fighting man should strive while in combat or hostile detention, with the understanding that it is a guide for surviving captivity with integrity, dignity, and self-respect.

SECOND ISSUE: Is there a conflict between the GCPW and the Code?

Our conclusions were that the GCPW is premised upon a basic assumption that a PW is no longer a threat to the detaining power, and, therefore, should be treated humanely. PW actions which reaffirm this premise may help alleviate mistreatment or de-politicize PW issues. Although a PW is expected to resist exploitation, the Air Force does not regard combative resistance, pointless harassment of the captor, or the maintenance of hostile confrontation prudent, neither from the standpoint of the PW health and welfare nor as conducive to maintenance of the spirit and intent of the GCPW. Neither is it believed that resistance was the intent of the drafters of the Code when they encouraged PW's "to resist by all means available." The Code of Conduct is written in terms related to and drawn from combat situations to which the GCPW is applicable. Although the Code's precepts are aids to captives in non-combat situations, a clear distinction as to the Code's specific applicability is essential. Literal interpretation of the Code could cause serious international problems to the U.S. over peacetime detainee actions, specifically in the areas of evasion and escape.

RECOMMENDATION: That Code of Conduct directives and guidance specify that resistance "by all means available" prescribes the maintenance of trust, honor and integrity among PWs and discourages fraternization with the enemy. Unnecessary harassment or creation of pointless hostility which causes captor repression or discipline should be avoided. Representation of grievances, or even dramatization of those grievances, however, must be distinguished from resistance to exploitation. Specific DoD policy guidance is required on peacetime detention conduct.

THIRD ISSUE: Is the Code of Conduct legally binding? Almost 36% of returned Air Force, Navy, and Marine Corps PW's surveyed by the Air Force in January 1974 construed the Code to be legally binding, if not already so, by reference to it in the Uniform Code of Military Justice. Various training documents have referred to the Code as a "binding military obligation," and have alluded to the consequences of not holding to name, rank, service number, and date of birth in disclosing information to the enemy. Many trainees have been led to believe that nonadherence to the Code constitutes a violation of an executive order and, therefore by implication, "the law." The Air

(Third Session - AIR FORCE POSITION - continued)

Force concludes that the Code was intended from its inception to be a standard of personal, ethical, moral conduct; not a vehicle for punitive enforcement. Articles 92, 104, 105 and 134 of the Uniform Code of Military Justice adequately define the behavior expected of U.S. military personnel in captivity. Additionally, the UCMJ is adequate to deal with cases of misconduct by RPWs.

RECOMMENDATION: That DoD Directive 1300.7, Service Code of Conduct directives, and training programs be revised as necessary to emphasize the parallel but separate nature of the UCMJ and the Code of Conduct and also emphasize that the Code is not legally binding. Should a determination be made by DoD legal authorities that the UCMJ does not satisfactorily embody legal constraints upon captivity behavior, consideration should be given to modifying the UCMJ and Manual For Courts-Martial to incorporate such constraints, specifying punitive sanctions for misconduct in captivity.

At this point the Chairman asked if the Air Force examined the issue as to whether or not the UCMJ does provide adequate constraints. MAJ Winstead said that the present UCMJ is adequate to handle cases of misconduct.

FOURTH ISSUE: Does the Code of Conduct interpretation require clarification?

Conclusions were that the GCPW prohibits coercion. PW's held in North Vietnam, at least, were continuously coerced and confronted with the dilemma of deciding which types of enemy exploitation were the most important to resist, given the captor's demonstrated ability and willingness to coerce compliance. Some PW's established a hierarchy of resistance based upon the relative potential harm of the enemy demand. They applied a doctrine which was called in the Fourth Allied POW Wing, "minimizing enemy net gain," the PW's resistance was calculated to reduce the eventual degree of compliance and/or disclosure under coercion. Ruses and stratagems of resistance were used by PW's before reaching the limits of endurance in frequently successful attempts to minimize the enemy net gain.

RECOMMENDATION: That the DoD and Services undertake necessary revisions of all Code of Conduct directives and training policies to insure: 1) correct interpretation of the Code, and 2) that such interpretation provide the standard upon which service training programs are uniformly structured or based.

FIFTH ISSUE: Should early release be condoned?

Conclusions were that North Vietnam did not adhere to the provisions of the GCPW procedure for release prior to the cessation

(Third Session - AIR FORCE POSITION - continued)

of hostilities --namely, release of sick and wounded followed by those who have been held captive the longest. The authors of the Code clearly intended that PW's should not bargain for their release, or otherwise obtain release under conditions not prescribed by the GCPW. "Early release" which does not involve parole or bargaining, has never been discouraged. Early releases of PW's from North Vietnam, however, based upon initiatives taken by the captor and not involving cases of parole or bargaining per se, were regarded by the majority of PW's who returned later as being destructive to PW morale, contrary to SRO directives, and contributory to North Vietnamese propaganda.

RECOMMENDATION: That Code of Conduct interpretations which emphasize early release and complies with the provisions of the GCPW be encouraged. Any other form of early release, save expulsion, should not be condoned unless specifically directed by the SRO for the purpose of protecting health and welfare, preventing the exploitation of the individuals involved, or conveying intelligence. If it is determined that this distinction cannot be adequately made in training, consideration should be given to changing Article III of the Code to read, "If I am captured, I will continue to resist by all means available. I will neither negotiate my own release nor accept parole or special favors from the enemy."

SIXTH ISSUE: Should Articles III and V of the Code be considered for rewording?

Applications of the Code of Conduct to resistance in Southeast Asia were complicated by persistent confusion over vague terminology. Article V is the most vague when the meaning of the qualifiers: "bound only" or "evade answering" or "utmost of my ability" or "no statements which are harmful," are interpreted without reference to DoD Directive 1300.7, which most people consider inadequate in explaining those particular references. Framers of the Code seemed to have in mind "bound only" as referring to the fact that a PW is required to give his name, rank, service number and date of birth to his captor in order to establish his PW identity as prescribed by the GCPW. The Code precludes a PW's communication with a captor about items which would adversely affect his country or its allies, be harmful to their cause, or that would be harmful to fellow PW's. PW discussions about health, welfare, and routine camp administration are authorized by the GCPW. The Code also states that, "I will evade answering further questions to the utmost of my ability." Some questions will obviously be more significant than others, and "to the utmost of my ability" will depend on variables such as the captives' health, hunger, pain tolerance, and frame of mind - all of which are subjectively determined. Moreover,

(Third Session - AIR FORCE POSITION - continued)

the phrase "to the utmost of my ability," in the opinion of the Air Force researchers who have studied this problem, directly modifies "evade answering" wherein the meaning of "evade" is key to the obligation. Ruses and stratagems of resistance are the tools which should be employed to "evade" answering inappropriate or harmful questions. Their use could minimize the captor's gain and reduce harm to the PW, his colleagues, country, and their mutual cause.

RECOMMENDATION: If serious consideration is given to altering the wording of the Code, Article V should read, "When questioned, should I become a prisoner of war, I am required to give my name, rank, service number, and date of birth. To the utmost of my ability, I will evade answering further questions or making oral or written statements disloyal to my country and its allies or harmful to their cause." Code of Conduct directives and guidance should be amended to amplify and fully explain the meaning of the Code of Conduct's terminology to assure that semantics and the language of the Code will not cause misinterpretations.

SEVENTH ISSUE: Does the Code of Conduct demand that a PW escape?

Conclusions were that some PWs believed that the Code of Conduct established obligations to escape whenever and however possible. Due to captor retaliation for a 1969 escape attempt, senior PWs held in North Vietnam developed a policy which required potential escapees to obtain prior approval from the SRO. It first established that the planned escape had a reasonable chance of success without jeopardizing PWs who stayed behind. A controversy over the conditions and sanctions for escape caused divisiveness within the PW community.

RECOMMENDATION: That Code of Conduct interpretations and training should reflect the desirability of escape under all conditions. Escapes from communal captivity, where remaining prisoners could be affected by enemy reprisals, should be approved by the SRO with the advice of the "escape committee."

EIGHTH ISSUE: Does the Senior Ranking Officer (SRO) status/authority require clarification?

Conclusions were that the Code directs that the senior ranking person take command. Those junior are to obey his lawful orders and back him up in every way. In a number of instances, determination of seniority was complicated by the length of captivity in Southeast Asia and different promotion cycles among the Services. In one instance, those senior were unaware that, in fact, they were SROs. In one instance, an SRO in one service was not recognized by junior personnel of another service, an issue for clarification outside the

(Third Session - AIR FORCE POSITION - continued)

purview of the Code of Conduct. The existing legal mechanism of PW captivity misbehavior is adequate. The SRO should not be given in-camp courts-martial authority. The strict rules of evidence for courts-martial are likely to continue to inhibit the prosecution of captivity misconduct cases in which prima facie evidence is lacking. A post release board of inquiry might act to discourage misconduct in future captivity situations.

RECOMMENDATION: Training programs should continue to emphasize that the senior ranking officer is senior regardless of his Service affiliation and that he is the U.S. command authority in camp. If changes are required to the UCMJ or MCM to support this position, they should be made. Although the Air Force does not recommend any particular system for determining seniority during long periods of captivity, a system which assures continuity of command is essential. A DoD system should be developed in conjunction with the Services and subsequently explained in training programs. Consideration should be given to convening a board of inquiry to review allegations of misconduct following each captivity situation. Training should emphasize that an SRO's primary responsibility is representing the total group and promoting their welfare, consistent with the Geneva Conventions for the Protection of Prisoners of War.

NINTH AND FINAL ISSUE: Should the Code of Conduct Training Directives be revised?

Our conclusion was the lack of uniform Code of Conduct training as well as specific DoD policy guidance has perpetuated the Code interpretation dilemma. Training requirements should be revised.

RECOMMENDATION: Uniform Code of Conduct interpretations by all Services should be clarified through standardized training and indoctrination. DoD Directive 1300.7 should be revised to insure uniformity. DoD should monitor Service Code of Conduct training programs to assure standardization and compliance. In addition, a standardized Code of Conduct training aid is recommended. Joint Service, Survival, Evasion, Resistance, and Escape, SERE training is neither practical or desirable, however, because of unique Service training requirements. The Services should make the necessary revisions to their Code of Conduct directives, training policies, training curricula, and evasion and escape manuals, 1); to explain the approved DoD interpretation of the Code, and 2); to insure that training programs comply.

Dr. Shields then expressed his opinion that it might be better to change the actual wording of the Code to better explain its meaning. He expressed concern that the training should be consistent with the wording of the Code. MAJ Winstead responded that the original drafters

(Third Session - AIR FORCE POSITION - continued)

of the Code provided interpretation of each of the original articles. Training can sufficiently provide the proper interpretation of the Code such as the issue concerning escape, he said.

The Chairman asked, at the conclusion of the presentation, did the Air Force feel that the Code, as it is presently written, accommodates the broad spectrum of abilities and educational backgrounds of people entering the Service? MAJ Winstead replied that the Air Force evaluation of the Code itself is satisfactory in its present form; it is understandable by individuals if not interpreted separate from 1300.7. LTC Wolfer said, however, that interpretations of the Code had been different by the various Services implying that the training in regards to the meaning of the Code had to be standardized.

At the conclusion, slides presenting a summary of the Air Force recommendations were displayed, as reproduced on the following pages:

(Third Session - AIR FORCE POSITION - continued)

A SUMMARY OF THE AIR FORCE RECOMMENDATIONS

A. THAT THE CODE OF CONDUCT BE REAFFIRMED AS THE STANDARD TOWARD WHICH THE US FIGHTING MAN SHOULD STRIVE WHILE IN COMBAT OR HOSTILE DETENTION, WITH THE UNDERSTANDING THAT IT IS A GUIDE FOR SURVIVING CAPTIVITY WITH INTEGRITY, DIGNITY, AND SELF-RESPECT.

B. THAT CODE OF CONDUCT DIRECTIVES AND GUIDANCE SPECIFY THAT RESISTANCE "BY ALL MEANS AVAILABLE" PRESCRIBES THE MAINTENANCE OF TRUST, HONOR AND INTEGRITY AMONG PWS AND DISCOURAGES FRATERNIZATION WITH THE ENEMY. UNNECESSARY HARASSMENT OR CREATION OF POINTLESS HOSTILITY WHICH CAUSES CAPTOR REPRESSION OR DISCIPLINE SHOULD BE AVOIDED. REPRESENTATION OF GRIEVANCES, OR EVEN DRAMATIZATION OF GRIEVANCES MUST BE DISTINGUISHED FROM RESISTANCE TO EXPLOITATION.

C. THAT SPECIFIC DOD POLICY GUIDANCE IS REQUIRED ON PEACETIME DETENTION CONDUCT. THE AIR FORCE HAS DEVELOPED A POLICY LETTER ON THIS SUBJECT THAT WAS FORWARDED TO OASD/M&RA. ADMIRAL FINNERAN OASD/M&RA MILITARY PERSONNEL POLICY INDICATES IT WILL BE REVIEWED AFTER THIS COMMITTEE'S DELIBERATIONS ARE COMPLETED. THE AIR FORCE CONSIDERS IT AN APPROPRIATE PART OF THESE UNDERTAKINGS AND IS PREPARED TO ASSIST IN WHATEVER MANNER IS APPROPRIATE.

D. THAT DOD DIRECTIVE 1300.7, SERVICE CODE OF CONDUCT DIRECTIVES, AND TRAINING PROGRAMS BE REVISED AS NECESSARY TO EMPHASIZE THE PARALLEL BUT SEPARATE NATURE OF THE UCMJ AND THE CODE OF CONDUCT AND THAT THE CODE IS NOT LEGALLY BINDING. SHOULD A DETERMINATION BE MADE BY DOD LEGAL AUTHORITIES THAT THE UCMJ DOES NOT SATISFACTORILY EMBODY LEGAL CONSTRAINTS UPON CAPTIVITY BEHAVIOR, CONSIDERATION SHOULD BE GIVEN TO MODIFYING THE UCMJ/MCM TO INCORPORATE SUCH CONSTRAINTS, SPECIFYING PUNITIVE SANCTIONS FOR MISCONDUCT IN CAPTIVITY.

E. THAT THE DOD AND SERVICES UNDERTAKE NECESSARY REVISIONS OF ALL CODE OF CONDUCT DIRECTIVES AND TRAINING POLICIES TO INSURE (1) CORRECT INTERPRETATION OF THE CODE AND (2) THAT SUCH INTERPRETATION PROVIDE THE STANDARD UPON WHICH SERVICE TRAINING PROGRAMS ARE UNIFORMLY STRUCTURED/BASED.

F. THAT CODE OF CONDUCT INTERPRETATIONS EMPHASIZE EARLY RELEASE WHICH COMPLIES WITH THE PROVISIONS OF THE GCPW IS ENCOURAGED. ANY OTHER FORM OF EARLY RELEASE, SAVE EXPULSION, SHOULD NOT BE CONDONED UNLESS SPECIFICALLY DIRECTED BY THE SRO FOR THE PURPOSES OF PROTECTING HEALTH AND WELFARE, PREVENTING THE EXPLOITATION OF THE INDIVIDUALS INVOLVED, OR CONVEYING INTELLIGENCE.

(Third Session - AIR FORCE POSITION - continued)

G. IF IT IS DETERMINED THAT THIS DISTINCTION CANNOT BE ADEQUATELY MADE IN TRAINING, CONSIDERATION SHOULD BE GIVEN TO CHANGING ARTICLE III OF THE CODE TO READ:

"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 NEITHER NEGOTIATE MY OWN RELEASE NOR ACCEPT SPECIAL FAVORS FROM THE ENEMY."

H. IF SERIOUS CONSIDERATION IS GIVEN TO ALTERING THE WORDING OF THE CODE, ARTICLE V SHOULD READ: "WHEN QUESTIONED, SHOULD I BECOME A PRISONER OF WAR, I AM REQUIRED TO GIVE MY NAME, RANK, SERVICE NUMBER, AND DATE OF BIRTH. TO THE UTMOST OF MY ABILITY, I WILL EVADE ANSWERING FURTHER QUESTIONS OR MAKING ORAL OR WRITTEN STATEMENTS DISLOYAL TO MY COUNTRY AND ITS ALLIES OR HARMFUL TO THEIR CAUSE."

I. CODE OF CONDUCT DIRECTIVES AND GUIDANCE SHOULD BE AMENDED TO AMPLIFY AND FULLY EXPLAIN THE MEANING OF THE CODE OF CONDUCT'S TERMINOLOGY TO ASSURE THAT SEMANTICS OF THE LANGUAGE WILL NOT CAUSE MISINTERPRETATIONS.

J. THAT CODE OF CONDUCT INTERPRETATIONS AND TRAINING SHOULD REFLECT THE DESIRABILITY OF ESCAPE UNDER ALL CONDITIONS. ESCAPES FROM COMMUNAL CAPTIVITY, WHERE REMAINING PRISONERS COULD BE AFFECTED BY ENEMY REPRISALS, SHOULD BE APPROVED BY THE SRO WITH THE ADVICE OF THE "ESCAPE COMMITTEE."

K. TRAINING PROGRAMS CONTINUE TO EMPHASIZE THAT THE RANKING OFFICER IS SENIOR REGARDLESS OF HIS SERVICE AFFILIATION AND THAT HE IS THE US COMMAND AUTHORITY IN CAMP. CHANGES MUST BE MADE TO THE UCMJ/MCM TO SUPPORT THIS POSITION.

L. ALTHOUGH THE AIR FORCE DOES NOT RECOMMEND ANY PARTICULAR SYSTEM FOR DETERMINING SENIORITY DURING LONG PERIODS OF CAPTIVITY, A SYSTEM WHICH ASSURE CONTINUITY OF COMMAND IS ESSENTIAL. A DOD SYSTEM SHOULD BE DEVELOPED IN CONJUNCTION WITH THE SERVICES AND SUBSEQUENTLY EXPLAINED IN TRAINING.

M. CONSIDERATION SHOULD BE GIVEN TO CONVENING A BOARD OF INQUIRY TO REVIEW ALLEGATIONS OF MISCONDUCT FOLLOWING EACH CAPTIVITY SITUATION.

N. TRAINING SHOULD EMPHASIZE THAT AN SRO'S PRIMARY RESPONSIBILITY IS REPRESENTING THE TOTAL GROUP AND PROMOTING THEIR WELFARE, CONSISTENT WITH THE GCPW.

(Third Session - AIR FORCE POSITION - continued)

O. UNIFORM CODE INTERPRETATIONS BY ALL SERVICES FOR STANDARDIZED TRAINING OR INDOCTRINATION. DOD DIRECTIVE 1300.7 SHOULD BE REVISED TO INSURE UNIFORMITY. DOD SHOULD MONITOR SERVICE CODE OF CONDUCT TRAINING PROGRAMS TO ASSURE STANDARDIZATION/COMPLIANCE. IN ADDITION, A STANDARDIZED CODE OF CONDUCT TRAINING AID IS RECOMMENDED. JOINT SERVICE SERE TRAINING IS NEITHER PRACTICAL OR DESIRABLE, HOWEVER, BECAUSE OF UNIQUE SERVICE TRAINING REQUIREMENTS.

P. THE SERVICES SHOULD MAKE THE NECESSARY REVISIONS TO THEIR CODE OF CONDUCT DIRECTIVES, TRAINING POLICIES, TRAINING CURRICULA, AND EVASION AND ESCAPE MANUALS TO (1) EXPLAIN THE APPROVED DOD INTERPRETATION OF THE CODE, AND (2) INSURE THAT TRAINING PROGRAMS COMPLY.

MAJ Winstead then gave each Committee Member a handout, a memorandum for the Secretaries of the Air Force, Army, and Navy - subject: Peacetime Conduct of Military Personnel.

The Committee's Deputy Executive Secretary, LTC Charles Gomon, USA, then presented a summary of the Services' positions which, he said, offer broad areas of substantive agreement. Although there are "several sticky exceptions," variations are primarily differences in emphasis or methodology, LTC Gomon said. There seems to be agreement concerning the validity and usefulness of the Code when properly interpreted. Changing of the Code into law is considered undesirable by all the Services. It is agreed that DoD Directive 1300.7 needs revision. Describing the status of civilians in captivity together with military personnel is another area of potential agreement, he said, as is the need for a clear definition of the extent of the SRO's authority. There is disagreement, however, whether or not to change the wording of the Code with the Army's position being that a change is essential, with the Navy holding that wording changes are undesirable, and with the Air Force preferring no changes, but if changes are made then the Air Force has some suggestions as to where the changes should be considered.

(Third Session - continued)

COL Arnold then announced the Committee's individual working groups and their tasks that he and Vice Chairman, LTGEN Albert P. Clark, USAF (Ret), had arranged. COL Arnold gave each Committee Member the following handouts:

- a. Working groups
- b. Working group assignments
- c. Sample issue sheet
- d. General Issues
- e. Code of Conduct Articles
- f. Training Policy Issues

COL Arnold announced that the historical file of the original 1955 Code of Conduct Committee was available in Pentagon 1-D-537, the Secretariat's office space.

Vice Chairman requested that all Committee Members keep the Executive Secretary informed of where and when the working groups would meet because he would like to participate.

Chairman Ahearne announced that LTGEN Clark will essentially act as the nominal Chairman of the sub-groups.

Dr. Roger Shields, Chairman of the Interviewee Sub-committee, presented the sub-committee's findings and lists of possible interviewees listed on the handouts to each Committee Member.

The Chairman asked if Dr. Shields had thought about how to extend the invitations to interviewees and on what basis the interviewees were chosen. The Chairman also asked if there was a possibility of statements from interviewees if they could not attend a Committee session.

The Vice Chairman suggested that the Committee know the particular type of questions each interviewee should be asked based on the individual's experience.

Dr. Shields suggested that it would be possible for a working group to meet with an interviewee but the optimum is for the full Committee to hear each invited interviewee.

The Vice Chairman suggested that in order to obtain a broader view, alternates should be injected, even early in the testimonies, in the event the primary interviewees may not be able to attend.

SUMMARY

FOURTH SESSION, 13 MAY 1976

Summary of Discussion:

The Chairman stated that this session would consist of working group progress reports. The first progress report was presented by COL Day of the working group on "Training Policy Issues" chaired by BGEN Charles E. Canedy, USA. COL Day referred to the training policy issues discussed during the first session:

1. Variations between Services in interpreting the Code of Conduct; need for common policy guidance and doctrine as well as revision of DoD Directive 1300.7.

The Services were unanimous in seeking changes to DoD Directive 1300.7. The Navy has already presented a proposed revision and the Working Group has tasked the other Services to submit their proposed revision by 26 May.

2. Inadequacies of SERE (Survival, Evasion, Resistance, and Escape) Training related to Code of Conduct according to returnees.

We don't know at this stage where we stand, on this issue COL Day said, so the Services have been tasked for a briefing. There's a great variance within the Services as to who gets what training. We're interested in the application of the amount and quality of training.

3. Need for better dissemination of information (pre-capture) regarding government assistance to families POW/MIA's and efforts to be expected from government to obtain release of POW's.

This is a POW morale factor of the highest order. Again, we have asked the Services to address this area. Pertaining to government efforts toward release, COL Day said, the answer is simple, as recommended by the 1955 Committee, when the conflict is over or we withdraw we should take our prisoners back "straight away". Since that has not happened in the recent past and is not likely to happen in the future, we are looking for alternatives plans to assist those people who wind up in captivity.

4. Need for OSD-level watchdog (officer or committee) to monitor SERE Training of the Services, in support of the Code of Conduct, to preclude variant interpretations.

Despite the fact that the original guidance of the 1955 Executive Order and DoD Directive 1300.7 are quite clear, the Services basically went their own way. It appears therefore that uniformity will have to be insured through high level review in the future,

(Fourth Session-Discussion-Continued)

such as by a standing committee. (At this point the Chairman recommended consideration of the organization called ITRO, Interservice Training Review Organization. COL Day said that they would.)

5. To what extent should the content and scope of Code of Conduct instructions (initial training and subsequent instruction) be controlled or evaluated by DoD? How should civilian instruction (State Dept. and others) be coordinated with DoD's?

The working group determined that control in regards to policy definition should be established by DoD.

The portion dealing with civilians is a highly significant problem, especially when viewed in light of the possibilities that exist in Europe of a Warsaw Pact surprise attack. We have asked the Services what they are doing in this regard and are trying to ask the State Department for some advice. We also intend to ask the civilians at the DoD level what they are doing and what they should propose. This problem did create considerable difficulty in Vietnam.

6. Effectiveness of training programs for reserve components and for "pre-Service personnel" (civilians who may serve in the Armed Forces).

Many of the reserves are first line forces in that they are immediate fillers should a war break out. Therefore, whatever policy applies to the regular forces will have to apply to the reserve forces. We will be taking a look at how that's administered and report on that subject.

7. Assessment of present and likely future methods of PW interrogative (potential enemy's PW handling techniques).

The Working Group was confused as to what this issue meant. The Chairman explained that we want to make sure that our training techniques aren't merely reacting to past experiences, rather, we should try to perceive what methods of prisoner interrogation will be utilized by the enemy in the future and prepare our men for it.

Dr. Shields brought up in conjunction with this, the problem of whether or not POW's should appear in a propaganda film. It's worthwhile to establish beyond a doubt that an individual has been captured - he's a POW and not MIA - because then we can put the other side on notice that they're responsible for the well-being of that man. But is it the proper thing to do?

The Vice Chairman said the Committee would have to keep track of this as it develops during the Committee's and the Working Group's deliberations but perhaps it could be best handled by a general statement in the report to the effect that as long as our potential

(Fourth Session-Discussion-Continued)

enemies are Communist countries, techniques of handling. POW's can expect to be as experienced in Korea and Vietnam.

To bring the Code of Conduct training, SERE, etc., into perspective, RADM Lawrence mentioned that the Committee should be realistic as to put how much time we can afford to provide for this sort of training in light of other training requirements and priorities. BGEN Canedy said that his working group was sensitive to that issue.

The Vice Chairman brought up another aspect - the psychology of training people how to be losers. Instead of training people to fight to win, how much time are you going to spend on the time an individual has if he loses-if he gives up?

The Chairman expressed his concern that although the Services now have a large number of experts in this area devoted to training or acting as consultants, in another five or ten years the resources might tend to disappear and the level of competence in this area of concern will begin to decrease. COL Day replied that was one of the primary considerations for bringing Mr. Claude Watkins into the program who has a considerable number of years of experience and expertise in this regard.

Dr. Shields brought up the point of the importance of training in regards to evasion as being related to escape, etc. The Chairman said at this time that he has no objections to an addendum of individual member's comments. (to the Committee's report).

RADM Lawrence mentioned that the perspective of the Committee's work to the feelings of society must be kept in mind. I think we have an obligation to point out that being a POW is tough and an individual has to have tough training in order to be equipped to handle it, he said. We've got to subject our young men to this type of training. We've got to address it so it can be made available to Congress and anyone else. Criticism, in general, or legal suits filed for injuries sustained in a POW training compound, as has happened recently, is the price we've got to pay if we're going to have training which will enable our men to perform effectively in a POW situation.

MAJGEN Earl J. Archer, Jr., USAF, alternate for MAJGEN Travis McNeil's, USAF, working group on "General Issues" gave a synopsis of their progress.

COL Arnold made some comments on each of the "General Issues":

1. General revalidation of the Code of Conduct as effective/helpful in accomplishing its purpose.

(Fourth Session-Discussion-Continued)

In their reports and briefings, all the Services considered the Code as valid, but with the caveat that this is so when it is interpreted properly. They also stress that nothing should be done that would de-emphasize the Code or lower its standards.

2. Possible establishment of Code of Conduct as legally binding order.

All of the Services opposed this action. It has been established that there is need in the training, however, to properly place in perspective the separation of the Code, and the UCMJ, and the MCM.

3. Relationship of the Code of Conduct to the Geneva Conventions.

There is confusion regarding the perception of what the Code means in regards to resistance and escape as it is perceived to conflict with the Geneva Convention. The working group will have to review both to determine if there is conflict.

The Chairman told the Committee that there will be both Congressional and public interest on issues #2 and 3 and the final report should be written with that in mind.

COL Day stressed that the Communists continually insisted that the American POW's were criminals and denied them treatment under the Geneva Conventions based on that fact.

One of the training factors that has to be emphasized is that whether we're fighting in a declared war or undeclared war, we are still entitled to treatment under the Geneva Convention if you're a combatant, he said. A lot of our men were confused over that fact.

COL Arnold said that comes under the next issue:

4. Applicability of Code of Conduct in: (A) Conflicts other than declared wars, and (B) peacetime detention situations (e.g., hostile terrorist kidnapping for political exploitation).

The Services have tended to support full time application of the Code without making a differentiation between the terms declared and undeclared wars. There might be some modification in training to cover hostile detention during peacetime conditions as well as during terrorist's acts.

5. Need for expanded troop information program for contrasting Communist ideology with U.S. Democracy.

A lack of knowledge by American POW's concerning democracy and our form of government has been demonstrated in the past. There is

(Fourth Session-Discussion-Continued)

a need, therefore, to better train our forces, so should they become a POW, they can better cope with their first interrogator. The caution that must be used here is that it could be charged as political indoctrination.

The Vice Chairman said there were some efforts of the original 1955 Committee that drafted the Code to have several governmental agencies approach this problem through pre-service schooling. It was agreed this is a difficult task.

6. Need for common, interservice approach to awards, decorations, and fitness/efficiency reports for POW's.

There was a divergence among the criteria used by each Service as far as recommending and awarding decorations and fitness/efficiency reports for POW returnees, COL Arnold said. This issue was discussed and it was agreed it was a very emotional issue. COL Day related this to SRO authority. He needs some authority to maintain discipline, a "carrot and stick", he said. The ability to write fitness reports would provide the SRO with a bigger stick.

The discussion proceeded to the subject of promotion of POW's - how were they evaluated? If they were in isolation for years - the SRO or anyone - how could anyone evaluate them? The Chairman said he thought this right to be another issue to be addressed by the Committee. When asked if enlisted men were promoted along with their contemporaries as were the officers, Dr. Shields said he thought so. However, there were cases where the men became prisoners but they were listed as deserters. It was difficult to confirm; this then leads into the question of family support, he said. The Vice Chairman expressed his opinion that we ought to be very careful about giving anything that can be interpreted as a reward - such as protection - to anyone in a POW status. But you have to consider the support of a man's family who's been held captive for long periods of time, Dr. Shields said. One of the most important concerns to the returnees was that they not be penalized for being prisoners.

RADM Lawrence said we have to be very careful about blowing the POW situation all out of perspective. We've lost a lot of political leverage with our POW's in the past. You've got to accept that you're going to have POW's, they're a normal happenstance of war and that's it. Don't make any more out of it than that. But it's not necessarily benefits we're talking about but equity - an equitable situation, Dr. Shields said.

7. Determination as to whether there should be a periodic review of the Code of Conduct, eg., every four, five, ten years.

The Code was apparently reviewed several times after originally issued but the process deteriorated until the Vietnam conflict when the subject was raised again. It was decided to forestall any re-

(Fourth Session-Discussion-Continued)

view during the war, however, in that any change while people were in captivity would be ill advised. (The implication is that there would be reviews of the Code of Conduct in the future).

As an interjection, the Vice Chairman said that steps should be taken to insure the file of this Committee's proceedings doesn't get lost as was the 1955 file.

RADM Lawrence's Working Group report on Issues with the Articles of the Code of Conduct (Issues 8 thru 10)

RADM Lawrence first stated that he thought there should be an objective assessment by other than the POW's themselves as to how well the POW's performed in Vietnam. MGEN Archer said that it ought to be assumed someone made this assessment in order to bring this group together.

The Chairman said from his viewpoint most of the pressure for this review came from people, including POW's, who found difficulty with the Code either in its practice, its lack of clarity, or the training received pertaining to it. There was no indication whatsoever that this Committee was convened because POW performance wasn't adequate, he said.

RADM Lawrence said that it was quite disappointing to those POW's who worked hard to do the right thing during all those years of captivity only to see those who didn't, go free. This is something we can't overlook in regards to the effect it's going to have on those captured in the future, he said.

The Vice Chairman brought up the confusion over the word "parole" as used in the Code. RADM Lawrence said his group is specifically addressing this. Dr. Shields said this was a real issue because of those who returned early from N. Vietnam none felt he had been paroled. All such returnees said their release was unconditional. The POW's left behind had different views on it, however. We have to distinguish the difference, he said.

BGEN Schulze's Working Group report on Issues with Articles of the Code of Conduct (Issues 11 thru 13)

MAJ Van Ryzin, alternate for BGEN Schulze, stated that the General had not yet held a formal meeting, but he had directed the group review Articles I, II, V, and VI regarding military non-combatants and Articles II and V to determine the rationale behind Service positions on these articles and how they were conceived by the original 1955 Committee. Also he directed that the development of Articles II and V be studied to determine if non-combatants were discussed by the 1955 Committee. This concluded the working group progress reports.

(Fourth Session-Discussion-Continued)

COL Day then brought up the issue caused by one of the Secretaries who almost totally pre-empted any prosecution of POW's charged with misconduct by making a statement that no one would be prosecuted for statements made in N. Vietnam. When we discuss the binding nature of the Code there's a collateral obligation by the Services and Department of Defense not to impede prosecution such as was done after the Vietnam conflict, he said.

The Chairman responded by saying COL Day had two points: one concerns stressing that the UCMJ remains legally binding and the second concerns to what extent comments can be made toward admonition of any such statements in the future. With the first I see no problems; we will have to think about the second concern, he said.

In answer to a question by the Chairman, Dr. Shields said it was his understanding the Secretary of Defense made that statement based on the opinion of the General Counsel that nothing in the UCMJ would allow anyone to prosecute successfully on the basis of statements alone. It would have to be proved that actual damage occurred to the country as a result. Mr. Holmes said that Dr. Shields was substantially correct.

The Chairman said that the Committee should understand why the statements were made; that's one of the reasons we want to interview the Army JAG, he said.

Then the Committee's Deputy Executive Secretary, LTC Charles Gomon, USA, presented the Committee with a list of proposed questions that interviewees could be asked. Additionally, LTC Gomon presented a slide with 4 confirmed interviewees for the fifth session.

Then the Committee's Executive Secretary, COL Tom Arnold, USAF, presented the Committee with a proposed methodology of questioning.

The Vice Chairman suggested that the record should show that the Committee gave the interviewees the opportunity to say their piece and emphasize the things they want to emphasize. Then, perhaps, during the rest of the period we can target in on the questions we know we want to ask them. I think we ought to be careful not to inhibit them or bias their presentation so they will go away thinking they never had a chance to tell us what they wanted, he said. The Chairman supported this suggestion strongly.

COL Arnold mentioned that the General Counsel was not prepared at this point to discuss the last issue on the agenda concerning the resistance issue vis a vis the Code of Conduct and the Geneva Conventions.

SUMMARY

Fifth Session, 18 May 1976

Summary of interview with RADM James B. Stockdale, USN (Vietnam returnee)

BIOGRAPHICAL SUMMARY

RADM James B. Stockdale, U.S. Navy, was the senior naval officer among Vietnam PW returnees. He was shot down 9 September 1965 while piloting an A-4 Skyhawk on a bombing mission over North Vietnam. He was commander of Attack Carrier Air Wing SIXTEEN operating from the USS Oriskany (CVA-34). He was held captive for 7 years and 7 months. RADM Stockdale was awarded the Medal of Honor for his actions while a PW.

PERTINENT POINTS brought forth included:

- The Code is the correct approach to the POW conduct problem and sweeping changes are not called for. A rewording of Article V was suggested.

"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."

- Has changed his mind since 1973 when he wrote that down. Now recommends the Code not be changed at all - all corrections can be applied during training.

- Inconsistencies between the Code and a "strict construction" interpretation of the Articles of the Geneva Convention. This concerns the Big 4 and letter writing.

- Acceptance of early release by POWs was morally wrong. The SRO should be entrusted to establish release policy. Any statute of limitations should be held in abeyance until release of all POWs.

- Once the SRO establishes a covert organization, he should not, for reasons of security, have the power to override it. If he knows too many details he may reveal them under torture.

- Concerning conflict between the SRO and the Code regarding someone being told not to escape, the SRO should have the power to make the decision.

(Fifth Session - STOCKDALE - continued)

- The fact that a man should understand before he goes into camp that the Code places him under the authority of the SRO should supercede all other provisions of the Code.

- An SRO would be deemed to be incapacitated and should be relieved for cause if:

- 1) he denies or fails to carry out the Code.
- 2) he goes against the Code or military law.
- 3) his emotional instabilities impair his judgement for a prolonged period of time.

The opinion was stressed that there must be a consensus among POW's in camp regarding relief of an SRO for cause.

- No service differences in relation to the understanding of the Code was noticed between the Air Force, the Navy, and the Marines (not having been with Army personnel).

- A more permissive attitude among the later POWs was noticed due to a change in training - such as getting one's name or picture in the papers so that someone at home can recognize you are a POW.

- The Code should not be made punitive in that it is not written like law, but a Presidential order should be made to give the senior officer punitive authority. About 95% of POW's thought the Code was already punitive and "that's what saved us." Now the cat is out of the bag.

POST INTERVIEW DISCUSSION

The point was brought up by COL Waddell, alternate for COL Day, concerning differences in training as related to a "second line of defense" in regard to answering further questions. The Air Force was taught this but apparently the Navy was not.

Another point of discussion concerned the legality of the Code. LTGEN Clark brought up the apparent conflict between the Code and the UCMJ regarding the SRO's authority. Further, in answer to a question by Dr. Shields, Mr. Holmes, alternate for the Hon. R.A. Wiley, said that the UCMJ does not preclude acceptance of parole. Further, Dr. Shields said, regarding RADM Stockdale's comments on the statute of limitations, "there was no statute of limitations."

RADM Lawrence indicated it appeared to him that by the 1970's survival training had been "watered down" in the U.S. or perhaps the late shoot-down had been somewhat intimidated by the torture stories

(Fifth Session - STOCKDALE POST INTERVIEW DISCUSSION - continued)

which had come out of NVN. In this regard, RADM Stockdale observed that the NVN had also learned by 1970 some cleverer ways to handle USPW's.

(Fifth Session - continued)

Summary of interview with COL Robert E. Saksa, USA (Korea returnee)

BIOGRAPHICAL SUMMARY

Colonel Robert E. Saksa, U.S. Army, was wounded and captured by Chinese Communist forces in November 1950 while he was serving as a LT (Weapons Platoon Leader) in the 8th Cavalry Regt., 1st Cavalry Division in Korea. He was held captive for 34 months. He is currently assigned to OJCS, the Pentagon.

PERTINENT POINTS brought forth included:

- As POWs in 1950's they (COL Saksa's POW group) attempted to fall back on what they understood to be the Geneva Convention and along military lines of leadership and chain of command. He stated that they set up an internal organization following the lead of the senior officer of each service and the senior officer of the camp which, in his view, was pretty much the genesis of what was later to become the Code of Conduct.

- "The Code expresses pretty clearly the...fact that a POW camp or a prisoner of war role is just an extension of combat." You shouldn't treat POW's any differently from any other member of the active military forces all over the world. The same leadership demands are placed upon the seniors and the same obedience by juniors is required.

- The first thing the Communists do is break one's group down by class or position in order to destroy their responsibility or authority. "To counter that is really the heart of the thrust of the Code."

- As a mixed group of U.S. Army, Marines, Navy, and Air Force, as well as British and Turkish Forces, there was no problem establishing who was the senior ranking officer nor was there any problem accepting said individual.

- He didn't know if the Code dictated it, but in his opinion, one should resist to the point of death. It's an extension of the battlefield, and it depends on the situation at the time whether a man should resist to the point of death.

- POWs should be expected to get into mischief, intelligence, sabotage, or anything, which causes consternation to the enemy.

(Fifth Session - SAKSA - continued)

- The SRO had approval authority over escape plans and that is the way it should be.
- The wording of the Code is adequate concerning escape.
- Regarding a medical POW, again, the SRO should have the authority to tell him whether or not to join an escape.
- In that they were separated by rank, grade and race, the tragedy was that the necessary leadership or education wasn't there for the lesser enlisted grades.
- In regards to Article II, "I will never surrender of my own free will," "Why quit earlier?" Even if known that, as a POW, I would be treated in accordance with the Geneva Convention, "I would have to be physically restrained before I would surrender."

POST INTERVIEW DISCUSSION - None.

(Fifth Session - continued)

Summary of interview with CAPT Eugene B. McDaniel, USN (Vietnam returnee)

BIOGRAPHICAL SUMMARY

Captain Eugene B. McDaniel, U.S. Navy (pilot), was shot down on May 19, 1967, while on a combat mission over North Vietnam. He was flying an A-6 (Intruder) of Attack Squadron THIRTY-FIVE, operating from the USS Enterprise (CVA(N)-65). He was held captive 4 years and 10 months.

Captain McDaniel is presently the Commanding Officer of the USS Niagara Falls (AFS-3).

PERTINENT POINTS brought forth included:

- The firmer stand one takes initially in resisting interrogations, the better off one is for the long haul.
- Pertaining to the Code, we must deal beyond the "big four" in that we have to deal more with bouncing back. "What's your second line of attack? They can and will break a man." Pertaining to fabricated information such as for an escape, CAPT McDaniel said that the secret is to have a common story between all the people concerned.
- The present high standards as reflected in the Code of Conduct are necessary although POWs should be able to give more than name, rank, serial number, and date of birth.
- The SRO should have the authority to say "no" to an escape attempt.
- A chain of command and loyalty to that hierarchy is important.
- The Code is clear in regards to escape but certain factors must be considered regarding the possibilities of success of such an attempt.
- The wording of the Code should be changed in certain areas to clarify it, considering everything has to be lowered to the lowest common denominator, to clarify it for the two or three individuals who would otherwise abuse the words.

(Fifth Session - McDANIEL - continued)

- There was never any conflict with Air Force officers in the understanding of the Code. However, shoot-downs in '71 and '72 (regardless of Service) seemed to have less strict standards.

- Article II, "I will never surrender of my own free will" is clear enough as is. An individual has to decide, however, whether a .38 pistol is a means to resist an army.

- He had not been trained in the "bounce back" or "second line of defense" theory but rather he learned it in prison.

- We have to learn to accept an individual that goes astray back into the group when he bounces back (repents).

- That the enemy has a unique way of picking out weak individuals and putting them in charge. We have to live with that. Loyalty is the key to the whole thing. "Loyalty to your boss whether he's a strong resistor or weak resistor, you've got to be loyal to him because he's one of you."

POST INTERVIEW DISCUSSION

CWO2 Rander stated that the Army had not received training regarding the "bounce back" theory either and emphasized that this should be inserted into the training.

Consistency of training and policy throughout a war was discussed with the problem of maintaining same for long periods of time. Pressures to obtain names for next of kin was given as one of the reasons for the change in policy toward the latter part of the Vietnamese War that called for POWs to get their names or pictures out of the country via press, television, or any other media possible. The Chairman stated that the Committee should stress that if policy changes are made, they should only be made after careful consideration of the impact on those who received training previously.

COL Waddell followed this discussion with the problem of seniority of POWs over a long period of time when operating by rank when captured.

MGEN McNeil mentioned that criticism and pressure from the press and public caused us to soften our survival training which may have led later POWs to believe they didn't have to undergo as much torture.

(Fifth Session - continued)

Summary of interview with LTC Floyd J. Thompson, USA (Vietnam returnee)

BIOGRAPHICAL SUMMARY

LTC Floyd J. Thompson, U.S. Army, was injured and captured 26 March 1964 when the O-1 observation aircraft in which he was an observer was shot down near Quang Tri in northern South Vietnam. LTC Thompson (then CAPT) was commander of an Army Special Forces Detachment. He was held in 17 camps in northern South Vietnam, in Laos, and ultimately in North Vietnam. He attempted escape five times but was recaptured each time.

LTC Thompson spent approximately 9 years as a POW, the longest of any American serviceman in Indochina.

LTC Thompson is completing duty at the U.S. Army Infantry Center, Ft. Benning, GA., and will enter the Degree Completion Program in June 1976.

PERTINENT POINTS brought forth included:

- It is necessary to clarify the interservice relationship of prisoners of war as well as between military and civilians.

- All the Services need to take a long hard look at the obligation of protecting the rights of POW's vis-a-vis survivor's pay and allowances.

- We need to take a long hard look at Article V regarding a POW giving only his name, rank, serial number, and date of birth. Citing his own research after return, LTC Thompson said that he found out the reason this is necessary is for one to attain a legal status as a POW as opposed to being a criminal. The way the Code is taught in this regard is extremely misleading. "When we say name, rank, serial number, and date of birth only, we leave the implication that nothing further may be said."

- "I had never heard of such things as the capture card or the card that can be made out to the International Red Cross and that sort of thing prior to the time I was captured and I thought I was relatively better trained than the average soldier..."

- The second sentence, "I will evade answering further questions to the utmost of my ability," should certainly be upheld. However, the reason it was worded that way is due to the realization that a person can be broken. But then the Code says, "I will make no oral

(Fifth Session - THOMPSON - continued)

or written statements..." It should be changed so it's compatible with the first to say that "we will avoid making further statements, written or oral, that may be disloyal."

- We are fighting the Communists, an enemy that puts 50% of their war effort into propaganda. They use public opinion and not guns as their primary weapon. We have to prepare our soldiers to realize that the enemy is seeking information usually not of a military nature but of the type that will support their propaganda effort. They extract a statement, regardless of how innocuous it might sound and use it to feed the anti-war effort within that man's home country. There is no man who will not break under the Communist interrogation; they have complete control over your environment to make life a pure living hell for the sake of a very simple statement to the effect that I'm alive and well treated and these are nice folks and why don't we go home and leave them alone.

We need to recognize all of this and accept it. This is why I feel so strongly that the Code ought to be changed, but more importantly, we should change the way it is to be taught so it will be fully understood and be done the same between all of the Services.

- Having broken down himself and suffered tremendous feelings of guilt as a consequence, LTC Thompson stated that we must teach the Code as a code of ethics, not law. We must also teach that the UCMJ is the law and if you break it you are liable for prosecution. But, the Code can not be a carte blanche for anyone to say or do anything they so desire. Every service member has an obligation to resist to the utmost of his ability.

- Those who didn't resist to the utmost of their ability in Vietnam got off "scot free." That should not happen.

- Our troops today are not properly trained regarding the Code or during SERE training. The two are inseparable and unless we train our servicemen thoroughly in such matters, we are criminally negligent.

- Rangers are the only Army forces going through the Infantry School who receive a POW compound simulation training.

- The "spin off" aspects of Code training include leadership and other important values. The need for training in regards to strengthening character and for developing organization are important to all and perhaps more so to the basic enlisted man than to the officers.

(Fifth Session - THOMPSON - continued)

- There was no problem with understanding Articles II or III such as the words "parole" or "bound." The word parole, as a personal interpretation, means admitting guilt and accepting special favors.

- Doctors and chaplains might be exempt from certain portions of the Code such as regarding escape. This would have to be a judgemental factor based on the professional judgement of the individuals concerned.

- There was no problem regarding interservice chain-of-command except with the turncoats. There was a problem regarding this with civilians. The senior military officer should be the camp commander.

- The Code was a valuable guide when held as a prisoner in South Vietnam, as well as in North Vietnam. Additionally, the length of time held prisoners had no effect on allegiance to the Code.

- There appeared to be a difference in training later in the war in that the later POWs were apparently told to do anything to get their name out which was contrary to instruction he had had.

- There should be a Code for civilian captives and every civilian going into a combat zone ought to be sworn to uphold it. The civilian should be bound to the UCMJ should they become POWs.

- Whether families at home would be taken care of was a concern of the lower ranking enlisted man and should be alleviated by training beforehand.

- As "my most important point" I recommend we accept the fact that we're fighting an enemy who wants propaganda, and we shall change Article V to say, "I will avoid making statements to the utmost of my ability."

POST INTERVIEW DISCUSSION

Mr. Holmes stated that although it was difficult for him to believe, the fact that an individual can plead he did not know who the SRO was, does give the basis for legal defense. COL Arnold brought out the differences between the MCM and the UCMJ in that it is the MCM (the implementer of the UCMJ) which puts limits on the command authority of an officer of one Service over someone from another Service.

(Fifth Session - continued)

Summary of interview with CAPT Gerald C. Canaan, USN (Korea returnee)

BIOGRAPHICAL SUMMARY

Captain Gerald C. Canaan, U.S. Navy, was shot down while on a combat mission over North Korea on November 4, 1951 while piloting an AD(Skyraider) aircraft.

Captain Canaan was released by the North Koreans in September 1953 after 2 years of captivity.

Captain Canaan served as Special Assistant to the Chief of Naval Personnel (Pers-OG) for POW/MIA Affairs in 1970 to 1972 and is presently Commanding Officer, Human Resource Management Center, Norfolk, Virginia.

PERTINENT POINTS brought forth included:

- It was a disappointment to return from Korea as a POW, their reputation having been tarnished by the 21 who stayed behind, post war investigations, etc.

- There was nothing for POW's in the Korean War on which to grasp as a standard. The Code of Conduct has filled that void.

- SERE training is absolutely essential for anyone likely to become a POW and the Code is a cornerstone for someone who finds himself in that situation.

- He was very impressed with the SERE school in California, having attended it in 1959 "to answer some questions in his own mind." The survival training (speaking for the Navy program) has been very good.

- A Code of some type is essential but as to the currency, perhaps it should be updated.

- The concept of the Code of taking all means to resist captivity is absolutely essential. To remove any emphasis on this would be a real disservice.

- Something short of being obliged to fight to the death should be required. "I don't think we've joined the kamikaze corps..."

POST INTERVIEW DISCUSSION - None.

SUMMARY

Sixth Session, 20 May 1976

Summary of interview with LTCOL Philip E. Smith, USAF (P.R.C. returnee)

BIOGRAPHICAL SUMMARY

LTCOL Philip E. Smith, USAF, was shot down as a Captain, while piloting an F104 in 1965 and was interned in the People's Republic of China. He was held captive for 7 1/2 years.

Currently, LTCOL Smith is assigned to the 465th TAC Fighter Sqdn, Holloman AFB, New Mexico.

PERTINENT POINTS brought forth included:

- The Code is valuable and was valuable as a detainee; it doesn't matter by whom you are captured, it is still binding.

- If the Code has any of its standards removed, it will weaken it. "It gives you strength, it gives you something to fight for...if you leave it up to the individual to make decisions one way or the other as to what he should do, then you'll have variance according to the individual and I think that's not acceptable."

- A better knowledge of the different ideologies of the communist countries would be helpful.

- Although unsure whether his status was that of a criminal, detainee, or POW, he resolved that he was in the Air Force and in the hands of the enemy and therefore, a prisoner of war.

- The role of the Red Cross was "worth a million dollars" in terms of increased morale.

- The best technique is to say nothing beyond name, rank, serial #, and DOB. "In my case I thought it was to the advantage of the U.S. position to try to explain why I was there without revealing anything that was sensitive."

- Better and more current training needed regarding area where one is more likely to be a prisoner.

- Questioning and interrogation regarded acknowledgement that there had been wrongdoing, "that I..had done something wrong and then to confess...my crime." The interrogation had nothing to do with military information.

POST INTERVIEW DISCUSSION: None.

(Sixth Session - continued)

Summary of interview with 2LT Jose J. Anzaldua, USMC (Vietnam returnee)

BIOGRAPHICAL SUMMARY

2LT Jose J. Anzaldua, U.S. Marine Corps, was captured in January 1970 while serving as a Sergeant (Intelligence Scout) in CO. H, 2d Bn, 5th Marines in northern South Vietnam. He was held captive 3 years and 2 months, primarily at the "Citadel" in North Vietnam.

PERTINENT POINTS brought forth included:

- The Code was invaluable as a POW. "I don't know what I would have done without it."
- It is not difficult to live up to the expectations of the Code if you believe in it.
- Although he heard the Code was not lawfully binding, he lived by it. The Code did not ask too much of him.
- To better explain the Code it should be legal. It is important to have a consistent application of the penalties for those who don't live up to it.
- Pertaining to rewording the Code, there is no room for any doubt as to what it expects of you. "It's clear."
- There was no confusion concerning the authority of the SRO to give orders and as an SRO himself he experienced no problems (disregarding the "peace group").
- The "peace group" was aware of the Code. However, they knew it was only a guideline and they sought to protect their own interests. There was no confusion on their part regarding being subject to the lawful orders of a Service other than their own; they just did not want to do it.
- The Code is fair; "It's not asking too much of any American fighting man to stay honest and true to his country and to his fellow soldiers."
- While captured there was no doubt about the interpretation of the various Articles of the Code but about "intent maybe when I heard an officer say right before the release that those people would probably get off."

(Sixth Session - ANAZLDUA - continued)

- Nothing should be said beyond name, rank, serial number, and date of birth. If any more leeway is given it will open up the door.

- Regarding escape, a POW should try to escape "at any and all times." However, try not to kill or inflict harm on the enemy in the process. If you do and get recaptured, there's no doubt they will kill you.

- The definition of parole is "getting extras from...the enemy." The only way they are going to give you parole in the true sense of the word is that you are supplying them with something that they want which would be in violation of the Code."

- Regarding civilians in the camp, they followed the lead of the SRO (the civilians were German nurses).

- More exposure should be given to individuals during training concerning POW related matters.

- The reason given that those POWs who didn't conduct themselves properly were not tried was reportedly because there was not enough evidence, "...if that's true, I don't see how anybody is convicted anywhere."

- Now that the Code is being brought up for discussion to change it, are we looking for an excuse to tolerate such individuals that did not adhere to proper standards of conduct? If such behavior is tolerated anymore, "...the majority that are good are going to turn bad..."

(The Chairman assured 2LT Anzaldua that the Committee's purpose was not to try and make an excuse.)

POST INTERVIEW DISCUSSION: None.

(Sixth Session - continued)

Summary of interview with MSGT Cordine McMurray, USA (Vietnam returnee)

BIOGRAPHICAL SUMMARY

Master Sergeant (E-8) Cordine McMurray, USA, was captured 12 July 1967 while he was a member of an infantry reconnaissance patrol which was ambushed and overrun in central South Vietnam. He was held primarily in northern South Vietnam, then in North Vietnam, for a total of 5 years and 8 months.

MSGT McMurray is currently assigned to HQ Company, Basic Law Enforcement, U.S. Army Military Police School, Ft. McClellan, Alabama.

PERTINENT POINTS brought forth included:

- We need the Code but possibly two Article should be changed. Regarding #V there is no way to just give only name, rank, service #, and DOB. What about other non-military information? Perhaps we should change the Code to read that one should not give any information harmful to the individual, his government, or allies as already covered in the Code.

- Training is valuable.

- The Code does not apply only to officers.

- Only military (not including doctors or chaplains) should have command of the prisoners.

- The so called "peace group" should have been punished; there was no lack of quality of evidence.

- The Code should be taught more. POW camps should be established for training and different types of food should be rationed.

- There was no problem accepting a USAF officer as the SRO.

- POW returnees were not asked specific questions regarding the misconduct of others after their return.

- In regards to Article VI, the one thing that really made him feel good was the part about being an American. The words "above all" should be inserted in this Article. (Above all, I will never forget...)

(Sixth Session - McMURRAY - continued)

Dr. Shields inserted that the returnees were supposed to be just questioned in the hospital and what was said was privileged. This was to learn if any POWs had been left behind, etc. Next they were to be questioned by lawyers - this never took place. COL Day pointed out that charges against certain POWs who did not perform as they should have, had to be filed by other returning POWs when it was obvious to them no disciplinary action was going to be taken by anyone else.

POST INTERVIEW DISCUSSION:

After MSGT McMurray's departure the Chairman put forth the question as to whether the Committee should proceed as they have been or what? The general consensus was that first the list of the selected group of interviewees should be scrubbed again and that the training methods of the different Services needed to be put forth to the Committee. LTC Gomon stated the Services will make such a presentation on the 26th of May. The Chairman stated this should be presented to the working groups first before the full Committee. It was also agreed that certain legal points of view concerning U.S. failure to conduct follow up investigations of allegations had to be presented to the Committee.

SUMMARY

SEVENTH SESSION, 25 MAY 1976

Summary of Administrative remarks:

Chairman, Dr. John F. Ahearne, ASD(M&RA) expressed the concern of the Committee as to why charges for misconduct preferred against certain POWs were dropped which led into questioning of the first interviewee:

Summary of interview with MGEN L.H. Williams, USA, Deputy Judge Advocate General of the Army.

MGEN Williams made the following pertinent remarks:

- Pertaining to why the five enlisted men against whom charges were preferred were not tried, MGEN Williams mentioned several problems:

1. Evidence/technical problem in that you're not authorized to give orders to people subordinate to you of a different Service unless you're placed in the chain-of-command.

2. Secretary of Defense Richardson made a public announcement that there would be no trials for any propaganda statements.

3. The fact that North Vietnam did not live by its international commitments under the Geneva Conventions and subjected men to torture, lack of food, etc., lent the defense of duress to those charged.

4. All were high school dropouts. They had a lack of survival training which had been provided to all the officers and four of the five were in a lower mental category: IV or V.

5. They really gave no military information and several were staunch holdouts initially. The question came up from the Army Chief of Staff: these people have already spent 5 years in jail, do you really wish to give them some more confinement?

The Secretary(of the Army) was faced with three choices after the charges were preferred.

1) You could forward them to appropriate field commanders for disposition;

Advantages: - You get disposition of court-martial charges, normally accomplished by a field commander.

- You can take action under the UCMJ

- Requirement for adherence to the Code of Conduct would be emphasized.

(Seventh Session - ARMY JAG - continued)

- Visible official support would be given the senior officers attempt to fulfill his responsibilities.
- Maintenance of discipline in future POW camps would be enhanced and action by field commanders would tend to minimize possible charges of "whitewash."

Disadvantages: - Increased counter-allegations of misconduct by other prisoners was likely.

- Public doubt as to the conduct of all returned prisoners would be generated.
- By referring charges to four different commanders, exercising jurisdiction would probably result in different determinations to each accused because a commander is required to exercise his own judgement without guidance from superiors in disposing of charges.
- Final disposition would be significantly delayed by pretrial, trial and appellate procedures.
- Acquittal on most, if not all the charges, was probable.

2) Dismiss the charges;

Advantages: - Expeditious disposition of the charges would be accomplished.

- Probability of trials resulting in acquittal would be eliminated.
- Uniformity of treatment would be assured.
- Potential adverse impact on other prisoners would be minimized.
- Lengthy trials and resulting adverse publicity would be eliminated.

(Seventh Session - ARMY JAC - continued)

- Immediate adverse administrative action by the Department of the Army and termination of all the cases would be facilitated.

- Disadvantages:
- Alleged violators of the law would not be brought to trial to answer for their criminal conduct.
 - The attempt of the senior officer to fulfill his responsibility in requiring adherence to the Code of Conduct would not be visibly supported.
 - Failure to take disciplinary action could be viewed as condoning misconduct by future prisoners of war.
 - Some allegations of "whitewash" might have been generated.

Another factor that influenced the Army decision was half way through the consideration process the Navy announced they were not going to try an O-6 and O-5 who had done the same thing but with considerably less justification in the minds of many people. The Air Force had problems also but decided they weren't going to do anything. Only the Marine Corps seemed intent upon pressing charges.

Reading from recorded statements of a previous question and answer period regarding this subject, MGEN Williams read "evidence compiled during the debriefing of the ex-POWs was used in determining whether the charges could be substantiated. Based upon an evaluation of this evidence and the application of relevant law, the recommendations in the cases were formulated." Pertaining to the Code of Conduct, many POWs praised it highly. "The behavior of a few POWs in the Vietnam conflict cast doubt upon the efficacy of the Code in the minds of some individuals. As with anything else it is subject to review."

Discussion then followed concerning what time, in the process of these deliberations, Mr. Buzhardt was alleged to have said that there would be no trials. MGEN Williams was not able to pinpoint exactly when such a statement was made, but stated it was before the Army decision not to prosecute was finalized.

(Seventh Session - ARMY JAG - continued)

MGEN Williams said that these were the personal decisions of General Abrams and the Secretary of the Army.

- That the Secretary of Defense's statement regarding that there would be no trials for any propaganda statements was an established legal position on the grounds that the SecDef is authorized to dismiss charges.

MGEN McNeil asked whether or not there was ever an individual board or someone appointed with the authority to place people under oath, take statements, and determine thereby if there was sufficiency of evidence (to prosecute those POW's charged with misconduct). Unable to answer that question, MGEN Williams was asked by the Chairman to check on this matter and whether or not there was any follow-up attempt other than looking at the debriefing statements and to report his findings back to the Committee.

The Chairman stated further that it distressed him that in the aforementioned pros and cons there were no "cons" concerning the intense bitterness of those POW's who didn't cooperate with the enemy.

Note: On 26 May 1976, MGEN Williams provided material for the record (Memo for the ASD(M&RA), with inclosure, Subject: Investigation of Charges Against Former POW's) which indicated that subsequent to the filing of charges, additional statements were obtained from 65 returnees concerning the charges. The 65 additional statements were considered during the deliberations by the SECARMY which culminated in dismissal of charges.

(Seventh Session - Continued)

Summary of Presentation by the 7602nd Air Intelligence Group:

At the request of the Committee, the 7602nd Air Intelligence Group (USAF) made a presentation concerning enemy exploitation of USPW's in Indochina (1964-73) for propaganda purposes. This presentation was a follow-on to the general presentation (Session 3) concerning enemy exploitation efforts. Briefers were LTC Rick Wolfer and Mr. Claude Watkins; method was narrative remarks illustrated with film clips from Communist-produced propaganda footage.

Summary of Briefing:

In Korea, USPW's were subjected for the first time to being used for political purposes. "Political purposes" included both subversion and propaganda. The Chinese captors in North Korea attempted an intensive indoctrination program aimed at subverting prisoner beliefs and loyalties, but gave it up some months before the cease fire when they realized it was not working. They continued, however, to use PWs for propaganda purposes.

In Southeast Asia the captors never engaged in massive, intensive, attempts to subvert PWs. Their one year long attempt involving eleven prisoners was aborted when they became aware it was not effective.

The captor in Southeast Asia conducted a massive propaganda campaign using American PWs throughout the years of their captivity.

The following major propaganda themes were developed by the North Vietnamese (NVN) and used throughout the conflict:

- The humane and lenient treatment provided by the NVN, despite American aggression and "war crimes;" provided for the needs of their captives - (in fact, the NVN seriously deprived their captives of basic needs prior to 1969).

- American prisoners were victimized by an illegal U.S. war policy, because the war was illegal and "unjust." (Even so, PWs were described as "criminals" and "bandits," not entitled to PW status).

- Americans were vulnerable, despite superior weapons, and became apologetic and were easily humiliated after capture.

In addition, a number of secondary themes were employed during earlier years of the conflict.

(Seventh Session - 7602nd AIG - Continued)

- Americans freely violated their Code of Conduct after capture.
- U.S. authorities provided their servicemen with a distorted view of socialist NVN.
- Americans are politically and ideologically immature.
- American servicemen are amoral and mercenary. They just "follow orders" without any concern for the consequences of their actions.
- The U.S. Government was untrue to its own traditions and history by waging war against a people who were essentially trying to achieve what Americans were trying to achieve with their own revolutionary war.
- The human and material costs of the war to the U.S. were great and growing.
- U.S. authorities harrassed "good" prisoners who were released by the NVN or VC early in the conflict.
- Thailand was criminally colluding with the U.S. by permitting the air war to be mounted from its territory.
- South Vietnam has no legitimate government, and is a puppet regime.

Propaganda employing PWs was primarily disseminated through letters, broadcasts, publications, and in films of PW activities, which included film of staged captures, news conferences, or media interviews.

Letters to families, congressmen, the President or anti-war groups had a limited audience and the NVN must have realized that greater coverage was possible with film and broadcasts.

Letters to families frequently included good treatment statements, because PWs either knew it was a price for writing (and the pressure to let families know of their fate was enormous; prior to 1969 - some PWs had not been permitted to write for four years), or they felt it would increase the chances of letters being forwarded. In almost every case, the statements were rather innocuous, and dealt with the adequacy of medical treatment, quantity of food, "kindness" of the captor, or just general treatment.

(Seventh Session - 7602nd AIG - Continued)

Sometimes such statements were coupled with other statements to the effect that treatment was good in spite of "the illegality of the war" or "our inhumane bombing," etc. In a few cases PWs were prevailed upon to encourage anti-war activism by requesting families to support anti-war causes.

The forwarding of PW mail even became a propaganda vehicle when the Committee of Liaison acquired PW mail and forwarded it to families under cover of a letter advocating an end to the war so that PWs and their families could be reunited.

Broadcast "statements, conferences," and "open letters" attributed to PWs or actually recorded by PWs in some cases permitted the NVN to link all their themes in a coordinated fashion. These broadcasts were initially rather blatant, but as time passed the messages became more subtle and thought provoking, echoing the anti-war rhetoric which was prevalent in the United States.

Numerous examples of broadcasts, employing most of the themes identified earlier are available.

For example, in a June 3, 1966 broadcast in English, Radio Hanoi released an open letter to his "fellow country-men" allegedly provided by a U.S. Army Captain. The various NVN propaganda themes are obvious:

"Remember 1776? Our forefathers had the same ideals, and with determination, not superior firepower, defeated the strongest army of that time..."

"I have been able to talk to many people about this needless war.... All of the needless killing, wounding, and destruction of property (could) cease (if the U.S. would leave)."

"Talk this over with your buddies, you will soon agree that we have no business in Vietnam...write your families, friends, and your elected representatives..."

In another broadcast of 20 February 1967, a Navy Lieutenant Commander allegedly "laid bare" the "premeditated U.S. plan for deliberate bombings of populated areas in North Vietnam" in a "deposition:"

"I was briefed to strike populated areas with CBU, napalm, and fragmentation bombs...to 'achieve total annihilation' of villagers. "...we needed to regain our tremendous losses in men, equipment, and aircraft in the south."

(Seventh Session - 7602nd AIG - Continued)

"I couldn't help but think of all the innocent people killed, schools and churches destroyed, medical aid stations ruined...."

"During the (preflight) briefings, I was sick at the thought of dropping such horrible weapons..."

"Many U.S. pilots feel as I do and would quit flying tomorrow with support of the American people and some encouragement from the freedom-loving people of the world..."

"....I have received only the very best treatment...this leaves me deeply shamed at the thought of my criminal acts....under the heading 'captured U.S. pilots hail HO's kind policy,' Radio Hanoi broadcast good treatment statements to U.S. servicemen in South Vietnam on 20 May 1966.

"....The local people treated me most humanely although I was a criminal. I have received adequate food and medical care for injuries and sickness..."

Some broadcasts purportedly conveyed interviews. Those interviews were punctuated by a "commentators" interpretation of the captured aircrewman's words.

In one example, broadcast in German from East Germany on 20 December 1967, a PW made a simple statement that he had flown 105 missions and was shot down by 85mm antiaircraft fire. The commentator then added:

"A gangster giving evidence. He did not refuse to take part in the terror. When he flew his missions he carried napalm and cluster bombs...."

Another innocuous statement giving name, rank, service number, date of birth and circumstances of loss by a Navy pilot, was followed by: "If you ask me, I regret the war in North and South Vietnam which has brought so much destruction and sorrow to the people. I hope you will treat me humanely and that I may return home after the end of the war."

The commentator then stated: "He invokes humanity. It won't be refused him. We do not know if his regrets are sincere, but it is a matter of fact that many U.S. soldiers upon returning from Vietnam, fight within the U.S. anti-Vietnam war movement...."

Occasionally an actual interview with a PW would take place with questions and answers. In each case the questions were leading and contentious, and the answers whether forced or voluntary, always echoed the basic propaganda themes.

(Seventh Session - 7602nd AIG - Continued)

On occasion the interview format was both editorialized and manipulated, particularly by East European "correspondents." One notable example occurred in October 1967 when a Hungarian correspondent interviewed an Air Force First Lieutenant. That interview produced several pejorative stereotypicalizations of U.S. military men:

"Not once did he let himself be dislodged from the role of a disciplined soldier. He jumped to attention in front of the Vietnamese officer...and made a sharp about-face to go to the chair set out for him. Such things can be done conscientiously or with pronounced zeal. Our prisoner did them painstakingly."

To provide larger audiences for PW anti-war letters, Radio Hanoi broadcast them. An example of this was the letter by a PW to Senator Fulbright which was beamed to South Vietnam in December 1967. That letter emphasized the uncertain legal position of the war and violation of the 1954 Geneva Accords.

Personal letters to families were also recorded and broadcast to coincide with holidays, or special family days. Although containing few overt propaganda themes, these letters all implied the good treatment given PWs.

The early release of PWs always occasioned commentary by NVN, and, as many RPWs bitterly noted, the broadcast of taped anti-war statements attributed to early releases over PW camp public address systems. In addition, the NVN used the occasion of a 1969 release of three PWs to point out that the August 12, 1949 Geneva Convention did not apply, because the explicit reservations made to Article 85 by the DRV applied to the case of American servicemen.

In virtually all cases the NVN articles and releases called for a sympathetic response from the American people, and frequently proposed specific actions to oppose the war.

The domestic use (in NVN) of published propaganda involving PWs was vividly revealed in articles published in Hanoi. One July 1972 article went to great lengths to recount the heroic exploits of several villagers as they shot one American dangling from a helicopter rescue sling, and captured another, who they characterized as "amazed and frightened" and who "trembled and bowed his head" before the pressure of his captors.

Films enjoyed a wider dissemination and the NVN concentrated much of their propaganda effort on film - with the help of their friends.

(Seventh Session - 7602nd AIG - Continued)

The East German film production of Pilots in Pajamas, a masterful propaganda piece produced during 1967 (featuring one Navy and ten USAF PWs), became the standard by which all other propaganda efforts can be judged. As a result, foreign publications, particularly in Europe, featured extracts and articles based upon the film.

The most significant portrayal of American servicemen to emerge from that effort was that of American servicemen as amoral, apolitical wielders of destruction who blindly followed orders. With appropriate allusions to Nazi attitudes and callousness, the East German propagandists noted that some of those Americans had been stationed in West Germany, and evoked the menace to Europe which the near proximity of such persons represented.

The film itself was aired in the spring of 1968 over East German television; and owing to East German attempts to sell the film rather than give it to the western news media, and diplomatic representation by the United States, only short segments of the four hour production were shown in the west. However, the film and contemporaneous articles based on the film received wide attention in Eastern Europe. One version of the film was even shown with Arabic sub-titles in remote South Yemen.

The interviewee shown in Pilots in Pajamas was not aware that he was to become part of a propaganda epic. Prior to this incident he had been previously coerced in the "ropes" to give statements. This time he appeared under threat of torture.

The final sound segment of this film shows the "Hanoi Parade," in which some 56 PWs were subjected to public hostility and vilification. (Film segment shown)

The foregoing leads to many questions:

- How effective for the captors was this propaganda?
- How did they obtain what might seem to be the participation of so many PWs?
- How were the PWs trained to resist participation?
- Did any manage to resist it and, if so, how?
- Did the PW involvement have a positive side?

(Seventh Session - 7602nd AIG - Continued)

No. 1 - How effective for the captors was this propaganda?

No doubt internal use of it stiffened the will of the North Vietnamese and kept them at least somewhat convinced that the sacrifices were worthwhile and that their country could eventually win.

No doubt the PWs became hostages to the extent of influencing the end of the war and the terms of the final agreement. The impetus that led to this, however, grew here in the U.S. as a result of the enemy's refusal to systematically account for those held or known dead. We certainly don't know if the enemy was smart enough early in the war to realize that withholding an accounting would lead where it did.

As a matter of fact, there is a lot we don't know about the effectiveness of the propaganda. So far the needed expertise, time and money has not been available to determine its impact on the American pacifists and objective and subjective people and groups and governments around the world.

No. 2 - How did the captors obtain what might seem to be the participation of so many PWs?

In many cases, coercion in the form of physical abuse and deprivation were the persuaders.

In many other cases the PWs were simply photographed in situations over which they had no control - being led along a road, receiving medical treatment or simply sitting in a cell or washing their clothes.

In some cases fear led to compliance.

No. 3 - How were the PWs trained to resist participation?

As you have heard here some were not trained, and the training of some others consisted of hearing the Code read and seeing a film early in their military careers.

Most of those pilots held in NVN however had received all the training their Services had to offer in well organized, established schools. From the beginning of training implementing the Code of Conduct through today however. the word on propaganda involvement has been an unequivocal "DON'T." (Neither the Code,

(Seventh Session - 7602nd AIG - Continued)

DoD 1300.7, or the explanatory materials contain an "utmost of my ability" phrase in regards to oral or written statements).

Some did these things, however, but bear in mind these later PW's had seen many films of PWs on television before their own shutdown and they were all aware that nine PWs had been released from the north. They never, however, heard an official word of condemnation of either the PW's in the films or the early returnees.

No. 4 - Did some PWs manage to resist involvement in propaganda, and if so, how?

Statistically, it is estimated that for Air Force prisoners only:

- 126 PWs, or 38%, accounted for 61% of the propaganda,
- 70 accounted for 53%; and
- 11 accounted for 18% of it.

Some of this majority simply refused and many of them still have the scars.

Others were coerced into making statements for broadcasts for example, and used idiomatic language and strange pronunciations to such an extent the end product was never used.

Others put statements in letters, made broadcasts and appeared in films but were able to negate the propaganda while doing so.

An example - One PW wrote his wife, quote-"We had a great Thanksgiving dinner with turkey and the traditional American trimmings, it reminded me of the barf your mother used to fix."

"Christmas was really fantastic here this year - I got to see, among other things, a Christmas tree, to hear Christmas carols and some Bach and Chopin and to enjoy a really gross, repeat, gross, turkey dinner."

Others used a familiar American gesture to negate what the captor hoped to show in films and photographs.

Finally, No. 5 - Did PW involvement in propaganda efforts have a positive side?

For intelligence and next of kin, it did!

In mid-1967 the intelligence community was not sure where PWs were being held in Hanoi. They strongly suspected some were in Hoa Lo prison and knew some were in a place with a swimming pool.

(Seventh Session - 7602nd AIG - Continued)

North Vietnamese photographs were eventually published in Life Magazine in October 1967. Both photos showed enough of the surrounding features of the places to enable photo interpreters to identify them as Hoa Lo prison and Cu Loc, or the "Zoo."

Lastly, benefits to next of kin.

During the war in Southeast Asia effort was continuous to identify PWs and to discover where they were being held and how they were being treated. Broadcasts, films, and press conferences designed to disseminate captor propaganda, identified 104 Air Force members. Letters changed 44 Air Force members from MIA to KIA! And some of them contained limited propaganda.

POST PRESENTATION DISCUSSION: None.

(Seventh Session - continued)

Summary of interview with Mr. Raymond C. Schrupp, (LTC, USA, Ret.)
(Vietnam returnee)

BIOGRAPHICAL SUMMARY

Mr. Raymond C. Schrupp (LTC, USA, Ret.) was wounded and captured during ground combat in Tay Ninh Province in southwestern South Vietnam on 23 May 1968. At time of capture, Mr. Schrupp (then Major) was assigned as a District Senior Advisor. He was held in jungle camps, mainly in Eastern Cambodia, for 4 3/4 years.

LTC Schrupp retired 13 July 1973 and resides in Fayetteville, North Carolina.

PERTINENT POINTS brought forth included:

- There is a need for the Code of Conduct, a code of ethics by which military men can live, but it should be general enough in nature to fit a given situation.

- The Code is sufficient the way it is written, however, the most important thing is the training that goes along with it which should be uniform throughout the Services.

- Article V needs to be rephrased. "How can we expect a man to go "X" number of years reciting name, rank, serial number, and date of birth?"

However, during later questioning by COL Danford regarding "bouncing back," he said it's better to have the "absolute" to go back to rather than a more flexible standard.

- Faith in your fellow man is of utmost importance and should be stressed in training.

- Better training is preferable rather than to lower the standards of the Code.

- Article V should read, "I am required to give..." rather than "...bound to give...."

- There are documents the communist utilize in their indoctrination or brainwashing - eight steps in particular - that they follow step-by-step. A lot of emphasis should be placed on this during training. Therefore, should someone become captured, they would know what to expect.

(Seventh Session - SCHRUMP - continued)

- Training should be more often than annually, regarding the Code of Conduct.

- A unit commander should not give up his unit as long as there is a means to resist.

- He was prepared for the physical aspects of captivity but wasn't ready for the mental aspects. The fear of the unknown and the need to keep one's mind active were specific problems mentioned.

- Based on his authority as SRO, he would have placed a certain civilian (who was in camp) as second in command, because of his capabilities as an organizer and resistor.

- To avert alienation of others, he exercised a "fatherly approach" to gain a consensus rather than using his authority all of the time.

(Seventh Session - continued)

Summary of interview with CAPT Richard A. Stratton, USN (Vietnam returnee)

BIOGRAPHICAL SUMMARY

Captain Richard A. Stratton, U.S. Navy (Pilot), was shot down on January 5, 1967, while on a combat mission over North Vietnam. He was flying an A-4 (Skyhawk) of Attack Squadron ONE HUNDRED NINETY-TWO, operating from the USS Ticonderoga (CVA-14). He was held 5 years and two months in North Vietnam.

Currently, CAPT Stratton is Commander of Navy Recruiting District, New York, East Meadow, Long Island.

STATEMENT BY CAPTAIN RICHARD A. STRATTON, U.S. NAVY

Views in Respect to the Code of Conduct - The current Code of Conduct, taken as a set of goals, is workable and constructive. It was of value to me both as a leader and a follower while a prisoner of war.

Emotionally and personally I regard the Code of Conduct as superfluous. The oath of office I swear anew with each promotion is my code: namely that I will support and defend the constitution against all enemies, foreign and domestic, that I will bear true faith and allegiance to the constitution, and that I will well and faithfully discharge the duties of my office.

General MacArthur gave inspiration enough at West Point on May 12, 1962 in an address which can be summed up in three words: "Duty, Honor, Country." These two elements: my oath of office and MacArthur's exhortation make up my code of conduct. I personally neither require nor desire further guidance or inspiration.

However, intellectually and professionally I support the Commander in Chief should he, as he did, desire to institute a formal Code of Conduct. The current Code of Conduct is much like the Ten Commandments. Should you desire to interpret either literally each becomes troublesome and unworkable. To be meaningful, the Code and the Commandments must be regarded as goals which we continually strive to achieve regardless of how many times we fail to do so. They must be regarded, not as absolutes, good reason to do so and for which deviation we must be held accountable.

In Hanoi I regarded the Code of Conduct as a set of goals. Through torture, beating and brutality I deviated from the Code. Through the support of my fellow prisoners I bounced back each and

(Seventh Session - STRATTON - continued)

every time. The name of the game is to "keep on truckin." I am personally disappointed in my performance, as I had set higher standards of performance for myself. However, I am not ashamed of my performance as I gave my best and kept on trying; that is all our leadership asked.

A Code of Conduct has two objectives. It must inspire, reinforcing common values and lifting the spirits in time of great stress. It must be constructive. like a check list on an aircraft instrument panel which contains succinct reminders of essential elements required for the successful completion of an evolution. As such, a Code must be pithy and precise devoid of any confusion or conflict.

It appears to me the current Code of Conduct was a "knee jerk" reaction to the Korean War prison situation. We have had nine wars in 200 years. We have had a single prime threat since 1945 which is likely to overshadow us for the next 200 years, not just a few, and address the real threat - International Communism? For, the treatment of prisoners, domestic and foreign, by any Communist nation is basically the same.

We must face basic realities if we are to be effective in countering the potential enemy:

1. Communist ethics are totally pragmatic. Our Greco/Judeo/Christian ethic is totally incompatible with the Communist ethic. Any Code we develop will never be accepted by the enemy and indeed will even be used against us. We must save our Christianity for Christians.
2. The order of priorities in Communist warfare is: first, propaganda; second, diplomacy; third and last, open warfare. Our country is not attuned to using or countering propaganda as a tool of national policy. In North Vietnam our very existence, dead or alive, was turned to propaganda advantage by the communists. Absolute self destruction or total silence denies the enemy the most. Any Code should be geared to minimize the enemy's net propaganda gain, while preserving the POW some flexibility beyond suicide.
3. There is currently no law in a prison camp. The Communists extend no rights, placing war prisoners under their criminal code and denying the protection of International law. By paying ransom for the Bay of Pigs prisoners in Cuba we renewed a tradition of using prisoners as hostages for

ransom or political advantage, setting us back to the days of the Barbary Coast Pirates. The judicial system has so emasculated the Uniform Code of Military Justice that it is an unviable legal system in a prison devoid of lawyers, documentation and witnesses. The precedents set in respect to the non-prosecution of alleged offenders from the recent North Korean and North Vietnamese incarcerations complete the legal emasculation. No lawyer ever seriously posited that a deviation from the Code of Conduct could be prosecuted under the Uniform Code of Military Justice.

These factors leave a prison camp in a state of total anarchy with respect to internal good order and discipline. The Senior Ranking Officer has been deserted and thrown on his own devices: vigilantes, charisma, gentle persuasion.

In facing these realities, I do not envy your task. I have thought about this problem for six years in prison and three years since. The essential elements of a code would have to include minimizing the enemy's net gain, keeping faith with fellow prisoners, returning (by escape or release) with honor, and the "duty, honor country" concept.

The current Code of Conduct is workable and constructive. If changes, other than minor wording, should take place, I feel that we should start from scratch using the experience of 200 years balanced against the future threat.

Views in Respect to Training Related to the Code of Conduct

My formal training related to the Code of Conduct was inadequate. It was as if the period 1955-1965 someone made a conscious decision to suppress the facts of torture, breaking, and non-performance in prison camps. The theme was "we are not going to teach you to be prisoners," we are teaching you to evade and escape, only the weak and chicken hearted give in, after 48 hours they would let you alone, etc., etc..

Information was then available to conduct better training and is now currently held by the Fleet Aviation Specialized Operational Training Group Pacific Fleet (FASOTRAGRUPAC). For example, one pictorial essay entitled United Nations P.O.W.'s in Korea, Chinese People's Committee for World Peace, Peking, China 1953 was, I personally feel, the handbook for exploitation of American prisoners in North Vietnam. It was available when I was being trained in 1959 and 1966 but not shown to me until March 1973 and then only as a curiosity item.

(Seventh Session - STRATTON - continued)

Maybe the intentions of withholding information were good; i.e., not to demoralize or weaken us. However, my resistance posture would have been more sound had I received the training now being given at the Navy SERE school at FASOTRAGRUPAC. Since I have made inputs to this SERE school and have personal knowledge of the quality of their staff, I endorse any recommendations they have for this Committee. They, not I, are best equipped to serve your needs in respect to training. Captain M.R. Starr is the Commanding Officer of FASOTRAGRUPAC and Mr. Jessie McElroy is the director of the SERE instructor staff.

Training always becomes a matter of priorities. How much time and money do you spend on so small a percentage as the prisoners represent? Over 6 1/2 million men served in Vietnam; 56,000 died; about 1500 went down over North Vietnam; about 546 came home. This is a command decision. But whatever time is devoted to training should be devoted to the best training possible. I submit, that it is immoral to withhold information that is essential for survival no matter how good the reason.

Thank you for listening to my views and concerns. We all owe you a debt of gratitude for addressing this difficult task. God Bless you and God Bless America.

After reading the foregoing prepared statement, CAPT Stratton's discussion with the Committee included the following pertinent points:

- No matter what one does, the communists can make you serve their political purposes. "Absolute silence is perhaps the best thing we can work with and, if broken, we should roll with the punch and then come back to that position of absolute silence."

- No matter what you think you are doing - fouling up a tape recording or using the "Hawaiian peace sign" - they can somehow turn it to their advantage.

- Having broken down under torture and having given more than name, rank, serial #, and DOB, caused division among the POWs and discredited his leadership position.

- The part of the Code that says, "I will never surrender...." has to be cleared up. "How much is the means to resist?" It comes to a point where it can be interpreted by hardliners to mean that you are committed to suicide yet no where is that called for in our contract or country's philosophy.

(Seventh Session - STRATTON - continued)

- Pertaining to the obligation to escape; the imminency of release and reprisals on the rest of the prisoners have to be taken into consideration.

- The training is so diverse, even within the Navy itself - east coast vs. west coast - that the training program wouldn't be able to clean up such divergencies as mentioned above. "...it has to be resolved within the six articles themselves."

- "A literal code is unworkable....a literal code will not work. It has to have flexibility."

- Training differed between individuals not only because of differences between the Services but also depending on the time periods during which such training was received. The training stretched across the entire spectrum from the "iron man" philosophy to the "roll with the punch" philosophy. "This is why I stress the element of keeping faith with a fellow prisoner is so critical. It's too late to iron that out ten thousand miles away." The POWs were still arguing about the interpretation of the Code down to the last day.

SUMMARY

EIGHTH SESSION, 27 MAY, 1976

Summary of Committee discussion:

A discussion concerning whether or not the bold face wording of the Code would be changed or not was held. Disagreement concerning this point led to the formation of another working group tasked to look into the changes. The membership appointed was:

Vice Chairman - LTGEN A. P. Clark, USAF (Ret)
CAPT Kenneth L. Coskey, USN
MAJ Robert L. Winstead, USAF
CWO2 Donald J. Rander, USA

The men to be interviewed for the session were then escorted into the room.

Summary of interview with MAJGEN John P. Flynn, USAF (Vietnam returnee)

BIOGRAPHICAL SUMMARY

MAJGEN John P. Flynn, USAF, senior officer among American prisoners of war in Indochina, was captured in late 1967 when the F105 which he was piloting was shot down in North Vietnam. He was held captive for 5 years, 4 1/2 months, primarily in Hanoi. As SRO, he commanded the POW organization known as the 4th Allied POW Wing.

Currently, MAJGEN Flynn is Commander of the Basic Military School, Lackland AFB, Texas.

PERTINENT POINTS brought forth included:

MAJGEN Flynn stated that he represented a consensus of senior members of the Vietnam POW community. Attached is a memorandum he sent to MAJGEN Loving on 26 July 1974 which recommended certain changes to the wording of the Code of Conduct. In addition to expanding upon certain points of this memorandum, certain points brought forth were:

- An escape plan should be submitted to an escape committee; if it involves others, the committee should have approval authority; if not, no restrictions should be placed on the attempt.
- MAJGEN Flynn weighed escape by the probability of its success. If the probability of failure exceeded the probability of success he did not encourage escape and, in such instances, exonerated those POWs under him from any violation of the Code in regards to being bound to escape.

(Eighth Session - FLYNN - continued)

- Pertaining to the part of the Code that says, "I will never surrender of my own free will; there's a difference between a contingent of ground forces and an airman landing alone well behind enemy lines.
- "Each time there was an early release, it played havoc with our constituency."
- Early release should only be allowed if a man is in such poor condition due to sickness and/or wounds that he is in danger of his life. Further, his release should be agreed upon by both the prisoner's and captive's governments. MAJGEN Flynn warned, however, that we must avoid lax interpretation of this condition because of the gross damage it does to those POWs left behind.
- The reason certain members were not willing to obey orders of senior officers of another service was, in his opinion, due to the fact that they wanted to do things in their own way rather than go along with a joint operation.
- The word changes mentioned should be put in the "bold print." "I don't think the Code should be trifled with lightly but, as I recollect, when we discussed this matter, we held that the bold faced type was really the reference point in any determination of policy that we put out and I recall some of the discussions we had where we examined painfully word-by-word and we usually had to come back to the bold faced (type)."
- Article V needs an in-depth review. The way it was interpreted by us as POWs was that you'd have to take torture before you went beyond giving name, rank, serial #, and DOB. Torture was defined as physical pain to such a degree that you would do something that you hold to be seriously immoral. The importance of stopping short of losing all of one's courage and mental facilities was brought up, however, which would enable the prisoner concerned to call upon reserve to lie and confuse the enemy. In essence, "to the utmost of my ability" needs interpretation.
- Article VI should state, "I will trust in my God and in the United States of American and my fellows." Faith in fellows is very important because the chief strategy of the enemy, during both the Korean and Vietnamese conflicts, was to divide the POWs.

(Eighth Session - FLYNN - continued)

- The UCMJ should be amended to accomodate survivors of shipwreck or POW circumstances. There should be no statute of limitations nor any question regarding whether the extent of hostilities is sufficient to postpone said statute of limitations.
- As a personal opinion, "I don't believe the Code should be legally binding." "...it is neither military or Christian to nag a repentent sinner to his grave." A bridge must exist so that a man can come back to the group provided he has repented and admitted what he has done.
- A strong recommendation was put forward that the training for such situations be joint - or at least administered through a joint doctrine so the problem of various interpretations of the Code would not arise again.

(Eighth Session - continued)

Summary of interview with Specialist 5 David S. Strickland, USA
(Ethiopian rebellion detainee)

BIOGRAPHICAL SUMMARY

Specialist 5 (E-5) David S. Strickland, USA, a radio repairman, was kidnapped/captured by guerrilla terrorists in Ethiopia on 12 September 1975. Strickland was asleep in his quarters at the time of the guerrilla raid. He was held captive with another American serviceman for 4 months in extreme Western Ethiopia.

Currently, SP5 Strickland is attending a course in medical equipment maintenance at Fitzsimons Army Medical Center, Denver, Colorado.

PERTINENT POINTS brought forth included:

- The Code was used as a guideline in answering any questions that were asked pertaining to military duties. He did answer questions regarding his personal background and stated his own opinions which were recorded on a cassette tape. The opinions regarded answers to questions about the Ethiopian Government and different American groups in Asmara.
- The Code is "pretty well self-explanatory."

(Eighth Session - continued)

Summary of interview with LTC John H. Yuill, USAF (Vietnam returnee)

BIOGRAPHICAL SUMMARY

LTC John H. Yuill, USAF, was captured in early 1973 when the B-52 which he was piloting was shot down in North Vietnam. He was help captive 3 months.

Currently, LTC Yuill is assigned to the 7th Bombardment Heavy Wing, Carswell AFB, Texas.

PERTINENT POINTS brought forth included:

- Pertaining to the Code of Conduct, a difference existed between training received during the early part of his career at Stead AFB in 1960 and that received at Clark AFB in 1970. During later training they were told they might be required to give more than name, rank, serial #, and DOB. It was recommended if captured that they should act confused and portray that they really didn't know the answers to the questions they were asked. They were told to be evasive.
- Commonality between the Services as to what the ground rules are concerning the Code and how to behave as a POW is most important.
- Because of daily experiences in our society, they, as later POWs during the Vietnam war, did not have the feeling that propaganda statements were as critical as had been imagined in earlier years.
- Although it might not be feasible, during intelligence briefings information that is sensitive should be clearly identified. This would enable captives to do everything possible to prevent giving such information. Up to this point a little more flexibility should be allowed as to what you can say. When you get to this point, this particular sensitive material, however, that's it, that's the cutoff.
- Article II needs to be cleared up regarding what exactly is the meaning of "...to resist by all means available." Article V needs clarification also as to what constitutes "to the utmost of my ability."
- The Code is basically good if the training is sufficient to clear up the grey areas.

(Eighth Session - YUILL - continued)

- In his opinion, as long as a POW doesn't do anything for the enemy to warrant early release, it would be all right - depending if the SRO gives approval.

- Being part of the overall camp organization and in the chain-of-command was very meaningful and increased his ability to resist. Getting into the system, making contact by one means or another is very important and should be stressed as part of training.

(Eighth Session - continued)

Summary of interview with Mr. Edward R. Murphy, Jr., LT, USN,
Separated (USS Pueblo XO)

BIOGRAPHICAL SUMMARY

Mr. Edward R. Murphy, Jr., LT, USN, Separated, was the executive officer of the USS Pueblo when the vessel was captured by North Korean forces at sea on 23 January 1968. He was held captive 7 months.

Mr. Murphy resides in San Diego, California.

PERTINENT POINTS brought forth included:

- The tactic of divide and conquer was used by the enemy.
- The only value of a POW from the captor's standpoint is that of political ransom. The longer the propaganda value exists, the longer you will be held.
- Captive's mothers, daughters, and wives only serve as propaganda puppets when they attack the U.S. Government. Some means of preventing this should be instituted.
- In order to understand the Code does not require that the Code itself be changed. Rather, it is the training concerning the framework to which the Code is attached that should be changed.
- "The equipment which the Code gives you....is, I think, as good a background as you could give any serviceman." It then becomes a product to be used in the training of personnel so that they will understand it.
- A POW should know how to exploit the enemy's propaganda for his own benefit and for the benefit of his country as well.
- The only part of the Code remembered pertained to resistance and the part about not giving more than name, rank, and serial number ("...not even remembering, really, date of birth").
- An escape attempt has to be weighed in light of its benefit as compared to the grief it might cause the remainder of the group.

(Eighth Session - MURPHY - continued)

- The unconventionality of the captor is something most of us don't appreciate until actually experiencing their techniques.
- The Code establishes a moral standard but the problem has to do with its various interpretations.
- Whether the Code is clear or not depends on how it is taught.
- We're far too uneducated about the communist world.
- Regardless of how badly things are going, the command structure should be held intact, "...there's no provision for graceful mutiny...and there should not even be that consideration."
- The difference between a prisoner of war and an international war criminal should be stressed in training. It is a subject that should be reviewed.

(Eighth Session - continued)

Summary of interview with Mr. Frank Cius, SSGT, USMC, Separated
(Vietnam returnee)

BIOGRAPHICAL SUMMARY

Mr. Frank Cius, SSGT, USMC, Separated, was captured in 1967 when the helicopter in which he was a crewmember (then LCPL) was shot down in the northwestern South Vietnam/eastern Laos border area. He was held 5 years, 8 months.

Mr. Cius resides in Cheektowaga, New York.

PERTINENT POINTS brought forth included:

- The Code of Conduct and Marine training were the basic means through which he made it through his 6 1/2 year ordeal as a POW.
- In answer to a question by COL Danford, if he had received orders by someone in another service would he have questioned those instructions, he replied, "I don't see why I should, sir."
- To give only name, rank, serial number, and date of birth and nothing else was a realistic requirement.

SUMMARY

NINTH SESSION, 1 JUNE, 1976

Summary of interview with BGEN Ernest R. Reid, USMC (Korea returnee)

BIOGRAPHICAL SUMMARY

BGEN Ernest R. Reid, USMC, was wounded and captured on 29 November 1950 while serving as a Lieutenant in the 1st Marine Division in Korea. He was a PW for 3 years.

PERTINENT POINTS brought forth included:

- As POWs the thing they fell back on more than anything else was their training as a Marine.
- There needs to be a "vehicle" through which the authority of the SRO can be enforced to instill discipline in a POW camp.
- If you have good sound training, there is no need for a separate Code of Conduct - as long as the means for enforcing it are incorporated in the MCM or other pertinent regulations.
- It should be written into our regulations that the SRO, regardless of his branch of service, would, by virtue of his seniority, automatically create a command structure. This would place him in command and give the authority to administer punishments which would "stick" after repatriation.
- Word changes to the Code are almost certain to make the training of recruits - inadequate as it is - easier.
- If we are going to have a Code, it should be legally binding.
- It is possible the Code might lend itself to liberal interpretation which might suggest to some individuals they have more latitude in their behavior than is allowed by other edicts, such as the MCM.
- Although a POW should stay with the "big four" as long as possible, the Code should be more liberal in this regard. However, later in the interview BGEN Reid states, "I think certainly that the name, rank, and serial number - if you stay with that, that really turns out to be the best policy." Carrying this problem

(Ninth Session - REID - continued)

further, BGEN Reid brought up the problems of writing personal biographies for the Communists. The POWs were told they had to supply these in order for their location to be known so they could receive mail and so forth. If they falsified the biographies and then gave different information when they had to fill one out at a later date, they were in trouble. BGEN Reid was more concerned about the opportunist who would betray their buddies for a small favor than any other information the enemy might gain.

- Of 52 escape attempts by his camp, none were successful.
- The SRO should be the final authority regarding escape plans.

The Chairman, Dr. Ahearne, had to leave; Dr. Shields took over as acting Chairman.

(Ninth Session - continued)

Summary of interview with 1st SGT Carrol E. Flora, USA (Vietnam returnee)

BIOGRAPHICAL SUMMARY

1st SGT (E-8) Carrol E. Flora, USA, a Special Forces light weapons leader, was captured 21 July 1967 in the A Shan Valley/Laotian border area of northwestern South Vietnam. (Then SGT 1st Class) Flora was wounded during ground combat and was being evacuated by helicopter when he fell from the medivac hoist into the hands of the enemy. He escaped three times but was eventually recaptured each time. Total time in captivity was 5 3/4 years.

Currently, 1st SGT Flora is First Sergeant of the Military Police Detachment at Walter Reed Army Medical Center, Washington, D.C.

PERTINENT POINTS brought forth included:

- In some areas the Code is too vague and some areas it's too detailed. For instance, the portion of the Code that states "I will continue to resist by every means available as long as I have the means to fight;" "...my instructor told me, if you have an entrenching tool, that's a weapon." "I'll give only my name, rank, serial number, and date of birth." No one can spend 5 1/2 years and only recite the "big four."

- The Code looks good on paper but as a practical application it doesn't work.

- If you give a man more leeway as to what he can say - let him make up his own mind as to when he should or should not talk - he'll be less apt to give the enemy any information that will be helpful to them.

- "I think we could have a Code but it would have to be something we could enforce."

- The training most received in basic training is so vague that they don't know what it's all about.

- We've got to teach the Code psychologically to make a person believe in it. "If you can't make him believe it, it's no good."

- The Department of Defense let him down by publishing information about him which blew the stories he had fabricated up to that point.

(Ninth Session - FLORA - continued)

- SGT Flora felt that he had been inadequately trained in that he had been taught to abide by the Code by its strict interpretation. "I went in there with the idea that if other people could live by the Code of Conduct, then I could too, but I don't think you could ever find anybody who was ever released that lived right straight by the Code of Conduct, sir."

- COL Day brought out that although he, SGT Flora, didn't feel the Code made sense in many respects that he had, in fact, conducted himself in a manner that was very much like the standards required by the Code. SGT Flora agreed. "I knew that one of these days I'd have to look at myself in the mirror..."

- He disagreed with the fact that his SRO had just a civilian in charge of one of the rooms.... "I don't work for civilians, sir." "Civilians don't come under the Code."

- "I don't care if a man is civilian, military, doctor, noncombatant or whatever. If he volunteers as a civilian going to a combat area, he ought to conform to whatever Code the military comes under, you can't set a double standard in a PW camp, sir."

- Concerning future training, he recommended that we teach our men about Communism.

(Ninth Session - continued)

Summary of interview with LTC Floyd H. Kusher, USA, MC (Vietnam returnee)

BIOGRAPHICAL SUMMARY

LTC (Dr.) Floyd H. Kushner, U.S. Army Medical Corps, was a passenger in a helicopter which was shot down 30 November 1967 in South Vietnam. Believing nearby South Vietnamese villagers to be friendly, based on recent intelligence information concerning the area, Dr. (then CAPT) Kushner sought assistance from local inhabitants. He was captured by hostile forces. He remained a POW in primitive camps in South Vietnam until he was moved to North Vietnam near the end of his 5 1/2 years of captivity. Dr. Kushner was the only American physician captured during the Indochina war period.

Currently, LTC Kushner is assigned to the Optomology Clinic, Brooke Army Medical Center, Fort Sam Houston, Texas.

PERTINENT POINTS brought forth included:

- He received very little training in the Code of Conduct. That which he did receive was given in basic training and presented with levity.
- The possibility of capture never entered his mind.
- There was a constant daily battle for survival in his POW camp. It was a psychological/medical horror.
- The enemy made a dedicated effort to (1) "convince us of their right in the war and America's error in the war and (2) to utilize this attitude to generate propaganda, usually of a written nature."
- "I can't overemphasize how difficult it was to stay alive." Ten of twenty-two Americans died in his camp, literally in his arms.
- Besides fear, the enemy used "political education."
- The most powerful weapon the enemy used was the promise of release.
- The law of the jungle prevailed until he reached the "Plantation." There, however, there was a team, some organization and leadership. As a result, a high feeling of obligation to the group overcame him and his health and mental outlook improved considerably.

(Ninth Session - KUSHNER - continued)

- "What I have told you is a ringing endorsement of the Code of Conduct as it stands." I think it's the duty of the military and of our country to convince prospective POWs, potential POWs, of the rightness of the Code so they have no doubts about it in the beginning."

- The Code should not be a legal guideline but Article IV should be legal. "I will give no information or take part in any action which might be harmful to my comrades, this is the basic tenure of the morality and people who break that, except under the most extreme duress, should be subject to courts-martial." Other than that, the Code should be one of a moral commitment.

- We should be trained as to what to expect if captured - that includes medical personnel.

- The communists denied letting him perform in a medical capacity and humiliated him whenever possible, stripping him of his credibility as a physician toward his fellow POWs.

- The obligation of medical personnel of caring for the sick and wounded might supersede the obligation to escape. "...he should have to look within himself to find the answer to that."

- "...I'm sure that there are medical people who are quite capable...to assume command." "...the most competent, most capable person should take command." This would include a medical officer.

- Having been treated as an American fighting man and having been in very close association with other combatants, he felt morally bound to the Code.

- In answer to a question by COL Day as to what the threat and the future role of the medic he perceives, COL Kushner said: first of all the enemy is not going to be bound by the Geneva Conventions in caring for POWs. Everyone - medics, chaplains - should be taught to expect physical and mental stress. He should be encouraged:

- to resist to the utmost of his ability
- to never believe anything the enemy says or shows him

- It's basically impossible to prepare a man for years of captivity under terrible conditions. If properly prepared, however, a POW will have more faith in his country and his government.

(Ninth Session - continued)

Summary of interview with RADM Robertson, Judge Advocate General of the Navy

PERTINENT POINTS brought forth included:

- The question regarding the nature of debriefings that would be given to POWs when they were released was not resolved until about the last minute. The decision was to proceed with the normal intelligence debrief. "If the POW wanted to talk about misconduct of others, he would be permitted to do so; if he wanted to talk about alleged acts of his own misconduct, the debriefer was to steer him away from that subject, make a report back to headquarters and not return back to that subject until he received instructions. If the POW insisted on unburdening his soul about what he felt were acts of misconduct on his own part, then the debriefer was to segregate that portion of the debrief, lock it up, not give out - not to access it to anyone. Any persons who were known to be suspected of misconduct were not to be debriefed at all. Those were the guidelines, as far as debriefing went, that we in the Department of the Navy followed."

- There was certain other policy guidance from SecDef regarding disciplinary action against ex-POWs that fell into three segments:

- 1) No charges were to be brought unless they were brought by another POW.
- 2) There were to be no charges based on propaganda statements alone.
- 3) There was to be close cooperation and coordination between the Services to ensure the use of common standards in the disposition of any charges.

- There were a series of meetings regarding this policy guidance and all of us in the Navy became aware of a strong predisposition on the part of the Army that there would be no trials. (Dr. Shields concurred that this was a fair statement.) Three things led to this:

- 1) The My Lai experience
- 2) The Green Berets cases
- and 3) General Abrams conviction that the POWs should not be subjected to any further confinement.

(Ninth Session - NAVY JAG - continued)

- Initially, there was no policy that said there were to be no trials or convictions.

- When the senior POW indicated he would not be bringing charges against anyone, Captain Stockdale advised the Chief of Naval Personnel that he had information as to the misconduct of certain members and requested investigative support.

- Two Army enlisted men were deemed the most culpable in that their conduct and involvement were significantly more detrimental to the other POWs within the camp than the Marine Corps POWs charged. Thus, the Marines were to be referred to trial only if the Army took similar action.

- Memorandums from the Judge Advocate General of the Navy to the Secretary of the Navy concerning charges against a Naval and Marine Corps officer and some Marine Corps enlisted men, are available.

- After personally interviewing 19 POWs, meeting extensively with RADM Stockdale and CDR McCain and with the accused defense counsels, Secretary of the Navy Warner announced his decision that, in lieu of court-martial in the cases, he would issue administrative letters of censure and that the two officers would be retired.

- Although the individuals concerned had failed to meet the standards expected of officers of the Armed Forces of the United States, any beneficial purpose which might be served through the conduct of such a public investigation would be more than offset by the disruptive effects such proceedings would be bound to have on the entire community of former POWs and their families.

- Charges were re-instituted by MAJ Leonard. As a result of these charges, rather than merely using the debriefs from the returned POWs, a joint Army-Navy investigation was undertaken by the CID and NIS. It was determined as a result of these that there really was no new evidence and the charges were dismissed.

- Dr. Shields stated that he felt that in making the statement that none of the POWs would be tried for any propaganda statements, the Secretary meant to avoid trying everyone. This was in recognition that many Americans, after being badly treated, had signed letters, etc. RADM Robertson said it was interpreted to mean what the word was defined as in Webster's Third International Dictionary.

(Ninth Session - NAVY JAG - continued)

- COL Day pointedly stated that there was severe "heartburn" about propaganda statements made by certain POWs if they were voluntary (ie., issued under no duress).

- RADM Robertson said that certain despicable statements made by POWs accused of misconduct at the time of the Jane Fonda and Ramsey Clark visit were considered to have fallen under the broad category of propaganda statements which were absolved. He did point out, however, that there were many charges against these individuals that did warrant trial.

- RADM Robertson said that the intelligence debriefings were instructed not to elicit information from the POWs regarding their own misconduct but that they could obtain all the information they desired as to the misconduct of others. CWO2 Rander mentioned that somewhere along the line, in some cases, a little bit got lost in the translation of instructions as to how the POWs were to be debriefed.

- RADM Robertson stated that although the decision of each Service Secretary was made independently, there must have been some discussion between the Services regarding the merits of the cases. "The fact that the decisions were made the same day would leave me to believe they did discuss it and decide to act consistently with each other."

(Ninth Session - continued)

Summary of interview with CAPT Charles Klusman, USN (Laos escapee)

BIOGRAPHICAL SUMMARY

Captain Charles Klusman, U.S. Navy (pilot), was shot down on June 6, 1964 while on a combat mission over Laos. He was flying a RF8A while attached to Light Photo Squadron 63, Det C operating from the USS Kitty Hawk (CVA-63).

Captain Klusman escaped from the Pathet Lao on August 29, 1964.

Captain Klusman is presently Executive Officer of the USS Lexington.

PERTINENT POINTS brought forth included:

- The Code, as taught when he received training, was very hard line in that it was strictly interpreted.
- The Code was a valuable guide during his experiences, "It was something I had to hang my hat on...."
- The SERE training, wherein a POW compound situation is simulated, is very valuable training - not so much due to the fact it closely simulates the actual situation but in that it forces the individual experiencing it to look at himself.
- There should be standardization between the Services as to the way the Code is taught.
- He fully supported the senior ranking officer concept. Regardless of Service the senior member should assume command and attempt to establish an organization.
- The obligation to escape keeps a POW's hopes up. It's a goal for which to strive.
- There might be some risk of misinterpretation regarding the part in the Code pertaining to accepting special favors. It should be possible for someone to accept something which might enhance his opportunity to escape. An example would be obtaining more freedom of movement in a POW camp - and therefore falling under less security - by promising not to escape. This assumes that no military information is divulged and that this is not done at the expense of other POWs.

(Ninth Session - KLUSMAN - continued)

- To make the Code legally binding would be extremely difficult and unenforceable.

- He had to sign a document, as did all reconnaissance pilots at the time, which was in direct conflict with the Code. If shot down in communist held territory, they were to reveal exactly what they were doing, etc.

- Having an OSD level watchdog to monitor the SERE training of the Services would be a good idea.

- Not only is the commonality of training important, but so is its orientation: Rather than looking at past areas of conflict we should look at likely places where future conflicts could arise and orient our training in that direction.

- Sticking to only giving name, rank, serial number, and DOB is the only safe way as far as divulging information is concerned. Some have interpreted the Code so literally, however, they wouldn't even answer a question as whether or not they wanted something to eat!

- Regarding parole, a POW should accept release if there are not conditions attached as long as the SRO has final authority.

- He doesn't interpret the Code to mean you must escape, but rather, you should do so if there's a fairly good opportunity.

(Ninth Session - continued)

Following all the interviews there was a brief discussion during which:

BGEN Canedy emphasized the differences in the training problems of the Army and Marines as opposed to the Air Force and Navy.

Dr. Shields mentioned that he was impressed by the number of interviewees who had mentioned a need for instruction concerning communism.

COL Day stated that men who could have pleaded ignorance of the Code did, in fact, remember it.

MGEN McNeil suggested that the success of the affirmative action plan - in regards to standardization of the different Services - could be used as a model for training of the Code of Conduct.

COL Arnold brought up the fact that many of the interviewees had strongly emphasized the importance of following a chain-of-command in a POW situation. By placing emphasis on this during instruction, concerning the Code, there would be far reaching benefits in terms of improved leadership and discipline throughout the military command structure.

Further, he mentioned that it appears that the Code, having been written by a reasonable men, has been interpreted by many to place unreasonable demands upon PW's, ie., the big four and nothing more.

SUMMARY

TENTH SESSION, 3 JUNE, 1976

SUMMARY OF DISCUSSION:

Before discussion with the interviewees, General Canedy stated, in reply to the Chairman, that as a "mid-milestone" his working group has formulated a proposed revision to DoD Directive 1300.7. Feedback from the other working groups is needed to determine if they are all in line regarding the scope and level of training required. Not having the specific wording of the Code - should there be changes as a result of the Committee deliberations - has not had the detrimental impact that he had thought it would up to this point.

Summary of interview with LTGEN Thrash (Korea returnee)

BIOGRAPHICAL SUMMARY

LT GEN. William G. THRASH, US Marine Corps, Retired, was a LT COL. in the 1st Marine Aircraft Wing when he was shot down in Dec 1951 in North Korea. He was imprisoned by the Chinese Communists for two years. LT GEN. Thrash retired in 1972.

LTGEN Thrash showed the Committee a series of overhead slides that he used to lecture each class of Marines that came through Marine Corps Base Quantico for training. (A copy of the slides is attached; parentheses indicate additional wording to better explain the meaning of the slides)

(TENTH SESSION -THRASH-Continued)

(Communist Approach)

THE LENIENT POLICY (requires)

COOPERATION AND COLLABORATION IN MILITARY
INTELLIGENCE

ACCEPTANCE OF THE COMMUNIST PHILOSOPHY

PROPAGATION OF COMMUNIST PROPAGANDA

COLLABORATION WITH CAPTORS

(The basis for) MILITARY INTELLIGENCE (was obtained by:)

AUTOBIOGRAPHY (of the prisoner -in which they
asked for:)

-FORMER SERVICE

-TACTICAL QUESTIONS

-STRATEGIC QUESTIONS

(TENTH SESSION-THRASH-Continued)

PROPAGANDA PROGRAMS

SURRENDER LEAFLETS

PEACE APPEALS

SUBVERSIVE LETTERS HOME

RECORDINGS

PEACE COMMITTEES

CONFESSIONS

PRISONER PUBLICATIONS

PROGRESSIVE GROUPS

ATHLETIC MEETS

(It was discussed how the Communist used the above to "break down" a prisoner)

(It was brought out that the Communists would lecture for as long as 8 hours. They propagated their program with great intensity by the means listed below)

POLITICAL INDOCTRINATION (One of strong points in their lectures)

LECTURES

PERIODICALS AND BOOKS

MOVIES

RADIO AND PUBLIC
ADDRESS SYSTEMS

COGNITION OF POW'S

(TENTH SESSION-THRASH-Continued)

MENTAL AND PHYSICAL DURESS USED BY
THE COMMUNISTS

THE JUDICIAL SYSTEM (used against the POW's)-ITS
INTEGRATION WITH MILITARY
INTELLIGENCE, POLITICAL
PROGRAMS, AND PROPAGANDA

(Four basic charges were levied against the POW's)

CRIMINAL CHARGES

NON-COOPERATION
HOSTILE ATTITUDE
CRIMINAL ACTS
DANGEROUS THOUGHTS

SETTLEMENT OF THE CASE

COOPERATION
PROOF OF SINCERITY
DESIRE TO SETTLE CASE

(As a POW you had to write a) CONFESSION

(to write) CRITICISM (of yourself)

(and) GUARANTEE (that it would never happen again)

(TENTH SESSION-THRASH-Continued)

METHODS OF MENTAL AND PHYSICAL DURESS
(when a POW is undergoing interrogation)

SOLITARY CONFINEMENT

TORTURE

INTIMIDATION

APPEASEMENT

PUNISHMENT OF INNOCENT

COURTS MARTIAL

COMBINATION OF ABOVE TO (make a POW)
COMPROMISE

THOUGHTS THAT GO THROUGH THE MIND

FRUSTRATION, INDIGNATION, AND DESPAIR

LACK OF PRECEDENT AND PRIOR INDOCTRINATION

DETERMINED RESISTANCE OR COMPROMISE

CONSEQUENCES OF DETERMINED RESISTANCE

CAPABILITY TO WITHSTAND TREATMENT

PROBLEMS OF COMPROMISE (If you give them a little bit
won't they ask for more?)

CONFUSION

(TENTH SESSION-THRASH-Continued)

RESULTS OF COMPROMISE OF PRINCIPLES

PROPAGANDA CONFESSIONS

OPPORTUNISTS

PROGRESSIVES

(what you can lean on)

STANCHION

THE PRISONER IS A PAWN

YOU ARE WORTH MORE ALIVE THAN DEAD

IF YOU ARE CONVINCED THEY WILL KILL YOU IF YOU DON'T COOPERATE,
THEN THEY WILL PROBABLY KILL YOU IF YOU DO

THEY RESPECT CHARACTER

THE INFORMATION YOU DON'T GIVE THEM MAY KEEP YOU ALIVE

TIME ALWAYS PLAYS TO YOUR ADVANTAGE

STRENGTHEN YOUR RELIGION

(TENTH SESSION-THRASH-Continued)

TECHNIQUE (that you might employ as a POW)

FLACCID COLLABORATION WILL BREAK ANY PRISONER

NEVER LET YOUR CAPTOR KNOW WHAT YOU ARE THINKING

SHOW NO EMOTION

SAY I DON'T KNOW OR I DON'T REMEMBER AND STICK TO IT

OUTSMART - DON'T OUTTALK A COMMUNIST

BE COURTEOUS

TAKE YOUR TIME

ONCE TOLD-NEVER CHANGE A STORY-NEVER ADMIT A LIE

DON'T BE TRICKED BY PROMISES

KEEP YOUR TEMPER

DISCIPLINE

ACCEPT YOUR RESPONSIBILITY
AS AN OFFICER OR NCO

ORGANIZE THE UNDERGROUND
MILITARY STRUCTURE

PROMULGATE ORDERS AND
INSTRUCTIONS AS NECESSARY

(TENTH SESSION-THRASH-Continued)

LEADERSHIP

YOUR CHARACTER WILL ENSURE RESPECT OF YOUR RANK

YOUR RANK PROVIDES YOU WITH THE AUTHORITY FOR LEADERSHIP-NOT PRIVILEGES

DO 150% OF YOUR SHARE OF THE WORK

SHARE AND SHARE ALIKE

DON'T CRITICIZE YOUR FELLOW PRISONERS

OBEY SIMPLE RULES AND REGULATIONS

JUDGE THEM BY THOSE THAT YOU WOULD EXPECT OF A PRISONER UNDER YOUR COMMAND

DON'T BE A CHAUVINIST-EXERCISE MATURE JUDGEMENT WHEN TO MAKE AN ALL OUT FIGHT

MORALE

KEEP YOUR SENSE OF HUMOR

BE AN OPTIMIST

DON'T FEEL SORRY FOR YOURSELF

KEEP YOURSELF OCCUPIED

PLAN FOR THE FUTURE

RECREATION IS THE BEST MORALE BOOST FOR THE GROUP

ENJOY RELIGION

(TENTH SESSION-THRASH-Continued)

DUTY

DO YOUR DUTY AS A UNITED STATES MARINE REGARDLESS OF WHATEVER OTHER STANDARDS YOU MAY ENCOUNTER, REMEMBER THE UNITED STATES MARINE CORPS

HONOR

YOUR INTEGRITY, FIDELITY, AND CHARACTER AS AN INDIVIDUAL WILL DICTATE TO YOU THAT WHICH IS HONOR

COUNTRY

THE SECURITY AND PRESTIGE OF THE UNITED STATES MAY BE AT YOUR DISPOSAL, AGAIN IT MAY NOT BE. YOU ARE THE ONLY ONE WHO CAN MAKE THE DECISION

After the slides, PERTINENT POINTS brought forth included:

- There's no way to teach a man to be scared as hell, Rather, training should be a matter of survival. He questioned whether harassment in training does a lot of good.
- There is a requirement for the Code of Conduct.
- In the Korean War almost half the prisoners died before the Communists finally realized that they had the most valuable thing in the world.
- The Korean War was the first war with the Communists. They abolished the rank structure of the POWs in contrast with former wars. Since there was no precedent, it's hard to say if a Code would have improved the conduct of the Korean POWs.
- He had no problem establishing himself as the SRO even though they had members of all the services, as well as British and Turkish POWs.

(TENTH SESSION-Continued)

Summary of interview with CPT White, USA, (Vietnam returnee)

BIOGRAPHICAL SUMMARY

CPT Robert T. WHITE, USA, was captured 15 Nov 1969 when the OV-2 Mowhawk he was piloting was shot down near Vinh Binh on the southern coast of South Vietnam. CPT White was listed as MIA for 3½ years. He was held alone in camps among the mangrove swamps of the coastal Mekong Delta.

Currently, CPT white is attending civil schooling in Daytona Beach, Florida.

As part of the introduction, LTC Gomon, USA, mentioned the unique aspect of CPT White was that he had been held prisoner for 3½ years in the South and felt if he'd been the slightest burden to the enemy they would have eliminated him.

PERTINENT POINTS brought forth included:

- He said that he personally felt the Code did him more harm than good. "I felt like I would have been better off without it." He felt it was a standard to which, if pressed, he wouldn't be able to rigidly adhere and, as a result, it only served to give him something else to worry about. He said he thought the Code should be eliminated and the emphasis placed on training instead.
- The goal should be to teach an individual to survive in captivity. If that is the intention of the present Code then it is all right as it is but, it had not been transmitted to him in that context, he said.
- The training he received was inadequate. He said he didn't know what to expect when he was captured. He stressed a need for psychological training, in that one of the problems he faced dealt with simply maintaining his sanity. Hygiene should be taught as should methods of maintaining morale. The differences between our form of government and the Communist way of government should also be a part of training.

(TENTH SESSION-WHITE-Continued)

- Loyalty to country and fellow prisoners should be stressed.
- There should be a common interservice approach towards decorations and efficiency reports of POWs.
- As to whether the Code should be applicable in other than declared wars, the problem is we're attempting to cover all situations whereas each situation is different. A general statement to the effect that all members of the armed forces are expected to live up to certain standards coupled with positive training and education would do far more good.
- If the Code were eliminated immediately, however, it would be very difficult for the military and civilian populations to accept.
- His feeling was that the Code was not intended to help the individual, it was intended to protect the country from embarrassment if the individual did something wrong.

(TENTH SESSION-Continued)

1503 - BREAK, Chairman, Dr. John F. Ahearne had to leave. The Vice Chairman, LTGEN Clark, succeeded as acting chairman.

Summary of interview with LCDR George T. Coker, USN (Vietnam returnee)

BIOGRAPHICAL SUMMARY

Lieutenant Commander George T. COKER, United States Navy, was a Bombardier/navigator in an A-6 (Intruder) of Attack Squadron SIXTY-FIVE, operating from the USS CONSTELLATION (CVA-64), when he was shot down on August 27, 1966, on a strike mission over North Vietnam.

During his confinement, 6 years and 7 months of captivity in North Vietnam, Lieutenant Commander Coker made an escape attempt from prison.

LCDR Coker is presently attending the University of San Diego.

PERTINENT POINTS brought forth included:

- The Code gives a goal, a standard for which you can strive as an ideal.
- Escape is a mandatory requirement in the sense that it has to be thought about and, within reason, attempted.
- "I think the Code should remain exactly the way it is now." To change any of the words would only serve to open up "Pandora's Box". If there are any specific ideas to get across it can be very easily accomplished by training.
- Concerning the conflict as to whether or not to escape if a senior officer says no, ". . . the primary responsibility to a military man is to obey your orders first".
- "The Code of Conduct is not just for POW's; that's a solid code for any time, any performance in the military."
- The most important thing about the Code of Conduct is that it worked. The SERE training worked also.
- The Code should be made legally binding.
- The interservice chain-of-command should be backed up legally.
- Training should be coordinated among the services. DoD should insure it is a standard policy.

(TENTH SESSION-COKER-Continued)

- The idea about not giving information should be maintained to the best of one's ability. It is a goal for which to shoot. If someone resists giving extraneous information, it will be a lot easier for him to resist for something he considers to be important.
- ". . . you can't destroy your own personality, your own character. You can't say, forget about it because now you're a POW. Even if you tell me it's not important to you, if it's not important to my family, it is important to me. I can't turn around all of a sudden and say, 'well, it really doesn't make any difference, I'll run down my country.' Before long you'll start believing it." ". . . if I wind up failing, at least I'll come back and try it again. If you just give away part of your personality, I think you will destroy yourself" ". . . the Code of Conduct gives you additional backbone, particularly in high stress situations and it tells you when you give up hope, you've been beaten, it says come back and try it again."

Mr. Holmes inserted, in response to the Vice Chairman, that legal scholars believe, in general, that the UCMJ contains sufficient coverage to provide for all the meaningful forms of misconduct by POWs. He said he had not heard any responsible legal scholar in the military field who believes we should attempt to incorporate the Code specifically into the UCMJ. LCDR Coker did not agree. He said that there is a lot of room for sea lawyers to argue, such as a Navy man claiming he doesn't have to take orders from an Air Force officer. Mr. Holmes said the failure to prosecute was not based on any deficiency in the Code or any lack of jurisdiction but, rather, that it was a policy decision. LCDR Coker replied that it has to be cleared up as a part of training. "The way people would view it today, whether it's right or wrong, I could care less. They don't think it has substance. You had better change that."

- When asked about the portion of the Code pertaining to surrendering of your own free will, LCDR Coker replied that you have to figure it out at the time of circumstance. If someone wants to fight it out to the brutal end, let him. The interpretation is being worried about too much. ". . . what kind of example do you want me to follow? I mentioned Nathan Hale and Patrick Henry. They're a couple of nuts. Do you want me to follow that? . . . "If you want to take that out, we won't try it next time. Why should we? . . . That's the type of guy I try to follow in each footstep and you can go down the list all through history and some day a few people from this war may be the next war's heroes." ". . . maybe we lost one or two people but we maintained a tradition and a standard that will guarantee the vast majority of people surviving tomorrow."

(TENTH SESSION-Continued)

Summary of interview with COL Norris M. Overly (Vietnam early returnee)

BIOGRAPHICAL SUMMARY

COL Norris M. OVERLY, USAF, a B-57 pilot, was captured when shot down in October 1967. He was released by the North Vietnamese 5 months later.

Currently, COL Overly is assigned to HQ Air Training Command, Randolph AFB, Texas.

PERTINENT POINTS brought forth included:

- "I feel very strong that we should have a Code of Conduct as a set of principles toward which we strive but . . . the only real article that struck in my mind was Article V."
- The escape aspects of the Code created some problems. This needs to be addressed and a change made to clarify this portion of the Code.
- "I would strengthen the SRO aspect of the Code of Conduct."
- The word "parole" should be replaced with "early release."
- ". . . I would not support legalizing the Code." . . . "It has to be a flexible instrument."

At this point a general discussion regarding parole took place, The Vice Chairman said, "At this time there are words in there (the Code) that talk about not accepting any special favors. Now, I guess almost any early release could be interpreted as a special favor."

COL Overly: "Yes, it could."

Vice Chairman: "The implication of the Code is that a special favor is something that you've earned by doing something special for the enemy."

COL Overly: "It's implicit, yes sir."

(TENTH SESSION-OVERLY-Continued)

CAPT Coskey: . . ." I don't think substituting the word "early release" for "parole" is the answer at all. I think it adds to the problem."

Vice Chairman: "Well, the spirit and intent of the word "parole", I think, is fairly obvious. There's a lot of confusion surrounding it; it means giving your word not to escape. Now, if anyone is going to be sent home, it's kind of silly for him to even be asked not to escape. Usually parole, I guess even in its historical use, involved giving your word not to escape or fight again."

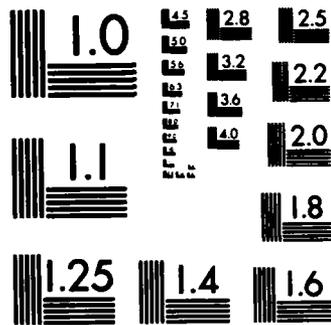
Mr. Holmes: "You do not take up arms against your captor. That's what's insidious."

Dr. Shields: "Except that we've agreed to that, of course, because that's part of the Geneva Conventions"

Dr. Shields then discussed the problem that occurred when the N. Vietnamese were going to release some POW's "in honor of Henry Kissinger's visit to Hanoi." The men to be released were reluctant to come forward because it seemed to them they were accepting special favors in that there were other men who had been POW's for a longer period of time. They had to be convinced that it was all right by an Air Force Colonel who was one of the men sent to receive them. It was a sticky situation. RADM Lawrence said, "A guy can be so hard nosed that he'd turn out to be a turncoat." . . . "What it really boils down to is that you've got to stress the aspect of leadership and organization because the leaders have to make the decision based on gain versus loss as they see it in that camp."

The Vice Chairman said that the SRO has to have the flexibility to make these sort of decisions and that the Committee should put some language in its report that would sustain and support just such a decision after the next war.

- In answer to a question regarding whether the words of the Code should be changed or the training that backs it up, COL Overly stated his first choice would be to change the precise words he had mentioned.



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

(TENTH SESSION-Continued)

Summary of interview with COL Roger D. Ingvalson, USAF (Vietnam returnee)

BIOGRAPHICAL SUMMARY

COL Roger D. INGVALSON, USAF, was captured in 1968 when the F-105D which he was piloting was shot down in North Vietnam. He was held captive for 4 years 9½ months.

Currently, COL Ingvalson is assigned to 23d Tactical Fighter Wing, England AFB, Louisiana.

PERTINENT POINTS brought forth included:

- "I'm a definite advocate of the Code of Conduct"
- He recommended that certain articles of the Code be changed.

His recommendation follows:

ARTICLE III

If I am captured or become a prisoner of war, I will continue to resist by every means available. If authorized by the senior man, 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

As a prisoner of war

His reasoning was that the Code now seems to imply that what is said in Article III only applies to someone when they are captured. Article III should also be intended for someone when he is a POW.

ARTICLE 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. (He recommended "to the utmost of my ability" be deleted). I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.

(TENTH SESSION-INGVALSON-Continued)

ARTICLE VI

I will never forget that I am an American fighting man, under all or any circumstances, 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.

The point here was that certain individuals who were POW's said that since there was no declared war in Vietnam, the Code was not applicable. COL Ingvalson felt this addition would make it clear that the Code applies at any time. "In any situation when you're defending your country we should follow the Code."

In response to the Vice Chairman, COL Ingvalson agreed this problem could probably be handled by proper training.

(TENTH SESSION-Continued)

POST INTERVIEW DISCUSSION; centered around training. BGEN Canedy posed the question, what do we do for the SRO?

Dr. Shields pointed out the overall success that the training program did have in light of the way most of the POWs made it through their experience. But, Dr. Shields perceived that the Army never differentiated between the ground forces and those who were aircrewmembers and obviously exposed to a greater risk of capture. As a consequence such forces as the air cavalry units did not have the training that aircrew members of the other services received.

It was further brought out by RADM Lawrence that in the Army, the name of the game is not to get captured. It's real stigma in the Army to be a POW.

It's because it's not productive for the Army to spend a lot of time training people what to do if captured. BGEN Canedy agreed.

The Vice Chairman pointed out, however, that there are a lot of collateral benefits to be accrued from such training that makes an individual a better fighting man. The Army has a wide spectrum of risk categories and somehow or another we have to meet that need, he said. There have been some "gaps" in our training in this regard in the past and we've paid for it. GEN Clark stated that it is the job of this Committee to solve this problem.

Summary

ELEVENTH SESSION, 8 JUNE 1976

Summary of Administrative remarks: The Vice Chairman distributed a paper that outlined several possible word changes to the Code. RADM Lawrence mentioned that, considering the services' desires, the working group's basic recommendation was that the Code not be changed but instead, that certain explanatory portions of DoD Directive 1300.7 be reworded. A working group report was distributed to the Committee members and comments were solicited within the next week.

Summary of interview with Dr. Albert Biderman, senior research associate, Bureau of Social Sciences Research Incorporated.

BIOGRAPHICAL SUMMARY

Dr. Albert Biderman, PhD, is Senior Research Associate employed by the Bureau of Social Science Research, Inc., 1200 17th Street NW, Washington, DC.

Considered an authority on psychological aspects of penal/POW captivity situations, Dr. Biderman has special expertise concerning the Korea POW experience. He is the author of the statement, ". . . Communists explicitly define the captivity conditions of political and war prisoners as a penal reform situation."

PERTINENT POINTS brought forth included:

- There have been several very serious missteps in regards to the Code:
 - 1) It has given prominence to what should be a peripheral matter—the risk of capture and behavior of someone in event of capture.
 - 2) The prisoner of war matter has taken a tremendously overblown proportion in the scheme of things that has had very adverse consequences to international relations and law.
 - 3) Various premises of the Code, its training and indoctrination, and the fabric of issues surrounding it are frozen into the historical circumstances of the Korean War which are now anachronistic. It would never be applicable to the complete range of circumstances applicable to our fighting forces engaged with hostile or any other contacts with foreign powers.

(Eleventh Session - BIDERMAN - Continued)

The point was made, in further explanation of #3, of the inappropriateness of the Code for someone who, for example, wandered across the Czechoslovakian border. The policemen would want to establish the facts but the individual, sticking to the Code, would not cooperate and, consequently, would complicate matters for the diplomatic service which was trying to obtain his release.

Also, in further explanation, Dr. Biderman said the idea of the POW still being at war with the enemy is a departure from international law.

- We have lost more than we have gained by the Code on the matters that count by being open to political manipulation, blackmail and trickery by enshrining the doctrine that POW's are legitimate hostages and can be used as such in the arena of international conflict.

(Eleventh Session-Continued)

Summary of interview with COL Ernest R. Morgan (Lebanon detainee)

BIOGRAPHICAL SUMMARY

COL Ernest R. MORGAN, USA, was abducted in Beirut, Lebanon by terrorist guerrillas on 29 June 1975 while he was in transit from Pakistan to Turkey. He was held for 14 days.

Currently, COL MORGAN is a member of the staff and faculty of the Army War College, Carlisle, PA.

PERTINENT POINTS brought forth included:

- "In my case I would say that I did not draw any great substance from the Code of Conduct as a Code." ". . . I guess part of the problem was I wasn't sure I was a prisoner." ". . .when they indicated they were going to kill me because I was in Beirut as a political spy, I had to try to deal with that, but it wasn't in the frame of reference to the Code of Conduct; it was trying just to survive." ". . . I think there is a need for some sort of document to assist people, particularly people who could become political prisoners."
- When asked, didn't Article V of the Code apply to him when questioned by his captors, COL Morgan replied, "I didn't accept it because I didn't accept my status as a prisoner."

(Eleventh Session - Continued)

Summary of interview with COL Benjamin H. Purcell, USA (Senior Army Vietnam returnee)

BIOGRAPHICAL SUMMARY

COL Benjamin H. PURCELL, USA, the senior US Army returnee from Vietnam, was captured 8 Feb 1968 when the helicopter in which he was a passenger was shot down in the northeast coastal area of Quang Tri Province, South Vietnam. COL Purcell was held in 7 locations -- primarily in primitive jungle camps in the Laos/Vietnam border area and eventually at the "Plantation Gardens" facility in North Vietnam. He escaped twice in North Vietnam, but was recaptured.

Currently, COL Purcell commands the 3d Basic Combat Training Brigade, Ft Leonard Wood, Missouri.

PERTINENT POINTS brought forth included:

COL Purcell was a member of a research study group at the US Army War College in the spring of '74. They produced a paper entitled, "Should the Code of Conduct be Revised or Eliminated?" In highlighting certain portions of this study, he said:

- The conclusion they had was that the Code of Conduct was useful and should be retained as a concept. However, once a prisoner deviated from the Code, a guilt complex developed which was used against him by the interrogator.
- Of the 2200 people interviewed, most felt they understood the Code, but when asked to apply it to certain specifics, they were not able to do so. Therefore, although with reluctance, it was recommended that the Code be revised - particularly Article V. It was felt that changes would enhance its effectiveness. Ex-POW's hold a much stronger opinion regarding this issue.
- There was a strong belief that the Code should apply to captured American civilians. "I feel very strongly that the United States Government owes it to the people who go into combat, to very clearly stipulate who is in charge and who will be responsible should those people become prisoners of war. In peacetime overseas there is no question; the Ambassador is head of the American team, but in combat and in prisoner of war camps, it is my personal opinion that authority, that responsibility, shifts to the shoulder of the senior American serviceman. . . ."
- Training of the Code should promote confidence in all members of the Armed Forces that they can be counted upon to adhere to the orders of the Code.

(Eleventh Session - PURCELL - Continued)

- The training by all services should clearly and uniformly delineate the chain-of-command and one's obligation to it regardless of his branch of service. "I say again, the prisoner needs to know who's responsible for his welfare."
- ". . . I'd like to see the Code revised in such a way that it would apply to all Americans whether at peace or war"
- A PW should escape if at all possible. It's something that keeps a PW's mind active as he tries to out-think the enemy. In addition, escape provides other benefits besides a return to friendly forces. In addition to giving a PW self respect, it damages enemy camp personnel by causing them to be relieved of their responsibility and transferred or replaced by Army squads.
- A PW should never accept parole or special favors that are not accorded other PW's.
- ". . . I don't think any American should accept release ahead of other Americans."
- Basic trainees in the Army now receive two hours of training pertaining to the Code and two hours pertaining to the Geneva Conventions. There is no SERE training whatsoever. For their need, this is adequate.
- "I think the SRO should have an opportunity to approve or disapprove escape planning but in the final analysis, it's the individual who decides whether to go or not. He cannot be ordered to escape but neither do I think he should be ordered not to escape. In other words, even if his SRO does not approve it, I think that he ought to go ahead if he feels like he has a chance." Even if reprisals are administered to everyone in the camp, "I still think there's an underlying obligation for a man to get out and cause that amount of trouble to the enemy"

Later this position was qualified when COL Purcell stated if the SRO knew there's going to be a raid on the camp or he (the SRO) had some larger escape planned, then the SRO should be able to cut off the attempt. If it's only a matter of reprisals, however, then the individual should be able to go, he said. COL Purcell provided a proposed new Code of Conduct; the following amplifies his proposed Code:

a. Subparagraph a. of Article V prohibits the giving of any information of a timely tactical nature which could result in harm to a PW's unit still on the battle field. A PW must guard such information with his life very much as he might do in the heat of battle to protect the life of his buddy. An unwritten assumption here is that after a period of time (different in almost every case) any tactical information a soldier possesses loses its significance to the enemy.

(Eleventh Session - PURCELL - Continued)

b. Subparagraph b prohibits a PW from doing anything that he would reasonably expect would result in harm to his fellow PW. It goes one step further though and clearly sets forth the requirement for each PW to take every possible measure to assist his prison mates to preserve life and health.

c. Subparagraph c places the burden of responsibility and authority squarely on the shoulders of each and every military PW until such time as he is relieved of those duties by someone more senior. This manner of stating the issue provides some overlap of responsibility initially, but until a communications system is developed each PW is on his own anyway and should act as though he's responsible for all his fellow countrymen.

d. Recognizing that politicians in the US may make public announcements critical of government policies it is reasonable to expect PW under extreme pressure and torture, to utter similar statements. Therefore, subparagraph d encourages him to actively resist such actions to the best of his ability.

e. Subparagraphs e, f, and g simply provide additional guidance to PW and hopefully represent significant steps leading to a more easily understood Code and to more effectively comply with the intent of the Code of Conduct.

The reader will note the absence of certain phrases that are either extremely difficult to define, e.g., "our way of life," or that do not seem entirely appropriate for our government to sponsor in this generation, e.g., "I will trust in my God."

While there is strong acceptance of the Code of Conduct as a concept there is wide spread belief that changes would enhance its effectiveness. It is further believed that any revision of the present Code should be undertaken with the Army's concurrence only if fundamental changes are to be addressed; mere wordsmithing of the Code is not recommended.

The PW member of the study group prepared a suggested revision of the Code of Conduct. This suggested revision is intended to accommodate many of the more troublesome ideas and ambiguities found in the present Code. These suggestions are not intended to weaken or diminish the effectiveness of the present Code but to frame an altruistic creed for all American servicemen useful in time of peace as well as war.

The suggested articles are arranged in a sequence designed to clearly distinguish between the actions all soldiers must take at all times, Articles I, II, and III, and guidance for the soldier who is captured, Article IV.

(Eleventh Session - PURCELL - Continued)

Article IV is broken into subparagraphs in descending order of significance which set forth things a PW must never do and include a few ideas of what he should do. COL Purcell's revised Code of Conduct:

ARTICLE I

I am an American serviceman. I trust in the United States of America and am prepared to give my life for my country.

ARTICLE II

I am fully responsible for my actions at all times and am determined to remain true to my oath and commitment to my nation.

ARTICLE III

I will never violate the trust my country has placed in me by surrendering myself or my men to any enemy.

ARTICLE IV

If all means of evasion and resistance are gone, and I should be captured:

- a. I will never give any information to my captors which could result in harm to members of my unit remaining on the battlefield.
- b. I will do nothing that will result in harm to another American prisoner, but will assist them in every possible way to sustain life and health.
- c. I am responsible for the welfare of my fellow prisoners and civilian detainees until such time as I am relieved of that duty by someone more senior in rank, and at that time I will obey his orders.
- d. I will actively resist interrogation and to the best of my ability refuse to make oral or written statements which may be harmful or disloyal to my country or its allies.
- e. I will make no promises (e.g., give parole) nor will I seek or accept any privilege or special treatment except as may be required for the specific purpose of assisting fellow PW.
- f. I will make every reasonable effort to escape and will assist other prisoners to do so.
- g. If I am the senior responsible officer I will not accept release until all other American prisoners and civilian detainees within my camp are free.

(Eleventh Session - Continued)

Summary of interview with COL John H. Dunn, USMC, Ret. (Vietnam returnee)

BIOGRAPHICAL SUMMARY

Lt COL John H. DUNN, USMC, was the Executive Officer of VNFA-323, Da Nang, RVN. He was shot down over North Vietnam on 7 December 1965 while flying an F-4B aircraft. COL Dunn evaded capture for six days until he was seen by two children who alerted their village.

COL Dunn was held in North Vietnam for a period of seven years and two months.

COL Dunn is now retired from the Marine Corps and living near Jacksonville, Florida.

SUMMARY OF PREPARED STATEMENT

- Of great concern has been the action of Service Secretaries and their immediate subordinates in their handling of admitted, open, and verified prisoner gross misconduct which was brushed aside with "no further action".

- Two examples:

Early returnees, none have been publicly condemned, none stood trial, some meritoriously promoted, advancing them ahead of their contemporaries who remained as prisoners in North Viet Nam.

Open cooperation with the enemy causing grievous bodily harm to fellow PW's have been dismissed.

- If this is an example of DoD's attitude with respect to the Code of Conduct, it is almost a certainty that:

(1) SRO's will have difficulty in commanding future PW groups.

(2) the citizens of the United States will be acutely embarrassed by the conduct of certain future prisoners.

(3) it seems pointless to continue discussing the Code of Conduct or prisoner of war conduct.

- In COL Dunn's opinion the Code of Conduct as now written needs no change.

(Eleventh Session - DUNN - Continued)

CODE OF CONDUCT

- I personally felt the Code of Conduct was a direct order to me and to my fellow prisoners.

Training

We must eliminate the following philosophies that have been applied, and seemingly still are, to survival training:

- a. Such training is relatively unimportant because "they'll never catch me" or "only a few are going to be caught";
- b. The superhuman concept of "they can't get anything out of me";
- c. Since this training is comparatively unimportant and distasteful, let's assign the cast-offs to it rather than topnotch initiated individuals with recent experience.

My brief experience during survival training and my lengthy exposure to the real thing convince me we make no progress trying to simulate compound living, practicing being miserable during forced marches, and virtually starving -- when it transpires in the United States. Anyone can endure a face slapping, a mild beating, or being put in a black box when it's done by fellow Americans in the U.S. and when it is frequently known that such harassment will end at a specific time. Hiking in the woods of California, Washington, or Maine has little or no similarity to moving in the jungles of Southeast Asia, the sands of the Arabian Desert, or crossing the mountains of South America. So far as going without food is concerned, I can personally attest that under the real circumstance it can be done for six and a half days with no problem.

I recommend two phases of survival training. The first should be a Stateside course of instruction, conducted at home bases by a traveling Joint Service team, to cover the fundamental philosophy of the Code of Conduct, an insight into the realities of living in captivity, planning and executing evasion, practical aspects of resisting interrogation and exploitation, leadership techniques for compound living, desirable mode of behavior in day-to-day contact with captors, and planning and execution of escape.

The other course should be conducted in the field, on site, in the applicable combat area. Lectures and field work should be conducted, with emphasis on survival techniques that would likely succeed in that area and inclusion of updated information about the enemy's techniques that would be valuable in compound living.

Timewise, primary emphasis must be placed on compound living training.

(Eleventh Session - DUNN - Continued)

I feel strongly that our past and present escape and evasion training is fraught with impracticalities, unrealistic goals, and avoids many crucial areas. In other words, I believe the training now given needs an abrupt and thorough overhaul.

Survival Training

More specific development is needed in several areas: Evasion techniques, evasion equipment, resisting interrogation and exploitation, suggestions/guidelines for compound living, planning, and executing escapes.

Evasion

After my indoctrination I am positive an individual cannot survive very long if he just lets things happen. Evasion is not a matter of luck. Successful evasion closely parallels any other tactical ground military offensive maneuver. Essential to it are careful planning and effective equipment.

My conviction that those who went through Jungle Survival School at Clark Air Base for less than one week were much better prepared to meet the challenges and obstacles in Southeast Asia than those who spent much longer in similar training in the United States.

The following areas seem to need careful review and probable change:

- 1.--Inclusion of lightweight plastic containers of drinking water. By eliminating less essential items and lightening others, a half gallon of drinking water could feasibly be carried (about four pounds).
- 2.--Inclusion of more food. With the advances in the dried food industry, any average male can easily carry two weeks' supply of lightweight concentrated rations.
- 3.--Elimination of the .38 caliber pistol. Since a review of many survival experiences indicates a pistol can be used successfully only for signal purposes, it would be preferable to have a lightweight signal flare gun. In a true evasion situation, firing a weapon except for close-in identification to rescue units jeopardizes continuation of the evasion.
- 4.--A longer range survival radio would be very effective in reducing exposure time for airborne rescue units and increase the possibility of pickup.

(Eleventh Session - DUNN - Continued)

- 5.--Replace present all-weather matches with a small can of Sterno and small throw-away cigarette lighter. Tinder is very scarce in many areas and smoke from a normal wood fire is hazardous to continued evasion.
- 6.--Provision for better protection from the elements and from insects and small animals. This equipment would have to be modified as new areas of operation were encountered.
- 7.--The oilcloth survival map now provided is totally inadequate. It is so large its use on the ground is limited to a sunshade or rainhat. Water-resistant strip maps should be prepared for each mission area.
- 8.--The Nomex (flimsy) flight suit is a tremendous disadvantage in heavy jungle. A much sturdier type material is needed.
- 9.--Standard U.S. Navy flight boots with no modification to the sole are excellent for traversing Southeast Asia jungles.
- 10.--Considerable time should be spent planning and setting up safety pickup points.

Resisting Interrogation and Exploitation

I feel we can do little to increase a person's will or human capability to resist torture or harsh punishment. In fact, my experiences convinced me that all men will, under continuous high-level pain torture, capitulate if kept in a conscious state and given an opportunity.

Having a man give in is not the crucial problem. Of much greater importance is a person's actions once he has been broken. What really counts is his ability to convince the enemy he doesn't know much, convince the interrogator his lies and misinformation are true, skillfully use preplanned "pat" stories, return quickly to a full resistance posture, and follow the enemy's directions only after further threats, harassment or torture.

I believe a prisoner should say "no" to all demands for sensitive military information, information harmful to other prisoners, and to any requests or demands that do not improve the level of the necessities of life for all prisoners.

Compound Living

Many of our command and living problems in North Vietnam were directly attributable to the wide variance in interpretations between members of the different services and even between branches within a service. Consequently, when senior officers were replaced by officers from a different service, many of the standard policies would change. I am certain this was very evident to our captors and disclosed a point of weakness on our part. It also produced a good deal of confusion and conflict among us prisoners.

(Eleventh Session - DUNN - Continued)

With respect to a prisoner's conduct during day-by-day contact with the enemy, the less contact one has -- the less said, asked for and received other than the necessities of life -- the better off the prisoner will be.

The Marine Corps has a long-standing tradition that (1) its members lead by example and (2) the senior man is always at the end of the pay line, the chow line, and the last one out the gate on liberty. I believe this same policy is the key to successful compound living. Each man must be extremely tolerant of his fellow prisoners, whether junior or senior. Each should try to become an earnest listener. The slightest deviation from strict honesty can cause grave consequences. Leaders within a compound should be selfless, consistent, firm but fair.

Escape

Instruction and training in escape have sometimes carried the connotation that escape is a spectacular event to be attempted as often as possible without careful and detailed planning. The record of successful escapes during the Vietnam conflict can hardly be considered impressive; and for this reason I strongly advocate a more realistic approach to the subject through a revision of planning techniques.

Therefore, I feel we should get tough, make the Code bound legally, let's go together, let's make it an Armed Forces Code for all members of the United States fighting forces and lastly, let's get going and most, the most important item is getting reasonable, effective training in the field.

OTHER PERTINENT POINTS brought forth included:

- "I see no room or use for a moral code." The Code should be legally binding by one way or the other.
- "We have one Code in writing and four codes in practice." Each of the services have a different way of teaching the Code.
- One of the aspects of legality of the Code is a command structure throughout the Armed Forces of the United States in a PW compound. The SRO is the boss regarding escape or any other matter.
- The training for the compound in survival school is poor now and the fraternity harassment is not what we need. Instead, COL Dunn proposed a traveling team of experts which would train in this area.

GEN McNeil contested this. He felt the compound training gives a visual insight as to how the command structure might operate. In addition, he pointed out that there is the valuable experience gained - through such training - escaping and evading in the woods for a while.

(Eleventh Session - Continued)

Summary of interview with COL Theodore W. Guy, USAF (Vietnam returnee)

BIOGRAPHICAL SUMMARY

COL Theodore W. GUY (USAF, Ret; Vietnam returnee) was captured in 1969 when the F-4C he was piloting was shot down in North Vietnam. He was held for nearly 5 years.

Currently, COL GUY resides in San Antonio, Texas.

PERTINENT POINTS brought forth included:

- "I think the Code the way it is presently written - with one exception - is the greatest thing ever written in the world" (The exception pertained to Article III where he thought the portion that states, "I will make every effort to escape and aid others to escape", should be rewritten to indicate that the SRO should have the final authority regarding any escape plans.)
- The Army enlisted men, he was surprised to learn, did not know what the Code was and, consequently, he spent a lot of his time teaching them about it.
- Civilians ought to raise their right hand and swear to abide by the Code also.
- "As far as I'm concerned, the organization within the camps was our lifeblood."
- When questioned about the "peace committee", COL Guy said he felt they were originally good men. Once broken, however, they accepted defeat. They didn't use the "bounce back technique".
- "The interservice business doesn't mean anything, I don't think I don't see any difference at all."
- There are certain categories of officer personnel such as chaplains and medical corps officers who should not have any command authority. It should not be considered parole for such personnel to make promises of good behavior in order to move about the prison camp and do other such activities to carry out their professional service.
- There needs to be more education dealing with Communist ideology and our own political system.

(Eleventh Session - GUY - Continued)

- There needs to be some "guts" in the Code of Conduct. Concern was expressed by COL Guy about the fact that charges were dropped against those POWs who did not conduct themselves properly. He pointed out that future POW's might rationalize themselves into cooperating. Those who did so in Vietnam didn't have anything happen to them -- why get the hell beat out of you? COL Guy also pointed out that the Communists might use this very point as leverage in their interrogations.

(Eleventh Session - Continued)

Summary of the interview with QMCS Law, USN (Pueblo returnee)

BIOGRAPHICAL SUMMARY

QMCS Charles B. LAW, Jr., USN, was quartermaster of USS Pueblo when the vessel was captured by North Korean forces at sea on 23 January 1968. He was held captive for 7 months.

Currently, QMCS LAW is assigned to the Naval Regional Medical Center, San Diego, California.

PERTINENT POINTS brought forth included:

- QMCS Law stated that he believes totally in the Code of Conduct. He did state he feels Article V does have some ambiguity. In "I am bound to give only name, rank, service number, and date of birth", the word "only" should be dropped, Chief Law said, because he didn't feel that the Code means that this be interpreted literally.
- The big problem he had encountered throughout the Navy in regards to the Code is the general lack of training. He stated that he felt the Code should be taught to a man when he enters the service. What one could expect should they become captured should be a part of this training also, he said.
- There should be a standardized system of teaching the Code so all the services interpret it in a uniform manner.
- There should be no doubt concerning the command structure. I'm a senior chief petty officer first and a quartermaster secondly, QMCS Law said. He would take orders of those senior to him and would have no problem following orders of a non-line officer, such as a medical officer.
- As a SERE instructor, he did not instruct successive lines of resistance. However, he did teach more than the "big four". He taught delay, evasion of answering questions by saying, "I'm thirsty, I'm hungry, or I'm sleepy" - different techniques to upset the enemy's timetable.
- You must resist capture but suicidal resistance is not called for. The senior man sets the guidelines in such a situation as he sees it at the time.

(Eleventh Session - LAW - Continued)

- Toward the latter part of the Vietnam conflict it was stressed to students that giving out their names was very important. They were also told about the guidelines of the Geneva Conventions and that they were to fill out the "form work". "It was authorized and recommended by DoD to fill out this statement and affix your signature to it because it was of great importance." Nothing was taught about going so far as to appear on TV if you had to give the appearance of support to the enemy, however.

SUMMARY

TWELFTH SESSION, 10 JUNE 1976

Summary of Administrative remarks:

The point was stressed by the Chairman that the Committee was not set up as being a group where the Services would come together but rather, as a committee for the Secretary of Defense. Although each Service was asked to provide members, the Committee is to come up with its own conclusions. he said.

Summary of interview with BGEN S.L.A. Marshall, USA, (ret).

BIOGRAPHICAL SUMMARY

Brig Gen. S.L.A. Marshall, USA, Ret, military historian and author, was a Consultant to the 1955 Defense Advisory Committee on Prisoners of War. He participated in and contributed to the wording of the Code of Conduct; he is said to have anticipated difficulties with the phrasing which the Advisory Committee adopted for Article V... "I am bound to give...only."

Currently, BG Marshall resides in El Paso, Texas.

SUMMARY OF PRESENTATION

BGEN Marshall said that he literally wrote the Code as it is presently formulated. "I mean I actually put it into shape as it is now." Then he explained that while writing the Code, the only real hangup had to do with Article V, the paragraph that deals with talking with the enemy. ". . . the purpose of the Code was to free the Service so that prisoners would be able to talk as long as they did not talk about security matters; that is, they could bat back and forth with interrogators." GEN Marshall had written a paper in which one of his points was that a private in the infantry had practically nothing he could disclose to the enemy that would be of any value. On the other hand, SAC crewmembers were another matter. It should be left up to the Services during training to instruct so that individuals concerned would know how far they could go in answering questions. When the Code was being drafted GEN Marshall pointed out that Article V, as it's stated, is ambiguous in that it can be interpreted to mean that all you can say is name, rank, service no., and DOB. General Hall's reply was that, first of all, it was the language of the Geneva Conventions, and secondly, if they changed the language, "it might open the floodgates". GEN Hall was further said to have explained, ". . . it's going to be the document that puts the Code in context which is going to be the controlling matter anyway, not the Code, because this is a question of training, each Service according to its requirements . . ." It was felt that there was no other way to word the Code without giving too much liberty, too much license.

(Twelfth Session - Continued)

Then, GEN Marshall pointed out, a few weeks after the report was promulgated all the Services except the Air Force turned their back on the Commission's intentions and went right back to the Spartan Code in their training.

OTHER PERTINENT POINTS brought forth included:

- Stead AFB was the "perfect laboratory" for stress type POW training we ever had. He had recommended it be used as a model, a central training point for all Services to send their instructors.
- The word "parole", "it's just a concrete way of expressing special favors."
- GEN Marshall said the Services had been stressing escape as the primary objective of training. He felt that the emphasis should be on camp organization first and finally was able to convince the personnel at Stead AFB on this point.
- The Vice Chairman asked GEN Marshall's opinion as to whether it wouldn't be better if DoD simply put out the Code, the explanatory paragraphs, and a very carefully written training directive and then, leave the writing of manuals to each Service so they will be written to meet their own different requirements. GEN Marshall replied, "That was what was intended in the first place." The 1955 Committee did not recommend the production of the first manual on the Code. All it had recommended in this regard was that the responsibility for training of the Code throughout the Services and follow-up inspection to verify accomplishment of this training were to be charged to the Secretary of Defense's Office. The Vice Chairman stated, and GEN Marshall agreed, that the inspections apparently never were carried out and that's why the Services began to go their own way.
- It's a radical change in that men who fight a war are pretty much disregarded and those who are made prisoners become national celebrities and I say, with respect to all present, not a change for the good because whether we like it or not, the state of being a POW has not in the past been considered, let's say, a high pedestal for a soldier.
- GEN Marshall said he wanted to write the Code to sound like a set of general orders - to make them sound highly military. Article VI, however, with its flowery style was part of the "sales job" of having the Code approved. GEN Marshall said he never would have written it that way and said so in 1955.
- "I will never surrender my men while they have the means to resist", "That speaks for itself." A leader is going to keep his men fighting as long as they can; that's his responsibility, he

(Twelfth Session - Continued)

said. When you come down to the situation where a pilot has only his pistol and is surrounded, then that's where common sense enters. By shooting it out at that point the individual "hasn't achieved a damn thing by doing that except his own death. . . . No, it doesn't mean that."

- If words to the Code are changed at this point, you could get in trouble over it. It would be a booby trap. That question always arises when you change anything that's become somewhat traditional. You've got the media looking over your shoulder looking at it, trying to find a topic that they can make appear scandalous, even though it's not so by nature.

Summary of the interview with CDR Bucher, USN, Ret. (ex-Pueblo Commanding Officer).

BIOGRAPHICAL SUMMARY

Mr. Mark LLOYD BUCHER, CDR, USN, Ret, was commanding officer of USS Pueblo when the vessel was captured by North Korea forces at sea on 23 January 1968. He was held captive for 7 months.

Mr. Bucher resides in Poway, California.

PERTINENT POINTS brought forth included:

- What the Code lacks as it presently exists is flexibility. What we have to do is simplify the Code of Conduct.
- CDR Bucher felt he was in violation of the Code right away when he was captured because he went beyond name, rank, service number, and date of birth by giving a cover story.
- He signed the "confession" that his ship had entered N. Korean territorial waters because they threatened to kill his men, starting with the youngest member.
- CDR Bucher said he would eliminate all of the Articles of the Code except Article VI because he believes "very strongly that every person that serves in this country is dedicated to this country".
- His version of the Code - which would be a version of Article VI as it now stands - would be as follows:

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. If for any reason I became a POW, I will to the full extent of my ability and capacity, continue to serve the interests of my country and my fellow prisoners. I will trust in my God and in the United States of America.

(Twelfth Session - Continued)

- ". . . addressing all other aspects of the Code are meaningless..."
- ". . . the training (on the Code) existing on all the ships that I ever served in is minimal at best." CDR Bucher said he would recommend we provide a degree of training available at Warner Springs (to sailors exposed to possible capture).
 - If the letter, not just the spirit for the letter, of the Code is an impossible thing to live up to for the majority of the people, then it becomes a conscience problem. We have to simplify it to say, in effect, "you are responsible for your actions".
 - The United States should take the position of disavowing ahead of time any detrimental statements made by captured men in that they are nothing more than propaganda statements extracted from the POW's through duress.
 - "The people that did us the most harm over there were our own people here at home. . . . When a Senator from Ohio made a statement, after we'd been over there a month or so, that the United States Government had no real responsibility to retaliate in our behalf because after all, we were members of the CIA, that really did us in and that caused an immense amount of brutality among our people."
 - During the court of inquiry investigating CDR Bucher's actions, both as Commanding Officer of the Pueblo and as a POW after capture, the Judge Advocate General of the Navy and other people that were involved with the legal aspects of the Code of Conduct changed their minds three times within one week's time as to whether the Code was applicable. If the people here in Washington don't know ahead of time whether something of such a precious nature as the Code is applicable or not, how in the hell are people in the field suppose to know?
 - COL Danford asked if the Code didn't give the enlisted man a little more security in that it lets them know what's expected of them? CDR Bucher replied that it does but that this should be dealt with in training. The Code of Conduct should be flexible as well as based on individual responsibility and love of country and our principles, he said.

Summary of the interview with LTC Harris (Korea returnee)

BIOGRAPHICAL SUMMARY

Mr. Theodore HARRIS (LT COL, USAF, Ret) was captured 15 July 1952 when the RB-29 he was piloting was shot down in Korea. He was held 2 years, 3 months by the Korean and the Chinese. Was last man repatriated during Operation Big Switch.

(Twelfth Session - Continued)

Currently, Mr. Harris resides in Englewood, Colorado.

PERTINENT POINTS brought forth included:

- "I'm reasonably certain that I wouldn't have been able to conduct myself as honorably as I would have desired in the Korean Conflict had I been subjected to the same amount of disunity and disharmony and things I personally consider treasonable acts by people in high positions at home. . . ." (as the Vietnam POW's were) ".... if we're asking the military to adhere to certain rules and regulations maybe the leaders of this country should be bound by similar rules and regulations. . . ."
- "It would appear that some consideration should be given to a definite standardization in training and indoctrination and application of the Code between the services."
- COL Harris didn't believe that there is any way at all to legislate conduct under such situations as peacetime detentions. The Code would be good general guidance but not binding.
- "If we adhere to the Code of Conduct, I don't see any requirement or real excuse for getting into deep ideological discussion." . . .
... "the less one knows or can convince the enemy the less he knows, I think the better off he is."
- The SRO should approve who, when, and how events, such as escape, will take place.
- COL Harris had no objection to early releases "based on what little I know of it". ". . . I think that early release might be something that we could exploit."
- "There are too many people in uniform who don't consider themselves fighting men and women. They probably shouldn't be in uniform..."
- Regarding, "I will never surrender of my own free will" - it's a judgement call based on the situation at the time. The idea is to evaluate the odds, "you don't have to shoot yourself in the head to commit suicide."
- "It isn't a fist pounding, shouting, screaming, temper tantrum sort of an interrogation and I don't think that's the way to train a man to resist interrogation. I think the Air Force pursued the proper line in what we all attempted to do was illustrate techniques in our training program."

(Twelfth Session - Continued)

- In The Air Force we taught the "big four" at one time. Then we began to lean toward the second line - evasive answers and things of that nature, in about 1958. Many of us involved in the training couldn't settle the issue among ourselves! Some were hardliners, others were not. As it turned out, the Air Force was succeeding lines of resistance.

Summary of interview with LCDR Hoffman (Vietnam returnee)

BIOGRAPHICAL SUMMARY

Lieutenant Commander David W. Hoffman, United States Navy (Pilot) was shot down December 1971, while on a combat mission over North Vietnam. He was flying an F-4 (Phantom II) while attached to Carrier Attack Wing FIFTEEN, operating from the USS CORAL SEA (CVA-43). He was captive for 2 years, 3 months. CDR Hoffman is stationed at NAS Oceana, Norfolk, VA., with Fighter Sqdn, F-14 (Tomcat) Detachment.

PERTINENT POINTS brought forth included:

- "I viewed it (the Code) as a set of guidelines that you did your very best to follow and as such as a valuable tool."
- "I think once you go in trying to change the few words that probably need changing, need modifying, then the whole thing has to be changed. I'm not sure in my own mind that this is really required."
- "...the spirit of the law (the Code) is what is important rather than the exact letter of the law. There has to be some room for interpretation and it gets into training...."
- Training he had received on the Code in 1965 was the hard line approach whereas in 1971 it was a "use your head kind of thing". They were told not to divulge classified information but were told their primary mission was to survive and come home, he said.
- Probably the biggest single problem is the fact that the training is not uniform. You've got about four or five different schools interpreting the Code of Conduct, how the heck are you suppose to know what to do when you get in a situation?"
- "It seems to me if this (the Code) is an Executive Order from the President of the United States and he's the Commander-in-Chief of the Armed Forces, as far as I'm concerned that's a legally binding order."
- LCDR Hoffman said he didn't know who had or had not signed the Geneva Conventions and asked how does one treat the Code of Conduct when dealing with people who haven't signed the accords of the Geneva Convention?

(Twelfth Session - Continued)

- Many people tried to argue that because the Vietnam conflict was an undeclared war, the Code was not applicable. He did not hold that view.
- "I don't think that most of the people in this country have any idea of what Communism is about and that's a sad fact." There's no question, there should be more training regarding our ideology as, opposed to the Communists.
- In regards to efficiency reports, LCDR Hoffman stated he didn't know who his commanding officer really was. "Who should write down the efficiency report on an officer who felt he was not in the chain-of-command because he was not eligible for command? Was he right?"

A discussion followed which brought out that the Air Force wrote efficiency reports on men while they were POW's, the Navy wrote narrative reports, while the Army didn't do either. GEN McNeil said this is one of the problems which has to be addressed to treat this situation uniformly as if the POW's had been in a joint command but it collapsed. General McNeil pointed out that the effectiveness report was attempted to be used as a substitute for the lack of justice under the law as "they" saw it.

- LCDR Hoffman said that it's the obligation of the senior ranking officer to assume command; that's how the military works, he said. He didn't understand anyone who didn't perceive this but acknowledged there were some POW's who did.
- "...the commanding officer (of a POW community) has got to have the ability to do what he sees necessary for the people that are under his command. "The Chairman asked if he felt the Code limited that kind of flexibility and LCDR Hoffman replied, "I don't feel that I was limited at all."
- There were some things that were done that had to be done that were unacceptable under the Code if it is interpreted word for word. When asked to expound on this, he quoted the last sentence of Article V; "I will make no oral or written statements loyal to my country and its allies or harmful to their cause." "Well, how do you interpret that? Is a propoganda statement harmful to anybody's cause?" Inside our country maybe the answer is yes, outside maybe no. "It's a lot more difficult when what you do affects 40 other people than when it affects (only) you."
- Chairman: "Some people have made the argument that contrary to assignment to specific command staff that coming together in a POW camp they weren't in the chain-of-command."

(Twelfth Session - Continued)

LCDR Hoffman: "Personal reaction to that, I think that's a lot of bull."

- LCDR Hoffman said that he was quite surprised to find, after he became a POW, that those POW's who had returned early had a dishonorable release. "That was very, hard to accommodate." He said the more he found out about this situation the more he understood why this was so, however.
- We need some training and definition as far as medical personnel, clergy, and females are concerned. "I don't know how to handle that."
- LCDR Hoffman said he's not sure what "special favors" means. If it means accepting extra food, he'd take it and share it with others but if it means doing something the enemy wants you to do in order to get it, "that's a horse of another color and that's not keeping faith with your fellow prisoners," he said.

It was pretty obvious to him what the Code means in Article II concerning never surrendering of your own free will.

- LCDR Hoffman said his interrogator already possessed in great detail his biography, the whereabouts of his family, and so on right down to the name of his theses at postgraduate school. The man he was flying with did not have this information - the enemy had obtained it before he was shot down. Under such a set of circumstances name, rank, and serial number became kind of trivial, he said.

POST-INTERVIEW DISCUSSION centered around what the JPRC's (Joint Personnel Recovery Center) mission was and under whose command authority they operated. This was brought up because LCDR Hoffman had mentioned that his air wing had received a briefing before he was shot down and became a POW. During this brief the pilots were told that, if captured, they were "to make every effort to get their face in front of a camera as often as they possibly could so they could keep track of you." The apparent divergence of philosophy promulgated by different sources pointed out the problem of, and need for, close coordination and tight control for training in such matters.

RADM Lawrence posed the question why was the approach adopted for POWs to do anything including making propaganda statements to get their name out. Dr. Shields replied that he didn't think this was the intent. An effort was merely being made to have POWs publicly identified so that the enemy would have to account for them after the war. It was agreed this could have been easily misinterpreted.

(Twelfth Session - Continued)

The Vice Chairman then put forth the suggestion that the files accumulated for this project were of considerable value historically and that, perhaps, we should make copies of distribution to OSD, each of the services, professional schools and service academies. The Chairman said he would take this into consideration.

SUMMARY

Thirteenth Session, 15 June 1976

Summary of Administrative remarks:

The Vice Chairman mentioned that the point has just about been reached when the Committee needs to know with greater clarity what the proposed DoD Directive 1300.7 is going to look like. Is it going to be specific or broad in context? A general discussion followed concerning past DoD manuals and related problems of coordination and interpretation with COL Day pointing out that not only was there a lack of control in regards to implementing the Code but also, those who altered the manuals were those who were least qualified to do so!

COL Arnold then passed out a paper with proposed procedures for issue resolution. The proposed procedure placed early attempts at resolution within the working group, then escalation to a council of working group chiefs. If still unresolved the issue would go to the full Committee. Although the Committee took no action on the proposed procedure, the consensus was it was too formal and complicated.

Summary of Interview with State Department Officials: Ambassador Manhard, Mr. Douglas Ramsey, and Mr. Frank Sieverts.

BIOGRAPHICAL SUMMARIES

Ambassador Philip W. Manhard (Dept. of State: former U.S. Ambassador to Mauritius) is a career Foreign Service Officer who was Thua Thien Province Senior Advisor in South Vietnam when he was captured by hostile forces during the TET 1968 Offensive. Although entitled to detainee status, he was confined with U.S. military POWs for 5 years. Discussion arose concerning his role, and that of other U.S. civilians, in related to the military senior officer in the same PW camp.

Mr. Frank A. Sieverts (Dept. of State: Foreign Service Officer, grade 2) is Deputy Coordinator for Humanitarian Affairs and POW/MIA Matters. He has departmental responsibility for civilian detainee activities and has been the State Department counterpart of DoD's Dr. Roger Shields for many years.

Mr. Douglas K. Ramsey (Dept. of State) was a representative of the Agency for International Development (AID) in South Vietnam when he was captured on January 17, 1966 by hostile forces. Although entitled to detainee status, he was confined with U.S. military POWs for 7 years in jungle camps of Cambodia and South Vietnam.

(Thirteenth Session - MANHARD, SIEVERTS, RAMSEY - continued)

PERTINENT POINTS brought forth included:

(Ambassador Manhard began)

- "I don't look at my own situation as directly related to the military Code of Conduct. Instead, my philosophy was you've got to try to do your best to prevent your captors from obtaining classified information. You've got to try to stay alive; you've got to try to avoid anything that spells out trouble for your fellow prisoners."

- The Code was a help in terms of giving a man a foundation to lean upon and to impress upon him the importance of loyalty to his country, his service, his government and to his fellow prisoners. It is a hindrance in that POWs may feel they're in trouble forever if they go one step beyond giving name, rank, serial number and date of birth."

- A situation such as existed in Vietnam may not happen again but it might be helpful if the civilians who are to be exposed to combat would be at least informed about the nature of the training that exists related to the Code of Conduct.

- Ambassador Manhard said he agrees with the part of the Code that states a POW should make every attempt to escape, but the training programs should pay particular attention to what happens after he gets out of the prison camp.

- Both Ambassador Manhard and Mr. Ramsey provided their captors with factual biographical data to try to convince them they were not C.I.A. agents. Mr. Ramsey said, however, he later realized that by providing such information it gave the VC leverage against the military POWs.

- Mr. Ramsey said that circumstances vary from camp to camp and regardless of what standards are set, the actual adaptation to the situation will be based upon factors other than those contained in the Code. "There is no way of avoiding this," he said. One of the most typical Viet Cong techniques was to threaten not the individual from whom they were trying to extract information, but a fellow POW or POWs.

- Value judgements had to be made as to what a human life was worth. In Mr. Ramsey's prison camp, a line was drawn between intelligence data and propaganda statements on the grounds it was felt the latter was not believable anyway. To illustrate his point,

Mr. Ramsey related a story where their SRO agreed to let an individual whose health was poor and becoming worse write a "minimal" propaganda statement to obtain his own release.

- Mr. Sieverts stated that he thinks it is necessary when formulating any policies which are promulgated publicly that it should be taken into account that a civilian has a different entitlement and is not, generally speaking, to be considered a POW. If you put civilians under a military chain-of-command or make them legally bound to the Code of Conduct then, he said, you'd have the dangerous situation of someone legally military but wearing civilian clothes.

- Mr. Sieverts said further that the most useful thing a civilian, likely to be exposed to capture, could be given would be a chance to participate in simulated interrogation sessions. In this way he could learn how interrogators lead a POW from providing seemingly innocuous statements into giving information useful to the enemy.

- Mr. Sieverts suggested, rather than have civilians entering a war zone processed through some central point, it might be more feasible when the Code is brought to the attention of the public that it be established as a guidance for civilians as well.

- State Department employees are, theoretically at least, under a diplomatic status which gives them a form of protection.

- Mr. Ramsey said it's an "extreme desirability" that any escape attempts be coordinated, if at all possible, with the SRO.

- Although he couldn't offer a solution, Ambassador Manhard brought forth the problem of civilians overseas such as missionaries, voluntary teachers, etc., who take the position that they don't work for the United States, they're not paid by the United States, therefore they're not required to follow any kind of Code of Conduct - nor, they contend, do they have any requirement to pay attention to any military or civilian officer.

- Mr. Sieverts strongly stressed the portion of the Code that states "I will keep faith with my fellow prisoners." He feels there are too many first person singulars in the Code... "it's through that group that you not only find fellowship and strength but perhaps also survival..." If someone violated this principle it was regarded by other POWs as much more serious than if he had violated some other aspect of the Code, he said.

(Thirteenth Session - continued)

Summary of interview with Dr. William Miller, PhD.

BIOGRAPHICAL SUMMARY

Dr. William Miller, PhD, a psychologist and consultant to various U.S. Government agencies, is an authority on captivity and hostile interrogation situations. Dr. Miller has special expertise concerning the Code of Conduct, various Service training programs, and psychological aspects of the shock of capture.

Dr. Miller is now retired and resides in San Diego, California.

PERTINENT POINTS brought forth included:

- The objective is for the POW to come out of the POW camp in the best possible physical and mental health with his personal pride in tact.

- "...the guilt and depression they (POWs) felt for not having lived up the the "big four," assuming that is what they were supposed to do, is a tremendous additional debilitator. As a matter of fact that, more than any one thing, sent a lot of people down the toboggan slide." Then, having failed, POWs feel they've been given guidelines that won't work and they became easy to manipulate which results in their cooperation.

- Interrogation is for the purpose of obtaining information and it's almost identical under any situation. It begins with little things - questions about what a pilot was wearing when he was shot down; chances are that next there's going to be an accusation - you're a spy, working for the C.I.A., etc.

- Pertaining to the Code in other than declared wars, Dr. Miller said the advice and guidance is much the same. "If you're in a foreign country without a passport, you better damn well tell them where you were, who you are, how you got there, enough to really identify yourself and ask to see the Consulate; yell like hell until you get to see him." ... "as an American civilian, you are not obliged in anybody's country to sit down and be interrogated by a cop on your own job no matter what you're doing and until you get advice from the Consulate."

- "I will be very candid and say, I'm sorry there is a Code. I'm sorry that our evaluation of the conduct of our people in Korea was such that we felt that a large number of American fighting men have a tendency to be traitors unless we strong arm them with some platitude; but you're also stuck with it."

(Thirteenth Session - DR. MILLER - continued)

- In regards to Article II and surrender, it's "pretty damn instructive." I would change it to say, "I will make every reasonable effort to avoid capture," he said.

- Dr. Miller said he'd rather have a policy where we actually encourage release as long as the senior man agreed, as long as any pre-release good treatment doesn't affect anyone else and so long as other people's morale was not hurt by the fact. Sick and wounded POWs out first is O.K. but the "first in, first out" policy poses problems. If a guy's been real hard nosed, the enemy is not going to reward him with release.

- Pertaining to Article IV, Dr. Miller said he would change the portion of the Code which states: "I will obey the lawful orders of those appointed.." He believes this gives a "barracks lawyer" leeway to debate interpretation of what's lawful.

- He would change Article V to say "I am required...I will avoid giving information useful to the enemy or harmful to fellow prisoners." His point here was he doesn't want someone to think he should avoid answering questions. I don't care if a guy answers questions all day long so long as they don't discuss a sensitive subject, he said. "All prisoners answer questions; every prisoner will and has to and he shouldn't be made to feel like the world's greatest heel because he starts giving really useful, sensitive information and he should avoid to the best of his ability making written statements."

- To teach the Code, Dr. Miller said he recommended getting a really interesting speaker with credentials and producing a film which describes the psychological effects of capture and interrogation on prisoners. The film should also show what the Services will do for a man while he's a POW in regards to pay and promotion, etc., to put his worries to rest.

- Dr. Miller said that if a city is overrun by a coup or revolution or overthrown and we end up with the whole American community detained, guidance now is that the senior State Department Official is in charge. In a wartime situation, if the changes I advocate are incorporated into the Code, I think a lot of civilians would be comfortable with the senior man acting as SRO.

- I, the civilian, would not be uncomfortable being interned in a camp in which Colonel Day was SRO or anybody else if there is a flexible interpretation of the standards of conduct. "I would only be uncomfortable as a civilian if I thought that the standard of conduct of the senior man was inflexible."

(Thirteenth Session - continued)

Summary of interview with CAPT Walter Wilber, USN (Ret) (Vietnam returnee)

BIOGRAPHICAL SUMMARY

Captain Walter E. Wilber, U.S. Navy (Ret), was shot down on 16 June 1968 while on a combat mission as a pilot of an F-4 Phantom II aircraft. He was Executive Officer of Fighter Squadron 102, operating from the carrier USS America (CVA-66). He was held captive for 4 years and 9 months. Captain Wilber's captivity was the subject of controversy concerning his stated attitude toward the U.S. involvement in the Vietnam War and allegations from fellow PW's concerning voluntary cooperation with the captors. He retired from the Navy after his return from Vietnam.

Before CAPT Wilber was escorted into the room, CAPT Coskey mentioned that he knew CAPT Wilber quite well. They were squadron commanders on the same ship and their wives were close friends. He said that CAPT Wilber's change as to his view of the war came after he was shot down and not before. Dr. Shields brought up that some of the POW opportunists changed their tone when they were released, CAPT Wilber never did.

PERTINENT POINTS brought forth included:

- "I feel that the Code of Conduct for me in the Vietnam War was a help from a moral standpoint. I like the feeling that it was more or less a reaffirmation of your commission as an officer to go through all these things." The big hindrance was the problem of interpreting the various meanings of the words. The wording should be modified so there isn't such a large degree of interpretation, he said. He believed the U.S. had no constitutional basis for fighting in Vietnam.

- "...I think a prisoner should be required not to divulge classified information and secondly, he should maintain faith with his fellow prisoners." That should be the extent of the Code, he said.

- However, later CAPT Wilber said, in answer to a question by the Chairman, that he felt that, even if we were not solely in a war type situation, the type Code he recommended (not divulging classified information and keeping faith with fellow prisoners) should apply.

- Pertaining to the chain-of-command, CAPT Wilber said it should be simple - the same whether you're a prisoner or not.

(Thirteenth Session - WILBER - continued)

- The obligation to escape is a moral obligation that is good but it can work against us in that the enemy, knowing this is an obligation, can use it against us by tightening security, etc.

- CAPT Wilber said he experienced his SERE training at Brunswick, Maine, and he thought it was adequate. In retrospect, he said that he feels that any compound training should have a variable time limit to it.

(Thirteenth Session - continued)

Summary of interview with COL Ben M. Pollard, USAF, (Vietnam returnee)

BIOGRAPHICAL SUMMARY

COL Ben M. Pollard, U.S. Air Force, as captured in mid-1967 when the F-105 he was piloting (as a Captain) was shot down in North Vietnam. He was held captive 5 years and 9 months.

Currently, COL Pollard is associated with SERE (Survival, Evasion, Resistance, and Escape) training at the Air Force Academy, Colorado Springs, Colorado.

SUMMARY OF PREPARED STATEMENT

- The Code of Conduct, in my opinion, served the American POWs in Hanoi amazingly well.

- We found a determined enemy can force any sane person to go beyond name, rank, service number and date of birth.

- The portion of Article V dealing with "...to the utmost of my ability," is critical, for it formed the basis of our "rebound technique."

- The "rebound technique" was to use delaying tactics and yet stick with the basics as long as possible. The next step was to take significant physical abuse or pain before giving any useful information. Finally, as soon as the POW could recover physically and mentally, he was expected to return to the hard line.

- One of the things that kept us going was working to defeat the enemy at his own game.

- We constantly reminded each other and ourselves that we had four obstacles to overcome upon our return - we must be able to face our fellow POWs, to face our countrymen, to face our family and most important to face ourselves.

- I am totally, completely against the concept of "tell the enemy anything he wants, the U.S. will say "it's our POW policy, all will be forgiven when he gets home."

- Pride in one's self and one's country is crucial to staying alive in a prison camp.

- I absolutely believe that a permissive POW policy that would replace the present Code of Conduct would be the greatest disservice you could ever do to a future POW.

(Thirteenth Session - POLLARD - continued)

- There are four problems that could and should be addressed by this Committee. First, the lack of legal basis for the Code permitted a small percentage of POW's to behave less than honorably and yet not receive any form of punishment or reprimand. Secondly, it should be made absolutely clear that all members of the Armed Forces fall equally under the Code of Conduct, and thus in a prison camp, they will be united into one command. Thirdly, the word parole was and is confusing. I strongly suggest that the last sentence in Article III be reworded. The fourth item is escape. "...I believe common sense must be used in this area." I do not recommend that this part of the Code be rewritten. I do suggest that the training and written material that accompanies the Code of Conduct deserves this area in light of the responsibilities of the senior ranking officer.

- Finally, the real issue which must be resolved is the type and degree of training that will be given concerning the Code of Conduct. What is needed is a true DoD Code of Conduct training policy that is informally taught in every branch of service in every school. This could easily be accomplished by a field training unit that in itself was trained and supervised at DoD level. All training manuals and pamphlets would originate at DoD level. A corollary to this problem is the need for differing degrees of Code of Conduct training. This will be difficult to implement because in time of peace it is easy to forget the POW problem.

OTHER PERTINENT POINTS brought forth included:

- They have already run 12 women through the Air Force Academy's SERE compound training and in some ways they have performed better than the male cadets. They have adapted to stress quite well, he said.

- COL Pollard said he feels that it is important that in simulated POW compound situations some "hands on" physical treatment be experienced. Critiques of people who had experienced the program at the Air Force Academy said they learned more about themselves during that 48 hours than in the rest of their lives. COL Pollard said that they want those who go through the training to experience a little bit of that feeling of fear and learn that they can overcome it.

(Thirteenth Session - continued)

Summary of interview with SSGT Don A. MacPhail, USA (Vietnam returnee)

BIOGRAPHICAL SUMMARY

Staff Sergeant Don A. MacPhail, U.S. Army, was captured 8 February 1969 when his infantry reconnaissance patrol was ambushed and overrun in South Vietnam. He was held captive 4 years, initially in jungle camps in eastern Cambodia and subsequently at the "Plantation Gardens" in North Vietnam. He is credited with two escape attempts.

Currently, SSGT MacPhail is assigned to the 10th Special Forces Gp at Ft. Devens, Mass.

PERTINENT POINTS brought forth included:

- Article V should not be taught as the "big four," he said. Having stepped out from the "umbrella" leaves one with the feeling that they've done something wrong, they're a traitor. "What does one do when he's left his protective umbrella?"

- "...you hear B-52 pilots, a whole mess of them speak on Radio Hanoi, you hear a commander speaking on Radio Hanoi, your leaders speaking on Radio Hanoi. As an E-5, E-6, a PFC, a lance corporal, why should I get my lumps and bruises, no food and things of this nature if Colonels and below, field grade officers, they do it - who's right?"

- SSGT MacPhail said he felt some members of the "peace committee" would have "come back" to the side of the other POWs if they thought they would have been welcomed back as fellow Americans. He agreed that he thought teaching the Code with the "bounce back" philosophy would be a good way to train it.

- When you're an outcast, you're alienated from the rest of the men, it almost leads you into doing other things. You can feel it, he said. You don't want to do it but you say, why not? They don't care about me anymore anyway."

- "It's a different type of warfare now. They don't want military intelligence actually, as far as I'm concerned, they want this propaganda and you can't teach a person the Code of Conduct without, you know, getting into what propaganda is, how they try to infiltrate you mind..."

(Thirteenth Session - MacPHAIL - continued)

- There are so many other things on your mind and you're so tired in basic training that Code of Conduct training should be given after the man reaches his final unit. A soldier is more receptive to this type of training then. In addition, training for the Code of Conduct should be more intensive than it is now. At present, "they don't get into the meat of it," he said.

SUMMARY

FOURTEENTH SESSION 17 JUNE 1976

Summary of Administrative Remarks:

COL Arnold proposed a schedule which would lead to having the final report of the Committee completed by 30 July 1976. The proposed schedule was approved.

Next, COL Arnold put forth a proposed outline of the final report. The format was generally agreed upon but the Chairman stressed that he did not want the report to be too long. It was agreed that the report should be about twenty pages with additional material in a supplemental volume.

Summary of Interview with Dr. John Plag, PhD

BIOGRAPHICAL SUMMARY

Dr. John PLAG, PhD, is Director of the Center for Prisoner of War Studies. The CPWS is a psychologically and psychiatrically oriented research and study organization funded 2/3 by the US Navy and 1/3 by the US Army; it is an element of the Naval Health Research Center, San Diego, CA.

The CPWS focuses on basic research concerning identification and evaluation of physical, psychological, social and environmental factors which have significant influence on the effectiveness of military personnel. Currently, emphasis is on the southeast Asia experience as it relates to POWs and their families.

PERTINENT POINTS set forth included:

- "...Those men who by virtue of their length of service had committed themselves to the military as a career, had more positive attitudes toward the Code than those who had not." "Another rather interesting finding was that, on the whole, the Navy returnees had more positive Code of Conduct affinity scores than did the Air Force returnees." "While age and years of service might be responsible..In every case the Navy returnees rate their SERE training in more positive terms than do the Air Force returnees."

- As a result of these differences, "it would seem that a close scrutiny of the differences between SERE training amongst the services is certainly in order."

- "I happen to be one of those who firmly believes that there needs to be in SERE training, some kind of a pass/fail phenomenon in that not everyone should graduate from SERE just because they went through it."

(Fourteenth Session - PLAG - Continued)

- Based on debriefing information of about 20 civilian returnees, civilians found it difficult to know whom they could place their trust in. They lacked any POW organization or chain-of-command unless they had had some prior military training or unless they were placed with other military personnel.

- Work done pertaining to the POWs "resistance stance" - hard liners vs. soft liners has showed that:

- 1) Men who were held captive the longest were more apt to avoid actions which might be used by the captor for propaganda purposes and were less inclined to bargain with the captor.
- 2) Older men tended to have a firmer resistance stance.
- 3) POWs with longer periods of solitary confinement tended to find the Code more useful.
- 4) Harsh treatment by the captor was significantly related to a firmer resistance posture amongst the returnees.

"I feel that in some cases, perhaps more than some, the returnees (POWs) brought upon themselves the harshness that they received in treatment by their captor by taking a very firm resistance stance...."

- It's the uncertainty as to whether an M.I.A. is dead or alive that is the perplexing aspect of the whole PW/MIA problem. Feelings of neglect, social isolation, poor or unsatisfactory relationships with CACO's or FASO's, severe emotional problems - these were the repetitive difficulties listed by POW families that were interviewed. "I think it really is logical to conclude that perhaps our failure to take a more positive and supportive stand with respect to families that the National League of Families arose."

- "I believe there should be no change in the Code of Conduct. I tend to view the Code of Conduct as a creed like I view the Ten Commandments. "...I have a feeling that, if you start tinkering with the Code of Conduct, you're going to dilute it to the point where it will be less effective as a guide for the military man than it is now."

- Dr. Plag concluded by saying that he hopes the Department of Defense will take a firm hand in the matter of training and see to it that all the services teach the Code and SERE training in the same way.

(Fourteenth Session - Continued)

Summary of interview with COL R. E. Work, USAF (Ret.) Member of the DoD Advisory Committee on Prisoners of War, May-Aug. 1955.

BIOGRAPHICAL SUMMARY

Mr. Robert E. WORK (COL, USAF, Ret) was a member of the secretariat of the 1955 Defense Advisory Committee. He has several expertise concerning "ruses and stratagems" as a resistance technique to hostile interrogation and concerning the development, over the past 20 years, of deviations in interpretation of the Articles of the Code of Conduct.

Currently, COL Work is a consultant with the Monroe Corporation, Springfield, Va.

SUMMARY OF PREPARED STATEMENT

Concerning the "gestation" of the Code of Conduct, the thrust of early WW II awarenesses had mainly to do with the appalling realization that the POW, often unknowingly, was a tremendous source of useful information and that the reliance that all combatants had placed upon "name, rank, and number only", as a security guarantee was a complete failure. This was the first great lesson we had to learn in order to find our way toward the Code of Conduct.

The second, equally important, lesson was that there were in fact far better ways of teaching resistance to interrogation and to other enemy efforts against the POW than to limit our training to an insistence on name, rank, and number.

These two lessons must be constantly relearned before any concrete steps toward developing the proper policies and devising effective training procedures can be taken toward achieving proper conduct after capture.

The fact that we still have devisive and troublesome problems in this area at this time I attribute almost entirely to the fact that many who should have done so have not taken the few moments required to comprehend and be guided by the veracity and obviousness these lessons provide.

It was in the midst of an unending stream of such experiences that I began to learn the philosophy of training in resisting whatever the enemy's pressure may be. I knew that what any man could learn to do to another - the other could learn to undo - and that we could teach him to do so - if we only would.

There are many ways to express this philosophy. My own preference has always been:

"There is no such thing as resisting the determined interrogator - but every interrogator can be satisfied - HARMLESSLY."

Countless examples of WW II gave the first real impetus to the realization that "name, rank, and number", as the sole or even the main guidance for POWs was both dangerous and naive - and that truly something better was needed. WW-II gave movement and understanding to this realization but we needed KOREA - with its brainwashing, germ-bomb confessions, its defector - converts, and its senseless torture and communist brutality to finally lead us into a full-blown, national understanding that we could no longer push the "conduct after capture" problem under the "name, rank, and number" rug.

As a result, the Code of Conduct came into being.

It was brought to life by the most detailed examination and study that had ever brought to bear on the problem in the history of this nation. The study included experts from every military and civilian discipline who had led any degree of expertise in the area. It included both the highest and the lowest military ranks - and most importantly, it included both ex-POWs and interrogators. And as a result, much of the military, and parts of the nation, for the first time, learned something of the detailed intricacies and complexities of conduct-after-capture.

I was proud then - and to this day - to have been a part of it. It was certainly the finest hour for that corner of the military - often ignored - always misunderstood - in which both the ex-POW and the interrogator sit at opposite sides of their common problem..

The FIRST was that the "name, rank, and number" proviso had been improved upon with that wonderful language of Article 5 of the Code:

"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 all other questions to the utmost of my ability."

AND SECOND -- was the Training and Education Guide in Support of the Code of Conduct which was certainly the most realistic training material that the military establishment had ever been able to devise - A GUIDE that clearly recognized the interrogation and conduct after capture situation for what it was and provided the type of realistic training guidance that many interrogators and ex-POWs had been clamoring for -- for more than a decade.

I believed then -- and do now -- that on a joint service basis we had come as close to the ultimate solution as was possible and that the contributions of the Code were a dramatic advance toward the solution of the "conduct-after-capture" and related problems.

(Fourteenth Session - WORK - Continued)

But in spite of our two profound accomplishments, many of us on the committee, as well as other authorities upon reading our report and recommendations - well knew that we had not created the panacea for all POW ills - and knew that we had not fully answered all sides of some very pertinent questions.

We had come as close as possible to do within the divergent views of Services and more importantly within the divergent views of the informed and the uninformed - many of whom came to their final decisions with the same deeply contrasting points of view with which they originally entered the proceedings.

In my opinion, we did in fact produce a useful, forward moving, and even noble document -- but even in doing so -- fell short of where many of us thought we should be -- and leaving much to be done -- for this very group -- here at this table.

In that light I feel obligated, and in fact delighted, to tell you of what I have always felt to be some of the Code's short-comings and perhaps to give you several recommendations of the kind I think I would like to receive were I a member of your committee and had the opportunity to discuss the matter with a participant in the original writing of the Code.

First and foremost -- I would not change the language of the Code's Articles -- with one notable exception. We couched the Articles of the Code in countless ways in the old committee -- and no doubt the Articles could be equally effective and perhaps even more so with different language, but it is very doubtful to me that their intent could be improved. They have a COMMANDMENT-like value as they stand, and as such I believe they should continue to stand. So, I would recommend that you put your emphasis into the implementation and training areas because there you are immediately at the crux of the matter -- there is where the problem needs the most help.

This does not say that you could not improve upon the language of all the Articles, including that great keystone, Article 5. And you might well be able to couch the words differently to make them a bit more compatible with Vietnam or even more compatible with the tenure of the time.

But would you amend the Code after every war?

Or perhaps only after this one?

It is a difficult thought.

And I believe you should lean in the direction of no change at all in the bold type of the Code. If you do find some changes to be absolutely mandatory in your conscience -- make them, but keep those changes at a absolute minimum.

(Fourteenth Session - WORK - Continued)

If your implementation instructions and training guidance are both strong and clear, the bold face words can remain as they are. I would make every effort in that direction.

This is my first recommendation.

The next has to do with UNIFORMITY both in the application of the Code and in the training it requires.

UNIFORMITY

Our Committee, as I'm certain has been the case with yours, was constantly advised that there must be uniformity among the services, uniformity in the training, even uniformity with our Allies -- in matters pertaining to conduct after capture.

The idea of uniformity is somehow militarily right, and even necessary.

But in the Conduct-After-Capture area this is truly only at first and very superficial view of the problem. A slightly more detailed examination quickly reveals that this area is as diverse and uniquely individualistic as human nature itself. It seems almost bromidic to say so, but "uniformity" has tripped many otherwise competent participants in the problem.

The interrogator agrees that there should be uniformity in the wording of the Code itself for all of the Services. But beyond that his word is -- CAUTION.

Resisting the enemy in whatever his purposes may be, is as uniquely a personal experience and as private a situation as most military men will ever encounter. His arsenal of resistance tactics must be equally unique and personally oriented. That this must be different for members of every Service and different for every speciality and sophistication within a service is patently clear - or should be.

To contend that the resistance and POW behavior training should be identical for a highly qualified nuclear weapon expert on the one hand and a short-time general purpose Private on the other, is obviously in error.

To contend that a uniform training program is equally effective for all IQ levels within one service or among all of them is equally wrong.

So I say be wary as to where and how you insist upon uniformity. Too many efforts to accomplish this in the past have failed with both the POW and his cause as abject losers.

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Therefore, my recommendation is that you run up a flag of tight attention whenever the word "UNIFORMITY" crosses your deliberations.

It will be in error more often than not.

PAROLE

The Code in Article 3 states: "I will not accept parole or special favors from the enemy."

I and others were unhappy with the fact that these words were included even before the Code was released.

The story goes like this

All but one of the Articles of the Code were written early during the deliberations of the 1955 Committee, and most of them with no great difficulty. All the concern pointed at Article 5 and in the minds of most of us, rightly so, for it contained the real hope that we could do better in the future than we had in the past. In another report furnished to the Committee I have described the neglect that this attention to Article 5 caused in respect to the other Articles.

And I remember so clearly how I approached one of the senior members of our group with the request that now that we had finally agreed to the wording of Article 5, we should return to that unfortunate reference to "parole" in Article 3, because it was simply wrong and confusing and had no place in the Code.

His reply was that we should not go back to stir something we had already agreed to - for in doing so we could well cause ripples that might well attack even Article 5 in their wake.

I was eager to accept the advice on that basis. But to do so meant to put all our faith in the yet to be prepared Training Guidance, where acceptable parole would have to be separated from the unacceptable. And, sadly, we left this important task undone.

And so, my third recommendation to this committee is: Repair the damage we did in 1955 in this regard. Do it either by taking the word "parole" out of the Article or making your training guidance so strong and clear that the Code will not be guilty of the problems the word caused in Vietnam.

AUTHORITY OF THE SENIOR POW

Indeed the greatest strength of the POW community comes from communication and good control throughout the group. This is truly an excellent and major source of POW morale and even survival.

Some Vietnam ex-POWs as well as POWs from other wars, have told us that the balance between personal sanity and complete breakdown often came through the ability to painfully tap out or pass messages unknown to the enemy. To operate effectively this, as so many other POW pursuits, must have an authority backup - a leadership control.

But I caution you that the POWs, including particularly the senior ranking member, is rarely master of his own actions.

Thus, the POW is never the best authority as to what is really going on around him the enemy is.

He is not even the best authority as to what happens to himself the enemy is.

As an interrogator I have been deeply troubled by some of the results of Vietnam in respect to camp organization considerations. This applies to the broad scope of concerns expressed by some returned POWs in regard to camp actions on discipline and reduction in rank while a prisoner, as well as to court-martial proceedings, commendations, promotions in rank and decorations both before and after release from prison.

All of these thoughts raise dangers in the mind of the interrogator.

I have been deeply troubled for instance by the practice that we have allowed to gain a foothold of permitting one ex-POW to prepare effectiveness reports on another. To the interrogator this is unthinkable. For the interrogator knows that he can so easily and often does create the good or bad relationships between members of the POW group. Therefore, with every apology to the ex-POWs involved, I must nevertheless state that to me this is closely akin to allowing the enemy himself to have a hand in these evaluations.

Thus in conscience my recommendation to this committee must be: Remember that no POW is the best authority on what takes place in a prisoner of war camp -- THE ENEMY IS.

This inevitable reality must be clearly discernable in your final product.

CENTRALIZED CONTROL

Through the many years that the conduct-after-capture problem has alternately submerged and surfaced upon the military conscience,

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there has been a constant belief on the part of many of us that a centralized, impactful DOD "office of concern" should be established.

It seems to me that the present committee once again has the opportunity to examine this need and to establish a full time, adequately staffed training and operational monitorship activity. Perhaps this can be done simply by providing Dr. Shields of ISA, with 8 appropriate bodies.

Such a control group:

- o would help determine policy
- o would levy and monitor research,
- o would establish and monitor proper training,
- o would supervise service activities,
- o would accomplish implementation of future actions,
- o would enhance a continuing development of the state of the art in all aspects of conduct-after-capture,
- o would eliminate the current inadequacies of cyclic attention which virtually guarantees that the function disappears between wars,
- o would maintain review of international agreements,
- o would promote the albeit distant future mandate that will provide a specific duration for POW retention, i.e., two years and the POW is released under international supervision to a neutral holding power.

It would be my recommendation that the final report of this committee provide exactly such a centralized DOD-wide "brain" and action authority for this activity.

A large portion of our deficiencies have resulted from this lack.

This centralized Control must have additional responsibility.

It must see to the implementation of the report of this committee.

An so my fifth recommendation is: See to the implementation of your report.

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No one else will.

They will instead seek the many convenient avenues not to implement. I say that they will do this simply because they have done so in the past.

TRAINING

Earlier I made mention of the second important contribution of the 1955 action -- the creation of a Training and Education Guide to support the Code of Conduct -- and that document together with Article 5 was indeed the HEART OF THE CODE -- and a victory for both military security and for the welfare of the POW.

But the victory was to be short lived.

Four years later that heart was to be torn from the Code.

Four years was to be the life span of the best conduct-after-capture guidance we have ever had.

Four years later, in 1959, a group of Pentagon staff personnel was to succeed in bringing the matter to JCS consideration with disastrous results.

Without reconvening the Advisory Committee, without consulting any participant in the initial development of the Code to my knowledge, a group of staff officers floated something they no doubt described as a normal staff action and virtually destroyed the Code of Conduct.

They did this mainly by eliminating the Training and Education Guide prepared by the original committee. They aided this destruction by actually changing language in the 1955 report itself.

I still question their real authority to have done so.

In what remains of the Code after the 1959 assault, the interrogator can find only one hopeful aspect that represents advance in the problem and provides reality in the permissible training. And that is a single word in a sentence of Article 5, which reads, "I will evade answering all further questions to the utmost of my ability."

That wonderful word, of course, is EVADE.

The definition of "evade" was then and remains "to take refuge in evasion, using craft or stratagems in avoidance, to get away from by dexterity, to avoid answering directly."

As long as that definition holds there will be some value in the training conducted in behalf of the Code -- but how limited -- how shortsighted -- how totally in ignorance of the realities involved --

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and how basically unjust. Because of that single word it is still possible to declare that the Code of Conduct remains a success. To have reached a point where we put all our dependence upon that one word when so much more is available is a deep injustice to the Code and certainly counter-productive to its purposes -- and to the interrogator, a crime against good common sense.

Thus we come to the core of the matter as the interrogator sees it.

Here it is. The Training Guide and the transmittal whereby Charlie Wilson, then Secretary of Defense, sent it to the services in 1955. Out of sentiment, I brought those papers from the original report in which I first read the memorial words that were to solve this problem for us substantially into the future. I have made a copy of them which I will leave with you.

Here are the words in which the training philosophy was embodied.

Secretary Wilson in his transmittal said, "All (military personnel) must learn the methods by which enemy interrogation and indoctrination are resisted or avoided. Specialized training appropriate to service and individual requirements must be given in evasion and escape, resistance, prisoner organization and survival. The Defense Advisory Committee on Prisoners of War has recommended such a training and education program."

And then the words from the Training Guide itself which specifically embody the great new advance of the Code of Conduct:

"For all units prior to combat instruction should be designed to equip the individual to resist enemy interrogation for military advantage and efforts to exploit him for propaganda and other purposes harmful to our cause by training in - Methods and techniques of thwarting interrogation and exploitation; the use of ruses and stratagems to evade and avoid the disclosure of important information; the necessity of concealing vital military information."

This Guide is gone.

Excellent as it was - it was destroyed - and in that instant we were almost back where we had been fifty years before.

But it seems to me that this Committee must seriously address this loss - and the action that brought it about - and in doing so cannot refrain from writing its own guidance. And when you do - it must be better than ours was - it must be more adroitly phrased than ours - because it must have a longevity beyond the four years that ours achieved.

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And so my most serious and heartfelt recommendation is simply:

AUGMENT THE CODE AS IT STANDS WITH A NEW TRAINING VEHICLE!

Make it realistic ... make it strong ... make it binding, and see to it that it comes to pass. And if you do, regardless of the words you use -it will be all right.

Toward the end I was motivated to return to the recommendations that the Secretariat of the 1955 made on this specific subject to the entire Committee. And somehow those words, even now, have a strong and direct relevance. I suppose that I also hoped that they might once again work something of the magic they seemed to have held then. They said this:

"The Secretariat respectfully submits that this Committee must make definite suggestions as to the training required and must moreover include in its final report specific recommendations of such force and emphasis that all of the Services will find themselves charged with and responsible for a far more comprehensive training program in this area than has ever been conducted by any service in the past. The Secretariat believes that a major contribution to past laxities lies in the failure of the Services to properly meet and prepare for the problems that were already common knowledge. We are convinced that the solution lies almost entirely in the training area. We are further convinced that the roots of the solution lie within the deepest facets of human nature, within the initiatives, the motivations and within the integrities of each individual man. We cannot merely order these roots to grow, we must help them to grow and see to it that they do. We can only do this if the Services accept their responsibilities to train their people in the various areas of resistance as well as in the convictions, standards and moral integrities of this nation just as the Services already train these men in the techniques and mechanisms of their operational arms.

For this reason the Secretariat feels considerable concern over the impact that the report of this Committee must have to achieve its end in the training area. The Secretariat feels that the recommendations of the Committee must, in fact, be a mandate to the military services to concern themselves with the moral and character training of its personnel as well as the specifics of resistance in a manner and to a degree never before contemplated."

These are the words of that other Secretariat of that other Committee, across a span of twenty years.

(Fourteenth Session - WORK - Continued)

No new words of today could state the matter more clearly or cogently. They speak with desperate intensity to your own deliberations.

In many respects the conduct-after-capture problem is like the Mississippi River - muddy and eternal - and if you would change it at all - it requires an overwhelming energy and a most powerful thrust.

But 1955 proved that it could be done.

I am most optimistic that 1976 will be even better.

And so as you proceed with your task I would like to leave so many last thoughts with you. But one comes to mind that I find uniquely important:

A trained interrogator knows he can teach all variety of resistance... During the 31 years I saw at first hand ... he has never had the clear, unfettered opportunity to do so.

So in closing I say that you have the sincerest hopes and the deep, best wishes of an old interrogator, who is grateful for this opportunity to say these words to you -- and who as he looks at your imposing positions and your very bright credentials, knows that the problem and that task is in excellent hands.

"You will do better than we did."

During questioning afterwards, COL Work said, in answer to a question from the Chairman, that he favors removing the word "parole" from the Code not because it is a misleading word but rather because there are certain situations under which it would be acceptable.

COL Work further emphasized that there must be a DoD authority to properly oversee that correct training implementation takes place after the Committee presents its final recommendations. He said that the training must be left up to the broad spectrum required from a general private to occupants of a nuclear submarine.

NOTE: For the record, text follows of Memo, 18 August 55, signed by C.E. Wilson, Secretary of Defense, to the Service Secretaries, Subj: Training and Education Measures Necessary to Support the Code of Conduct:

The Code of Conduct governs the actions of every member of the Armed Forces while a prisoner of war. It demands high standards. To ensure the achievement of these, each member of the Armed Forces liable to capture must be provided with specific training and education designed to better equip him to cope with enemy efforts against him. A

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very important part of this program is education in the basic truths and advantages of our democratic institutions and in the fallacies of Communism. Strong, effective leadership, group loyalties and esprit de corps must be fostered by every means. Each individual must be fully instructed as to his conduct and proper courses of action when faced with capture and as a prisoner of war. Individuals and units must be trained as to their proper procedures when isolated, surrounded or cut off. All must learn the methods by which the enemy interrogation and indoctrination are resisted or avoided. Specialized training appropriate to service and individual requirements must be given in evasion and escape, resistance, prisoner organization and survival.

The Defense Advisory Committee on Prisoners of War has recommended such a training and education program. A copy of their suggested program is attached for your information.

It is desired that the Services, to the extent required by their particular needs, develop and initiate without delay a training program suitable to attain the objectives outlined in paragraph one above. These programs should be progressive, from general to specialized training, and continue throughout the career of the serviceman. Copies of all Service training directives and instructional material issued pursuant to this memorandum will be transmitted to the Office of the Assistant Secretary of Defense (M&P) for information.

The attainment of these objectives cannot be accomplished without wide public acceptance and support. The Department of Defense has several agencies admirably suited to assist in this part of the program, such as: The Armed Forces Chaplain Board, the Office of Armed Forces Information and Education, Board and The Defense Advisory Committee on Women in the Service. Representatives of organized labor have offered to make available to the Armed Forces their wide experience in education against Communism. Specific requirements for these services should be made known to the Assistant Secretary of Defense (M&P) at an early date.

SUGGESTED TRAINING AND EDUCATION GUIDE

IN SUPPORT OF THE CODE OF CONDUCT

This training would be conducted under the normal training systems of the Services, I&E programs, auxiliary agencies associated with the Department of Defense, special courses of instruction as required by each Service, and by realistic field exercises and maneuvers.

1. For All Members of the Armed Forces.

Scope and objective: General motivation and education throughout the careers of all servicemen to prepare them for combat and to increase their resistance to enemy exploitation.

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Instruction should be directed to:

- a. The Code of Conduct - its purpose and meaning.
 - b. Development of resistance to enemy political and economic indoctrination through education in the basic truths and advantages of our democratic institution as opposed to the fallacies of communism.
 - c. A knowledge and appreciation of national, service and unit history and traditions.
 - d. Motivation of the individual toward our National War Aims as opposed to those of the enemy.
 - e. Character guidance and encouragement of religious beliefs.
2. For All Units and Individuals prior to combat.

Scope and objective: The development of mental and physical stamina and toughness, confidence in unit and individual capabilities under all conditions of combat with emphasis on leadership and conduct in battle or as a prisoner of war.

Instruction should be designed to:

- a. Develop the capability of the individual in evasion, escape and survival techniques.
- b. Familiarize the serviceman with his rights and obligations under the Geneva Conventions; the effect and possible consequences of the communist nations reservations as to treatment of so called "war criminals."
- c. Develop a knowledge of the essentials of a prisoner of war camp organization; the covert system of organization; the physical and mental aspects of POW conditions with respect to survival and well being; the value of group and individual loyalties; the conviction that the informer and voluntary collaborator is an outcast both in POW camp and at home.
- d. Equip the individual to resist enemy interrogation for military advantage and efforts to exploit him for propaganda and other purposes harmful to our cause by training in -
 - (1) Enemy methods and techniques of interrogation and coercion.
 - (2) The enemy use of "false confessions", questionnaires, written and oral statements and other devices to further his purpose.

(Fourteenth Session - Continued)

- (3) Methods and techniques of thwarting interrogation and exploitation; the use of ruses and stratagems and avoid the disclosure of important information; the necessity of concealing vital military information.

3. For Specially Selected Units and Individuals.

Scope and objective: To prepare certain groups such as Rangers, special air crews and special forces and individuals for special missions, as required by each service.

Instruction would include:

- a. The use of "cover" stories.
- b. Special training in escape and evasion.
- c. Advanced instruction in covert POW camp organization and discipline.
- d. Operations designed to penetrate POW camps.

4. Each service should design its own program in line with this broad guidance. Training should be adapted to cover the area from the man in ranks to the commander. It must be realistic as well as idealistic. Above all it must be founded on the conviction of the serviceman that it is to the best interests of his country, his service, his comrades and himself.

Summary of interview with Mr. King Rayford, Staff SGT., USA (ret)
(Vietnam returnee)

BIOGRAPHICAL SUMMARY

Mr. King David Rayford, Jr (SSG, USA, separated) was captured 2 July 67 in northeastern South Vietnam. He was held captive 5 years 9 months in a series of 7 camps, eventually at the "Plantation Gardens" facility in North Vietnam. He has stated that initially he held to name, rank, etc., and he is credited with two escape attempts during the early years of his captivity. At the "Plantation Gardens" facility he was a member of the so-called "Peace Committee".

Currently, Mr. Rayford resides in Denver, Colorado.

PERTINENT POINTS brought forth included:

- As part of his basic training he had to memorize the Code - that was it as far as training went. Mr. Rayford could not remember receiving any training pertaining to "the second line of resistance".

(Fourteenth Session - RAYFORD - Continued)

- Mr. Rayford said, in answer to a question by the Vice Chairman, that when he was a POW had he known as much about the Code as he does now, he would have handled the situation differently (this referred to his having been a member of the "peace committee").

- Given a hypothetical situation where his (Rayford's) platoon were captured, he was asked by BGEN Canedy what advice would he give his men. Mr Rayford said he would tell them if there were any way for them to escape that they should do so. As far as giving out information he would instruct his men to lie if they could get away with it. However, he said, "I wouldn't persist on the guys saying name, rank, and serial number when they have a pistol at his head. . . "

(Fourteenth Session - Continued)

SUMMARY of the interview with LTCOL Dramesi, USAF, (Vietnam returnee)

BIOGRAPHICAL SUMMARY

COL John DRAMESI, USAF, was captured in mid-1967 when the F-105 he was piloting (as a Captain) was shot down in North Vietnam. He was held captive for almost 6 years. In captivity he was an exponent of the obligation to escape.

Currently, COL Dramesi is assigned to the 390th Fighter Sqdn, Mountain Home AFB, Idaho.

SUMMARY OF PRESENTATION

COL Dramesi began by making thirteen statements which he said he believed were pertinent to understanding the Vietnam POW's imprisonment and the evaluation of the Code of Conduct.

1. In my contact with many in our society and with the young men and women of the military, I have found that there are benefits of, and a desire for, leadership, discipline and established purposes.
2. My discussion with officers prior to my capture and with those after being imprisoned revealed that before the awareness of, or exposure to the harsh treatment, most regarded the Code of Conduct as binding.
3. As prisoners of war our only responsibility was to attempt to fulfill the requirements established by the Code of Conduct. The communications were available but the authority to lessen the standards were never received. We did not have the authority to alter the standards established by Executive Order.
4. The inability to satisfy the specifics of the Code of Conduct is not failure.
5. It should be understood that some high ranking officers may be intimidated or overly influenced by the enemy's attempt to psychologically direct their outlook or attitude.
6. Encircled by the uncertainties and complexities of future conflicts can we deny anyone the opportunity to gain freedom?
7. There is no evidence of killing those who remain behind or those who are passive in resisting the enemy.
8. Military men must always remain responsible for their actions and, in so doing, they will attempt not to contribute to the enemy's development and use of the psychological weapon of warfare.

(Fourteenth Session - DRAMESI - Continued)

9. High standards and the willingness to make the effort are the best means of maintaining one's identity and values; there is no great achievement by lowering standards. That willingness is fostered by a proper understanding and acceptance of purpose, discipline, ambition and physical strength.

10. The best means of gaining for the individual basic needs and respect, and for the unit, the recognition of his leadership, is through strong resistance.

11. The proceedings of all matters, such as the evaluation of officer effectiveness and POW awards and for future evaluation of conduct, the action of every military man or woman, regardless of the situation or circumstances, should be subject to review by a group of distinguished persons; however, the committee or panels making the evaluations should be void of POW representation, that is, void of those being examined.

12. I believe there is a need for emphasis from the highest level to establish, announce, and support that which is expected of a military man in a harsh situation.

13. You are absolutely correct, the attempt to do as we are expected to do and to be the dedicated military men we are expected to be may very well cost a life.

PERTINENT POINTS brought forth were:

- COL Dramesi said that he doesn't believe it's necessary to make any changes to the wording of the Code of Conduct as it stands. There must be the necessary leadership to establish the correct guidelines for our young people to follow, however.
- The SRO should have a veto over an individual's escape plan. "What I'm saying is, we are still military men; we do not act as individuals - there should be a structure. The structure, however, is going to have to be such that the decision for escape, recognizing that escape is the highest form of resistance, is going to have to be coming not from the leader or SRO but from the group of people or the men who have (been?) delegated the authority to make that decision."

(Fourteenth Session - Continued)

Summary of the interview with Mr. Hegdahl, PC2, USN (Sep.) (Vietnam returnee)

BIOGRAPHICAL SUMMARY

Seaman Douglas Brent Hegdahl, United States Navy, who fell overboard from the USS CANBERRA, at sea, on April 6, 1967 was recovered by the North Vietnamese.

He was born on September 3, 1946, in Dakota. After completion of high school, he joined the Navy. He was released by the North Vietnamese on August 5, 1969 and released from the Navy on July 1, 1970.

Seaman Hegdahl was the only enlisted US Navy man held captive in North Vietnam.

PERTINENT POINTS brought forth included:

- "As far as the Code of Conduct itself goes, I think basically the wording is pretty good the way it is. I might change a few words to make it a little more clearer but I think for the sake of continuity, perhaps the changing in many areas should be done in training."
- The "young kids" who come out of boot camp today still have a pretty vague idea as to what the Code of Conduct is.
- "I view the Code of Conduct something like the Ten Commandments. Everybody I knew in captivity violated the Code of Conduct if you take it literally, but in spirit I don't think very many people did break the Code of Conduct. It's an inspirational Code and I think it should be stressed that it's not a penal code, it's not binding legally."
- Mr. Hegdahl said he shuddered to think what would have happened to him had the North Vietnamese not treated him decently. He said good treatment by the North Vietnamese coupled with the tremendous anti-war movement in the U.S. might have tricked him also.
- During his captivity, he received copies of the Congressional Record; Ramsey Clark, a former U.S. Attorney General, came through the camp, etc. The attitude of the prisoners in many cases therefore he said, was - damn, the Code of Conduct goes two ways. Here I am, I've just been put into a position where I was tortured into making a statement that some Senator did willingly in the Congress. "Usually, most of us came to the conclusion that the difference between a Senator and a prisoner was that they were free men and you were a prisoner; you did not have that luxury. . . you do not have the luxury of thinking like a free man."

(Fourteenth Session - HEGDAHL - Continued)

- In conclusion, Mr. Hegdhal said survival training does not instill backbone but it does help. It does help well-intentioned people from being drawn into doing things that appear dishonorable. He backed this up with the story about the individual who was kept in isolation but treated especially well. Not knowing any better, the POW condescended into letting the North Vietnamese use his room as a showplace for visitors - only to end up being tortured for military information afterwards! Survival training can demonstrate to individuals how to be wary of such techniques, he said.

SUMMARY

FIFTEENTH SESSION, 21 JUNE 1976

Summary of Discussion:

The Chairman mentioned that only the principals will be allowed to vote on changes to the Code, i.e., the Chairman, Vice Chairman, Dr. Shields, MGEN McNeil, RADM Lawrence, BGEN Canedy, BGEN McLernan, COL Day, and CWO2 Rander. The first order of business was a presentation by Committee member CWO2 Don Rander, an ex-POW of the Vietnam conflict, during which he made three points: First, he pleaded for a change in the wording of specific portions of the Code of Conduct - especially the words "bound only" - which, according to Mr. Rander, "sticks in everyone's craw." It puts a POW in a precarious position because that's all he will remember when faced with the actual situation.

Secondly, something has to be done to make the Code stronger. The fact that those who did not adhere to the Code during the Vietnam conflict did not have any adverse action taken against them has hurt. Men who disobey the Code and break faith with their fellow prisoners must not be allowed to "break away clean." It is incumbent on the Committee to recommend to the Secretary of Defense that an Executive Order, or whatever is necessary, be promulgated to put teeth into the Code. As Colonel Guy said, what about the next war?

Thirdly, the training for the Code has to be "beefed up" and has to be universal for all the services with some sort of DoD monitoring board to ensure this is accomplished. As COL Work said, we had the chance back in 1955 and we let it slip. The people in the Services, as well as the Secretary, are depending on this Committee to see that if we have a Code it will be taught the same way to all the Services "forever and ever and ever."

In conclusion, CWO2 Rander reemphasized how strongly he felt about changing at least that one part of Article V mentioned earlier. "I don't feel we'll be watering down the Code or showing any weakness in the Code if we change it; we'll only be showing a little wisdom," he said.

Mr. Claude Watkins of the 7602nd Air Intelligence Group gave a presentation entitled, "Code of Conduct Training, Then, Now, and Tomorrow."

SUMMARY OF PRESENTATION

I will attempt to place code interpretation into perspective and then highlight what appear to be future potential training problems. In doing the latter I will not be speaking officially for the Air

(Fifteenth Session - WATKINS - Continued)

Force but as an individual who became involved full time in PW training 4½ years before the Code was formulated and who has remained in, or concerned with, PW training ever since. The "Heart of the Code" is resistance to captor exploitation.

Throughout WWII combat forces in the European theater were told to give only their name, rank, and service number to enemy interrogators. Told, rather than trained, because there was no set training program used to cover captivity behavior.

In the Pacific Theater this same policy of giving the captor N.R.SN pertained until the last year of the war. By then it had become apparent that the Japanese captors did not hesitate to use torture in an effort to acquire military information from captured Navy, Marine and Air Corps flyers, and so these individuals were told to tell the captor anything he wanted to know rather than be subjected to physical abuse. This policy change seems to have resulted from the assumption that the ultimate outcome of the war was assured for the allies and nothing any aircrew member could tell the Japanese would effect the outcome.

Speaking of Air Force training, it didn't really get organized and off the ground until 1950, and then the only initial change in WWII Europe guidance on interrogation consisted of adding date of birth to name, rank, service number as required by the Geneva Convention of 1949.

The Air Force, possibly based on information that the captors in Korea were using physical abuse to acquire information, resurrected the Pacific Policy of late War II - tell them anything they want to know to avoid physical brutality.

In 1951 the Air Force also began to teach what in time proved to be the most realistic interrogation policy, - when taken past NRSN DOB, use certain claims of inabilities and "ruses and stratagems" to thwart interrogation.

For various reasons, including an apparent lack of high level policy and guidance, Air Force members went into captivity in North Korea after having been taught three different theories of resisting interrogation. Some were taught one, some two, and others three:

1. NAME, RANK, SERVICE NUMBER, DATE OF BIRTH ONLY
2. NAME, RANK, SERVICE NUMBER, DATE OF BIRTH, AND IF IT SEEMS NECESSARY, TELL THEM ANYTHING THEY WANT TO KNOW
3. NAME, RANK, SERVICE NUMBER, DATE OF BIRTH, AND IF IT IS NECESSARY, SEEM TO ATTEMPT TO TELL THEM WHAT THEY WANT TO KNOW.

(Fifteenth Session - WATKINS - Continued)

To the best of my knowledge, the Navy, Army and Marines taught the Big 4 throughout the Korean conflict. Korea ended, "Big Switch" took place and the PWs returned to a storm of controversy caused by press access to both the POWs and to the processors and debriefers concerned.

As more and more information on their experiences came out the press in general, a free lance writer named Kincaid, an Army lecturer/psychologist named Meyer and some of the services themselves, made the American PWs from North Korea appear to be perhaps the biggest bunch of traitorous, undisciplined weaklings ever to represent this country in captivity.

According to Kincaid and others, the men in captivity had:

Informed on fellow prisoners, collaborated with their captor to the extent of making propaganda statements of accusation, confession and apology, appeared in propaganda films & still photos, made broadcasts urging fighting troops to quit, confessed in detail to having engaged in a non-existent germ warfare program, aided in the deaths of fellow prisoners and 21 even opted to stay behind and take up life with their ex-captors.

Some years later, when the research of their experiences was completed, it was revealed the men had done no worse than previous American prisoners, considering the captor efforts to exploit, subvert, divide and cause dissention.

However, the panel that formulated the Code of Conduct operated in the residue of the adverse publicity, and before the research was completed.

Vacillating training has taken place since the original panel formulated the Code and issued their implementing instructions followed by the publication in 1955 of the original joint service pamphlet on the subject.

The Air Force began to teach only what had proven in Korea to be the best interrogation resistance policy and called the use of ruses and stratagems the "second line of resistance." The other services called it the "soft line" and continued to advocate the "Big 4 and nothing more."

In 1959 a new version of the joint pamphlet was issued, and it somewhat obliquely advocated the Big 4. The Army, Navy and Marine Corps trainers felt vindicated and the Air Force joined them even to the extent of ridiculing the second line and its use of ruses and stratagems.

(Fifteenth Session - WATKINS - Continued)

In 1963 the Air Force, took advantage of both the oblique guidance in the 59 manual and of what it did not forbid and began teaching the second line again. By the end of 1963 the USAF was operating a program in support of the Code that GEN Marshall described the other day as "extraordinary in every sense."

In early 1964 a Joint Service Committee representing JCS examined the Air Force training program at Stead AFB, Nevada, and took the view that the Air Force was wrong in maintaining that an interrogator might take any prisoner beyond NRSN & DOB.

DoD 1300.7 and its implementing instructions followed and the Air Force had to drop the term "second line" and three of the more useful ruses and stratagems. The other services were directed by 1300.7 to teach the use of "claims of inabilities" as a method of somewhat thwarting an interrogator while only giving NRSN & DOB.

The Navy began teaching the use of the "inabilities," but the other two services continued with the Big 4 only.

In 1969 the Joint Service Pamphlet was again revised and reissued but contained no meaningful changes in relation to responses to an interrogator.

In 1969 the Navy broadened its training to include the use of the remaining ruses and stratagems.

In early 1971 the Air Force School, because of a failure of internal monitoring, began to advocate the Big 4 again and continued to do so until mid 1972, when a change in personnel resulted in a resumption of the uses of the ruses and stratagems.

The reason for what I suppose could be called, "all of the above," has certainly been surfaced here _____ simply a lack of high level direction and management! ! !

Throughout the period of time from 1955 until the information on Southeast Asia became available, the services were in agreement in one area of training concerning captor exploitation. The word on making statements was don't. Don't say and don't write anything for dissemination through any method (and at times over the years letters to next of kin have been included).

Let's now look at what I earlier called "training tomorrow."

This view graph contains parts of various articles of the Code that have surfaced here as probably needing special consideration or interpretation in future training:

(Fifteenth Session - WATKINS - Continued)

ART II

I WILL NEVER SURRENDER OF MY OWN FREE WILL

ART III

I WILL MAKE EVERY EFFORT TO ESCAPE
I WILL ACCEPT NEITHER PAROLE NOR SPECIAL FAVORS

ART IV

IF I AM SENIOR, I WILL TAKE COMMAND
I WILL OBEY THE LAWFUL ORDERS OF THOSE OVER ME

ART V

I AM BOUND TO GIVE ONLY NAME, RANK, SERIAL NUMBER, & DOB
I WILL MAKE NO ORAL OR WRITTEN STATEMENTS DISLOYAL, ETC.

ART VI

RESPONSIBLE FOR MY ACTIONS

Two articles I feel have a potential for causing training problems no matter how closely training is monitored in the future.

First, Article IV and the word parole. We know what it meant when it was originally included in the Article. It was based on two American military traditions: try to escape at every opportunity and never give your word you won't try to escape.

There has been a tendency after the NVN experience to relate early release to parole, although it seems to fall more within accepting special favors.

I feel the Code could be more easily explained if the word "Parole" were removed and "Special Favors" was defined as including release prior to the sick, wounded and longer term PW's.

As for "Parole" there is no precedent that I know of for the Communists offering it in the traditional sense but who knows about the future? Perhaps someday in the future a group of PW's and the SRO may see advantages for themselves in it.

Now, Article V:

WHEN QUESTIONED, SHOULD I BECOME A PRISONER OF WAR,
I AM REQUIRED TO GIVE MY NAME, RANK, SERVICE NUMBER,
AND DATE OF BIRTH. TO THE UTMOST OF MY ABILITY, I WILL
EVADE ANSWERING FURTHER QUESTIONS OR MAKING ORAL OR
WRITTEN STATEMENTS, ETC.

(Fifteenth Session - WATKINS - Continued)

Over the years since 1955 it has more often than not been interpreted by services, schools and individual instructors as if it appeared like this:

I AM BOUND TO ONLY GIVE NAME, RANK, SERIAL NUMBER & DATE OF BIRTH and when it has been so interpreted, the interpreters have ignored, ridiculed or played down, the working that follows it. _____
"To the utmost of my ability I will evade answering further questions."

The answer to future code interpretation problems lies in consistency of training. When we think of such training it's easy to think only of a big centralized Air Force School and two big Navy schools. We should remember that Code training also takes place sometimes when a squadron intelligence officer has to fill up a few minutes of time up in front of a few aircrew members. The basic document used in the training should say clearly what it means. "I am required to give NRSN DOB."

The second line under ART 5 says, "I will make no oral or written statements," etc.

The vast majority of PW's in S.E.A. were coerced or tricked into doing one or the other or both. The free world response, or absence of response, to this fact indicates it realized coercion was used. The coerced statements caused so little stir in our country that the Secretary of Defense said in 1973 that "No one would be prosecuted solely on the basis of having made them" and I noted earlier that the Navy & Air Force schools are currently teaching reality - refuse until refusal becomes intolerable, then comply at as low level as possible.

What does the Code say?

"I will make No"

Gentlemen, I see two problems resulting from letting the Code continue to say this.

First - I feel it is asking a lot of future trainers to use words to the effect that "Students, here is what the Code says, but it is not at all that it means."

I also feel sure that the current Air Force and Navy trainers teaching a realistic interpretation expect to see a refinement or clarification or, and I'll say it, a change, in this part of the Code.

Why not change this Article to specifically reflect reality and preclude misinterpretation?

(Fifteenth Session - WATKINS - Continued)

Whenever the subject of a change in the Code of Conduct comes up here some time is devoted to speculating on how the press and public will interpret a change, no matter how minor.

Let's speculate for a couple of minutes on how the press and public will interpret absolutely no change.

A couple of weeks ago I went through a five year collection of press clippings from the Post, the Star and the New York Times. The only time the Code was mentioned was following the release of the Pueblo crew. The press had not looked beyond the basic wording but the coverage was unanimous that it was too harsh and expected too much of American prisoners.

If this panel sits for almost three months and says no changes are justified will the press remember that things may not have been perfect in S.E.A. based on the charges leveled against 10 ex-PW's and the two ex-PW suicides?

More specifically, will the Cronkites, the Newmans, and the Chancellors, remember all the propoganda film footage they showed and the statements they read over about seven year period and comment on the contradiction of the Code still saying, "No oral or written, etc."?

No one can really predict the press reaction to either changes or no changes, but I feel that minor changes can be justified by an acknowledgement that problems surfaced in S.E. Asia that were not anticipated when the Code was written, and was untested and that the minor changes, or, perhaps better yet, refinements or clarifications are designed to preclude them in the future.

SUMMARY OF COMMITTEE DISCUSSION

After Mr. Watkins' presentation, RADM Lawrence stated that he feels the basic problem lies in training. Whether the Code is changed or not, we can accomplish what is desired through proper, unified training. If it is changed it might destroy the Code's broad, commandment-like status, he said. It might destroy its credibility. RADM Lawrence feels taking the hardest position possible is the best policy. MGEN McNeil agreed. He said, "to the utmost of my ability," provides as big an "out" as possible. "No matter how you write it, those people who want to live up to the Code will live up to it to the best of their ability. Those who don't want to live up to it will look for loopholes."

BGEN Canedy said he agrees with Mr. Watkins, "You've got to have a reasonable base from which to train." COL Day stated that the Committee is reinventing the wheel. These issues have been debated before

(Fifteenth Session - Discussion - Continued)

and the Code is as well written as one could expect. Where we have fallen down has to do with training foul ups. "I never found once nor did I really ever know an honorable man in camp who had trouble making up his mind what the right thing was to do; but he had trouble doing the right thing. We ought to hold to the Code and correct deficiencies in training," he said.

BGEN McLernan said that it has been shown that people of the Judeo-Christian faith who understood what the Ten Commandments mean and believe in them generally have less trouble with the law than those who don't. In parallel, therefore, he said he does not see anything wrong with an ideal set of Commandments, such as the Code of Conduct, which we know periodically we're not going to be able to live up to but as something to which we can bounce back.

Dr. Shields said he has no heartburn over any changes to the Code. We amend the Constitution of the United States, one of the greatest documents we've ever had, because it is a living document. On the other hand some of the amendments haven't necessarily been good. I think training is the answer, he said. The document has to be consistent with what we train. "Having said that, I have no problem with Article V. When we say, 'I will make no oral or written statements disloyal to my country or its allies or harmful to their cause,' every man should believe that. Every man should believe he's charged not to do it. . . . You ask for the supreme sacrifice, I think we ought to do that; I think we can justify that; I think we can tell the American people this is what we expect Americans to do. If they get bent then we can understand that, but this is what they're supposed to do."

RADM Lawrence said that the gut issue is that probably nobody in this Committee would disagree that the Code could be worded better but, "in all our wisdom we have to decide, do we have more to gain by changing the words of the Code - considering all the various ramifications of the change. I believe we have more to lose (by changing the Code) than we have to gain in the total context. I just hope that in this group that we have that degree of wisdom and perception to make the right decisions."

The chairman then called the attention of the Committee for a vote as to whether there would be changes to the wording of the Code.

It was unanimously agreed upon that there should be no wording change to Articles I, II, IV, and VI.

Pertaining to Article III, the part that was first discussed was the portion which states: "I will make every effort to escape and aid others to escape." Dr. Shields proposed inserting the word "feasible" in front of escape. COL Day and CW02 Rander said they

(Fifteenth Session - Discussion - Continued)

felt this has to be an "SRO call." Consequently, there should be no change; it's a training matter they said. The importance of escape to morale was pointed out - as well as the possible retribution to others.

Dr. Shields proposed that the word "feasible" be inserted before "effort" so the Article would state: . . . I will make every feasible effort to escape and aid others to escape.

The Committee voted against this resolution.

Next, concerning Article III the issue of the word "parole" was addressed. BGEN Canedy expressed the opinion that it should be eliminated. Dr. Shields said that "special favors" does not include parole, however. RADM Lawrence said that the Geneva Conventions permit parole.

The Committee disapproved the deletion of the word "parole".

The Committee began discussion about what was generally considered the most controversial Article of the Code - Article V.

The first order of discussion concerned the words "bound" and "only". RADM Lawrence said the word bound conforms to the Geneva Conventions which, in itself, shows that we feel the Geneva Conventions are a significant document.

The Committee voted against the resolution to replace the "bound" with "required" but did vote in favor of dropping the word "only".

The Chairman said at this point, due to the importance of this issue, he was going to hold this vote on Article V in abeyance. The question of the distinction between "required" and "allowed" was raised. COL Day said he thinks that PW's have the total right to remain silent on everything. The Chairman asked Mr. Holmes to provide the Committee at the next session what the legal interpretations of the Geneva Conventions are in regards to this issue.

The next topic discussed regarded that portion which states, "I will evade answering further questions to the utmost of my ability."

The Committee voted unanimously against any further changes in Article V.

The Chairman then brought to the attention of the Committee the handout prepared by Mr. Wiley. Then he called upon one member of each working group to meet to complete the revised version of DoD Directive 1300.7 by Friday, 25 June or Tuesday 29 June at the latest.

(Fifteenth Session - Discussion - Continued)

RADM Lawrence's second working group report was discussed. There are two major outstanding issues which require Committee resolution, RADM Lawrence said. One pertains to Service or specialty/corps within a Service and it was generally agreed by his working group that such personnel, chaplains or medical corps, will assume command according to rank (or precedence).

If appropriate, chaplains and medical Service personnel could be excluded, however, in accordance with the provisions of Chapter IV, article 33 of the Geneva Conventions.

The other problem involves the civilian/military relationship in the chain-of-command. It was generally felt that the Committee could not resolve this and the extent of their action would be to submit recommendations as to how this problem should be addressed.

SUMMARY

SIXTEENTH SESSION, 25 JUNE, 1976

Summary of Discussion

The Chairman called the attention of the Committee to a handout prepared by Mr. Wiley concerning the Code of Conduct in relation to the Geneva Conventions. COL Arnold followed with certain administrative remarks. He mentioned that the basic revised 1300.7 has been blessed by the working group chiefs; it is the enclosure which consists of explanatory material and training guidelines, which have been passed out to the working groups, that are not ready to be addressed by the full Committee, he explained.

The Chairman then turned the floor over to Mr. Wiley. Mr. Wiley introduced Mr. Jerome Silber from his office, who is an expert in international affairs, to assist in answering the Committee's questions. Three questions were raised during the last session, Mr. Wiley said.

The first question pertains to the word "bound" in Article V which does come, according to Mr. Wiley, directly from the Geneva Conventions. Within the context of the Geneva Conventions does "bound" mean required or allowed? In order for a prisoner to be entitled to the benefits of a POW as prescribed by the G.C., the individual must identify himself as a military member of the opposing state. It is true the G.C. as such, doesn't obligate the individual captured person to say anything, he said. A prisoner does not have to provide his name, rank, serial number, and date of birth. If he does not, however, he runs the risk of not being treated under the guidelines of the Geneva Conventions.

Mr. Wiley then discussed how the use of this word "bound" used in the Code does introduce an element of confusion in that the Code is not legally binding but rather, it is a code of expected conduct. Hence, it takes on a different meaning. "Bound" in our Code probably has to be given the meaning for a serviceman to only give his name, rank, service number, and date of birth.

RADM Lawrence posed the question, if the prisoner is not asked to provide name, rank, service number, and date of birth, does he have the obligation to volunteer it? The point he was making concerns the state of mind of the newly captured individual. RADM Lawrence feels it is important that such a person be reticent and suspicious with regards to providing information vice effusive. Mr. Wiley said, "I doubt it, unless it is somewhere in standing orders in our military directives and regulations." "I suspect it is there somewhere, I just don't know, because we have a national interest in having a person

(Sixteenth Session - DISCUSSION - continued)

identified." Mr. Jerome Silber said that the Conventions clearly obligate the man, when questioned, to provide name, rank, service number, and date of birth. Further, we are "bound" to tell the truth when doing so. Mr. Wiley said that whether our servicemen should provide such information if they are not asked is a policy decision which is basically up to our government to decide.

COL Day contended that you're not only required by the Code to identify yourself but also by common sense; otherwise the individual could be charged as a spy and, consequently be subject to the captor's national law.

The consensus was that whether the country we're fighting does or does not recognize the Geneva Conventions' accords, it is best for the individual to do so.

The second question brought up in the fifteenth session pertained to Article II of the Code which states, "If I am captured I will continue to resist by all means available." Mr. Wiley said that, as a matter of law, if a prisoner is subjected to physical or mental abuse, he has a normal legal right to protect himself. The Code and Geneva Conventions do conflict, however, in that the G.C. assumes a military POW is, in effect, out of the active combat whereas the Code implies they should continue the war. What does resist mean? If taken in the context of protection it is all right; if taken to mean the prisoner should continue the war, it is not in compliance with the G.C. Mr. Wiley said he felt this phrase was put into the Code as a result of the Korean War wherein large groups of individuals lost their will to live, to "resist," and consequently they died. This portion of the Code, he felt, was inserted to give our POW's something to latch on to to bolster their morale.

The third question regarded Article III and the obligation to escape. "I will make every effort to escape and aid others to escape."

The Geneva Conventions recognizes that the nation of a military member who has been captured may impose upon him a duty to attempt to escape, Mr. Wiley said. Therefore, the Conventions provide certain rules if such attempts are undertaken. Mr. Wiley pointed out that should someone successfully escape they are expected to proceed via the shortest route to return to friendly lines. Escapees are not allowed to conduct intelligence gathering operations or sabotage or they are liable to be tried under the national laws of their captors should they be recaptured. In conclusion, the Geneva Conventions recognize escapes from a POW camp and this is embodied in Article III of the Code of Conduct.

(Sixteenth Session - DISCUSSION - continued)

The Chairman then called the Committee's attention to Article V of the Code of Conduct. He presented a brief overview of what has transpired at the previous sessions for the benefit of those who were not in attendance. The Committee had decided to make no changes to the Code with the exception of Article V. This Article has been divided into two parts: for the second section which begins with, "I will evade answering..." was voted upon and was also decided to be left unchanged. In the first part the controversy revolves around the word "only," "I am bound only to give name, rank, service number and date of birth." Should "only" be removed? Secondly, controversy surrounds the word "bound." Should "bound" be changed to "required" or "allowed"?

After extensive discussion, a vote was taken which resulted in deleting the word "only" from Article V.

Next, a vote was taken concerning the word "bound." The Committee decided to change the word "bound" to read "required."

After a short break, the Chairman brought up the next topic which is a new DoD Directive 1300.7. BGen Canedy called the Committee's attention to a proposed draft of DoD Directive 1300.7A, Training and Education Measures Necessary to Support the Code of Conduct.

BGen Canedy pointed out that this draft is composed so that it is very specific in the design of the sponsorship as well as in the design of the program.

The Chairman expressed his desire that the same group of people check all the Services for standardization and compliance in promulgating the Code. It was agreed this should be spelled out in the revised 1300.7.

BGen Canedy suggested that the working group leaders meet early the next week to discuss the words of the implementor. COL Arnold was tasked with the scheduling of this meeting.

Next, the Chairman said he had asked COL Arnold to draft a paper that addressed the problems of the PW returnees who were charged with violation(s) of the UCMJ but who were not brought to trial. The Chairman solicited comments from the members of the Committee concerning this issue.

(Sixteenth Session - continued)

Summary of interview with General Harold K. Johnson, USA (Ret.), WWII POW and former Chief of Staff, U.S. Army.

BIOGRAPHICAL SUMMARY

General Harold K. Johnson, U.S. Army, was assigned to the 57th Infantry, Philippine Scouts when, in April 1942, he participated in the Death March from Bataan and was imprisoned by the Japanese in the Philippines. During his 3 1/2 years as a PW he was moved to Japan and Korea, where he was liberated in 1945. General Johnson was appointed Army Chief of Staff in 1964, and he retired in 1968.

PERTINENT POINTS set forth were:

- During his tenure on the Joint Chiefs of Staff, the topic of the Code of Conduct came up repeatedly once or twice a year with rather sharply divided views among the Services as to how the Code should be interpreted and what type of training should be given so an individual would be prepared to live by the Code.

- The Chairman asked General Johnson why the Services had different views. General Johnson replied that he felt it was due to institutional differences based upon each Service's perceived exposure to capture. The Air Force wanted their men to fabricate stories, the Army and Marines were hard-liners and interpreted the Code literally; the Navy was generally ambivalent, he said. Further, although it was never explicitly stated, General Johnson said that such instruction was probably also based on the fact that pilots, "by and large," had college educations and were smarter than the average infantryman and, as such, could more likely get away with telling fabricated information whereas someone else might not.

- "...the Code is an imperative, it is an imperative because individuals in a structured organization particularly need standards to guide their conduct." "The Code is a standard; it is a tough standard that cannot be made into a rubber yardstick because you then really have no standard."

- General Johnson related a story about during the time the first commission met in 1955. One of the members, General Milburn, brought him a copy of what is essentially the Code as it now stands and asked, "Johnny, what do you think about this?" General Johnson said his response was, "General, this is tough and I doubt anybody will live up to it totally but I think it is what is required because we need a yardstick against which the actions of individuals who are captured by an enemy may be measured following their release.

(Sixteenth Session - JOHNSON - continued)

Then there can be a determination on a case-by-case basis as to the punishment, if any, that is warranted by virtue of departures from the Code." "That view I continue to hold," he said.

- Pertaining to the interrelationship of civilians together with military personnel in a POW camp, General Johnson said that on the one hand it would be desirable for everyone to have the same standard but on the other hand he questioned the possibility of such training." I don't think we want to get into a mass education program in this country in our school system on the Code of Conduct." In response to further questioning along this line regarding rank relationship of State Department officials with the military, General Johnson said, "The State Department is trained to compromise whereas the man in uniform is trained to make straight forward decisions. The last thing our society needs today is any more compromisers. I don't believe that the individuals in the State Department are trained for the kind of leadership roles that must be exercised in prison camps."

- Regarding a joint service training program for the purpose of training survival and resistance, General Johnson said that, whereas on the surface, joint training looked like a plausible and possible solution to many of the problems, as a practical matter the circumstances and environment in which the separate services conducted their operations was such that there should be independent training.

- General Johnson agreed that all the services should be talking the same "party line" but questioned the fiscal possibility as well as the physical possibility of training everyone to a greater depth of understanding of the Code. During Vietnam alone we're talking about a million and a half soldiers, he said. Moreover, General Johnson said that he felt there has to be some relationship between the training given and the risk of capture the men hold. That's why, he said, coming back to the civilians, their exposure is so limited it does not warrant the effort.

SUMMARY

SEVENTEENTH SESSION, 8 JULY, 1976

Summary of Discussion

COL Arnold tabled the first draft of the Report by the Defense Review Committee For the Code of Conduct. The next order of business was the latest draft (7 July 1976) of the proposed DoD Directive 1300.7A, Training and Education Measures Necessary to Support the Code of Conduct.

LTC Gomon led the discussion to update the Committee on the most recent changes that had been made to previous drafts.

PROPOSAL THAT DoD ASSUME SOME OF THE RISK INHERENT IN POW TRAINING APPROVED

The Vice Chairman mentioned certain suggestion regarding the proposed draft as set forth by COL Tilson, Director of Training, ASD(M&RA). In light of recent cases wherein certain individuals received injuries during their training, he suggested that the Department of Defense assume some of the responsibility of the inherent danger simulated POW compound training entails through a supportive statement in the proposed 1300.7A. This was agreed upon by the Committee.

CENTRAL LOCATION FOR TRAINING

Next, the point was discussed as to whether or not it would be possible to have one central location for the purpose of training all high risk personnel. The Vice Chairman thought that there should be a joint training facility to provide trained instructors who, along with joint production of syllabi and training materials, would provide the necessary standardization for training service-wide. The final consensus was that the Committee should recommend that the joint instructor training facility should be established as a minimum with follow-on investigation by the Executive Agent to determine the feasibility for a single, joint training facility.

DECISION TO APPOINT THE AIR FORCE AS THE EXECUTIVE AGENT

There was a general discussion about whether or not to appoint the Executive Agent for training and education measures to support the Code of Conduct. It was agreed that either way the result would be the same, the Air Force would be designated; therefore MGEN McNeil suggested that it should be so stated in 1300.7A.

(Seventeenth Session - DISCUSSION - continued)

THE JOINT EVALUATION GROUP TO CONSIST OF "FIELD GRADE" OFFICERS

The Vice Chairman stated that in order to give the monitoring mechanism enough clout, the joint evaluation group should consist of "field grade" officers. Discussion surfaced the fact that the term "field grade" is not applicable to all Services; the Committee Staff is to develop wording for this portion of DRAFT DoDD 1300.7A.

ARMY LIBRARY PROPOSED AS ARCHIVIST FOR REVIEW COMMITTEES

The Vice Chairman also proposed - as a practical matter of accessibility - that the Army Library in the Pentagon be the archivist and central repository for the reports of the 1955 Defense Advisory Committee on Prisoners of War, the 1976 Defense Review Committee on the Code of Conduct, related training manuals, reports, etc. COL Danford, sitting in for BGEN Canedy, agreed to query the Army Library informally.

CODE OF CONDUCT AGREED TO BE APPLICABLE FOR ALL SERVICE MEMBERS AT ALL TIMES

LTC Gomon pointed out the insertion in the enclosure which states, "The Code of Conduct is applicable to all Service members at all times, both peacetime and combat, in land, sea, and airspace environments." First, however, the Chairman called the attention of the Committee to make sure all understood and agreed that this statement is making the Code applicable over the entire spectrum. Mr. Wiley then broached the problem brought up earlier by an interviewee, Dr. Biderman, pertaining to the individual who accidentally strays across a border and, by abiding to the Code, subsequently causes everyone problems in the process of gaining his release. COL Arnold and LTC Gomon said that in such a case the Code is still applicable; such an instance merely requires that it be applied in the appropriate manner. Mr. Wiley said that it might be desirable that this wording on the first page of the enclosure be "sharpened up."

DEBATE ON WORD "ENEMY" LEADS TO CONCLUSION THAT THE CODE SHOULD BE KEPT "AS UNLEGALISTIC AS POSSIBLE"

CWO2 Rander debated the use of the word "enemies" in Part II of the enclosure, explanation of Article I of the Code. "A member of the Armed Forces, as a fighting man, has a duty to oppose the enemies of the United States regardless of the circumstances in which he may find himself, whether in active participation in combat or as a prisoner of war." His point was, does this include terrorists, etc.? COL Arnold responded by reading the definition of enemy in the UCMJ, Article 99 which states, "the 'enemy' includes not merely

(Seventeenth Session - DISCUSSION - continued)

the organized forces of the enemy in time of war, but also imports any hostile body that our forces may be opposing, such as a rebellious mob or a band of renagades." Mr. Wiley said, however, that he thought the Code should be kept as unlegalistic as possible. He suggested this portion be reworded.

CHAPLAINS AND MEDICAL PERSONNEL

A general discussion followed concerning medical personnel and chaplains and their special role. Rather than utilizing a large part of each Article's explanation with defining the special roles of what is generally a very small segment of the military, it was decided to have a special appendix for such personnel devoted entirely to the special cases of chaplains and medical personnel.

Mr. McKenzie expressed concern over the statement on page 6 of the enclosure which states: "Only if the captors adhere to the Conventions may medical personnel and chaplains revert to a detainee posture and exercise a degree of flexibility concerning some of the specific provisions of the Code of Conduct in order to perform their professional duties." LTC Gomon said that the staff would rewrite that sentence to clarify its meaning.

Mr. McKenzie brought up that some medical personnel, despite their rank, are ineligible to assume command. It varies amongst the Services, he said, under the provisions of Title 10 of the U.S. Code. This conflicts with the proposed 1300.7A which states, "The senior person (whether officer or enlisted) within the PW camp or with a group of PWs will assume command without regard to Service," he said. Mr. McKenzie offered to send a copy of applicable portions of Title 10 to the staff. The Chairman then asked, if the law is restrictive are they going to try to change the law? The consensus was that no attempt should be made to change the law.

THE QUESTION OF THIRD COUNTRY DETENTION OF POW'S DISCUSSED

Dr. Shields brought up the question about what rules apply if the POWs are transferred to a third country or neutral country. For example, the United States Government tried during the Vietnam conflict to have the POW's transferred to Cyprus. Are the POW's still obligated to escape?, Dr. Shields asked. It was generally agreed that this would depend on the stipulations of the pact to which the United States subscribed, the results of which would have to be communicated to the POW's. The Chairman asked Mr. Wiley to look into this matter for further clarification.

(Seventeenth Session - DISCUSSION - continued)

STATEMENT REGARDING PAROLE DISCUSSED

LTC Gomon next discussed the portion of the explanation of Article III (p. 14) which discussed the word "parole." In the part which states, "He will never sign or enter any such parole agreement," the Vice Chairman pointed out the use of the word "such" gives "just a little bit of leeway to the SRO if he wants to authorize parole for a purpose that's in the best interest of the POW camp." In other words, the absence of "such" would remove any form of parole, LTGEN Clark said.

ELECTIONS FOR THE POW REPRESENTATIVE

The Chairman asked why that portion in the explanatory section was deleted that references the part of the Geneva Conventions pertaining to an election to determine the camp representative. LTC Gomon said it was confusing. To resolve this there are two actions possible, he said. One, it is all right to have elections but you will elect the senior man. Two, it is all right to have the election but that person elected or appointed by the enemy will be the intermediary between the enemy and the senior ranking individual; however, the command authority will still be invested in the senior ranking person. The Chairman expressed concern that by not mentioning the election process at all, if we do have a conflict where the opposing state does abide by the Geneva Conventions, then we might introduce a whole host of new problems. Mr. Wiley agreed and said that by dropping any reference whatsoever to this election procedure as endorsed by the Geneva Conventions that we are putting ourselves in the position of being charged with avoiding, subverting, or evading the Conventions in our training document, i.e., 1300.7A. Hence, he is reluctant to drop any reference to this.

LTC Gomon then proposed that we state the wording as previously suggested in an earlier document - if the enemy or situation causes an election to take place, that's all right, however the senior man is still in command and the senior enlisted man would still be in charge.

Mr. Watkins pointed out that when he was in an all enlisted POW camp during WWII wherein the Germans completely abided by the Geneva Conventions, the POWs held elections. The elected individual, he said, was never looked upon as the military commander but rather as their spokesman, their "man of confidence." When you have a captor who does abide by the Geneva Conventions you do not need a senior ranking person to tell the members of the camp what to do because the enemy is not trying to exploit the POWs.

(Seventeenth Session - DISCUSSION - continued)

Mr. Wiley said that the Geneva Conventions call for elections only when the camp is composed entirely of enlisted personnel. In a mixed camp the senior ranking officer is expected to take command. The Vice Chairman expressed concern that this be worded carefully to avoid the problem of competitive leadership. Mr. Wiley said in order to make it perfectly compatible with the Geneva Conventions, it should state: "The senior ranking non-disqualified person will take command and will also be the representative to the extent required by the Geneva Conventions. To the extent that, in a given circumstance, the Conventions require a representative be chosen in some other fashion, the representative shall be responsive to the SRO."

A, B, & C LEVELS

CWO2 Rander offered the suggestion that more of the requirements for levels B and C should also be included under level A. Mr. Watkins retorted, however, that an individual who falls under level A wouldn't be exposed to capture. When he reaches such a level then he will have received the appropriate training. RADM Lawrence felt that instead of just listing "Levels B and C" it should be written: "Training should be specifically oriented to cover the following additional levels...." LTC Gomon said that this would be looked into again.

FAKE CAPTURE CARDS

Mr. Wiley brought up the problem of fake "capture cards" in regards to the fact a POW may provide much more information that the Conventions call for - to the benefit of the enemy. It was generally agreed this would have to be handled by the training.

PARAGRAPH ON PAGE 28 DELETED

It was unanimously agreed that the paragraph on page 28 should be deleted which states, "Understand that, if taken past his point of maximum endurance, he gives additional information on his own responsibility he may later be held accountable under the UCMJ, taking into account such mitigating factors as the PW's subsequent efforts to 'bounce back' and resume resisting." Mr. Wiley said that he felt this was inconsistent with previous discussion pertaining to bouncing back; LTGEN Clark said that, also, accountability is already mentioned elsewhere.

(Seventeenth Session - DISCUSSION - continued)

REFERENCE TO AN EXECUTIVE ORDER DELETED

COL Arnold convinced the Committee that reference to an Executive Order be withdrawn because he doesn't feel the administrative process would be quick enough to promulgate it before 1300.7A was distributed.

MR. WILEY DEBATES THE STATEMENT...THE CODE OF CONDUCT IS NOT A LAW..

Mr. Wiley concluded the session with a comment concerning the part on page 31 which states, "...while the Code of Conduct is not a law in the sense that the Uniform Code of Military Justice is a statute...." He said such a statement leaves open the "middle ground" that the Code could be construed as a regulation or directive which does become a law because the UCMJ picks it up, in effect.

LTC Gomon said that it was an attempt to avoid the words, "not legally binding" which is not true either. It is a legal document, promulgated by the President and it is binding in the sense it is an Executive Order, he said.

The Chairman asked what is wrong with saying that while the Code is not a law, failure to follow it could lead to an infraction of the UCMJ which is a court-martial offense?

Mr. Wiley said that there are two points here. One, whether any of the documents in this chain - including the Code, is published under lawful authority. The answer is yes. However, whether a violation of any of the provisions would be punishable as such - no. As it stands now, he said, this leaves open for someone later on to argue that all that is said is that the Code is not law in the sense of a statute opening the argument that it is a regulation or directive, a violation of which would produce a violation of the UCMJ. We've left that open and I don't think we want to, he said.

LTC Gomon solved the problem by correcting it to read: "Understand that there is a relationship between the Uniform Code of Military Justice and the Code of Conduct. Following the guidance of the Code of Conduct may preclude a violation of provisions of the UCMJ. Every member of the United States Armed Forces should understand that he can be held legally accountable for his actions while detained."

(Seventeenth Session - DISCUSSION - continued)

NON-MILITARY POW ISSUE

The issue concerning non-military POW's has been basically left up to a recommendation in the final report of the Committee. It was pointed out to RADM Lawrence, however, that there is still the portion of 1300.7A which states that should civilians be imprisoned with military in a POW camp, the senior military prisoner should make every possible effort to persuade civilian prisoners that it is advantageous, considering his experience and specific training, for the military member to assume overall command leadership of the entire prisoner group.

SUMMARY

EIGHTEENTH SESSION, 12 JULY 1976

Summary of discussion:

COL Arnold conducted a follow-through of the latest draft of the REPORT BY THE DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT. All recommended changes were set forth except where there were conflicting inputs in which case a revision was proposed in an attempt to accommodate everyone.

TO WHOM AND WHEN DOES THE CODE APPLY?

Debate ensued concerning the bottom of page two which reads: "The Code of Conduct was formulated to provide a clear and concise guide to behavior for (all) servicemen (at all times) ~~in-PW-status~~. The question was raised didn't the Code of Conduct pertain only to members of the Armed Forces who are engaged in combat or who are POW's. The issue passed with agreement that the revised wording was all right. Later, however, during the overview of the enclosure (1300.7) MGEN McNeil reopened the question of when the Code applies. His concern was that there are many examples when it might be best not to adhere to all provisions of the Code. MAJ Winstead inserted that there are two specific Articles that begin with the premise: If or when I become a POW....(Articles IV and V). He suggested the wording of 1300.7 be changed to reflect Army and Marine Corps concern to stipulate that Articles I, II, III, and VI are constructed to provide moral guidance while the other Articles - IV & V - are derived from the Geneva Conventions' attempt to protect prisoners of war. This could be done, he said, by eliminating "at all times." COL Arnold responded, however, the Article concerning escape is not pertinent, for example, unless an individual is captured but that doesn't mean it's not applicable. COL Day suggested that terrorist considerations were probably not even considered by the 1955 Commission but the Code is certainly applicable if a U.S. Serviceman becomes captured by such individuals. In other words, rather than rewrite the Code with an explanation of what provisions do and do not apply in certain circumstances - such as a soldier accidentally wandering across a border into East Germany - the Code should generally be stated as to be applicable at all times.

The consensus was that the wording should be left alone but the Vice Chairman asked that it be looked at again.

Towards the end of the session, the topic of the applicability of the Code was raised once more as Captain Vohden read the original Executive Order promulgating the Code of Conduct in 1955 which states in part "...I hereby prescribe the Code of Conduct for Members of the

(Eighteenth Session - Continued)

Armed Forces of the United States..." 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."

He interprets this, therefore, to mean that the Code only applies in combat or captivity and not in all situations. LTC Gomon injected that the wording "applies to all members of the Armed Forces" comes from the implementor not the Executive Order, of the Secretary of Defense. "The extension to non-hostile detention comes from the word 'captivity'. The reason for the discussion, of course, is the terrorist idea and the other kinds of detention were not a problem when this was written. Again it was decided that this would be studied for rewording.

DISCUSSION OF THE PRISON CAMP AS AN EXTENSION OF THE BATTLEFIELD

COL Arnold brought up that the Chairman wants certain portions of page eleven to be changed. He desires an inclusion which would set forth the idea that training such that the prison camp is an extension of the battlefield is not in accordance with the Geneva Conventions. The advisability of this was debated, however. The Vice Chairman said he felt by putting this in we might be reducing our flexibility and might regret such an inclusion at a later date. COL Arnold said that there is nothing in the discussion that makes the Code inconsistent with the Conventions. Therefore, it was agreed - in the absence of the Chairman - that it would be better to seek Dr. Ahearne's approval to remain silent on this issue.

STRENGTH ADDED TO SRO'S AUTHORITY

On page 20 under "Conclusions" it was decided to add a sentence which would give the SRO more "clout" concerning his approval authority over escapes. It was his working group's recommendation, RADM Lawrence said, that if there is a POW organization, the SRO must have final approval of any planned escape attempt.

EMPHASIS PLACED ON PROSECUTION OF THOSE CHARGED WITH MISCONDUCT

Mr. Holmes emphasized the importance of his proposed insertion to "Recommendations" under "The Legal Status of the Code." He said that later in the Report (p.24) it says upon repatriation conduct of PW's should be investigated, but it doesn't say anything about prosecution. There was an investigation after the Vietnam conflict, for example, but no prosecution of those guilty of misconduct. "This group should go on record, as expressing our view at least, that there should also be prosecution where the investigation discloses that prosecution would be appropriate." The Committee agreed that this was a good insertion.

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CONFLICTING ARGUMENTS ABOUT MENTIONING INVESTIGATION OF VIOLATIONS
CONCERNING THE UCMJ IN THE "REPORT"

On page 23 COL Arnold brought up the conflict in proposals that had been submitted concerning "Investigation of Violation Concerning the UCMJ. Dr. Shields, COL Arnold said, does not want to address violations of the UCMJ in the Report. CAPT Vodhen said, basically, that Dr. Shields feels we have the authority under the UCMJ to conduct investigations and to include this in an Executive Order would be inappropriate. In addition, it would imply culpability just because an individual is a prisoner of war.

The counter arguments to this, COL Arnold said, are first, a formal investigation was not carried out after the Vietnam war and the idea was to put it at the Presidential level so the requirement couldn't be erased later by some revision from a staff officer. It puts responsibility on the shoulders of the President to take punitive action in this regard and it doesn't allow a Service Secretary to abrogate this responsibility. Further, COL Arnold said, there's a two edge sword regarding POW culpability. We not only have the responsibility to determine who violated the law but also to find out those who did not - to find the hero. LTGEN Clark said that our country is already lenient with regard to what it expects from its POW's in relation to most other countries and that to ask for an investigation is not asking for too much. The big obligation is to uphold the behavior of those PW's who were honorable rather than let them be held in the same classification as those who were dishonorable, COL Arnold said. The Vice Chairman said that it can become a political football which lets people be overcome by the emotion at the time to the long-standing detriment of the standards of the Armed Forces.

COL Day said that, speaking for the "rank and file" POW, most of them felt the "legs" had been substantially cut off from the Code by the refusal to prosecute. His point is, that this is the only step to restore some confidence among POW's and future prisoners that we do mean what we say in the Code.

RADM Lawrence felt this might be an "overkill" by saying, "Here's a Code of Conduct and here's an Executive Order that says we really mean it." COL Arnold said that another argument that has been advanced is that the Committee has an obligation from what they've heard to surface this point at least at the Secretary's (of Defense) level. RADM Lawrence said that he agreed with this point strong enough to support this matter.

CAPT Vodhen then raised the issue concerning future investigations regarding returned PW's as to whether any meaningful information could be obtained if the interview was preceded by an Article 31 warning. I don't know anyone who didn't violate the Code of Conduct or the UCMJ, he said. "Everyone wrote a statement."

(Eighteenth Session - Continued)

Mr. Holmes said there were two considerations when this was considered. (1) recognize that duress was employed against everybody and obviously we don't want to hold people to account for things said or done under extreme duress. (2) Another consideration is that members of Congress were making the same statements freely that POW's were making under duress, so, it was considered to be grossly unequitable to hold POW's for any disloyal statements.

COL Arnold pointed out that the process of investigation did take place after the Korean War and information was obtained. Mr. Holmes, however, brought up the conflict of interest between gathering intelligence and gathering information for prosecution. The Vice Chairman said, however, that the process could be conducted in much the same manner as an aircraft accident investigation wherein there are two parallel investigations - one where the individuals(s) concerned have no culpability which is allowed in an effort to obtain all the facts, another, which is a legal investigation preceded by an appropriate warning, for which the individual may be prosecuted for failure to properly adhere to regulations, accepted procedures, etc.

There is all kinds of evidence, the Vice Chairman said, to show that the requirement for the post-Vietnam investigation was deliberately inhibited, stifled or discouraged.

POW CULPABILITY

LTC Gomon said that there is no meaning or intent to imply that all POW's are culpable until proved innocent. In response to MAJ Maney, it was agreed to add something to the effect that "captivity is not of itself a state of culpability."

MR. HOLMES' COMMENT

When the Committee proceeded to the implementing documents, Mr. Holmes raised certain insertions he said he had recommended that were not included. This, it was decided, would be resolved prior to the next meeting.

ASSUMING COMMAND OF AN ISOLATED GROUP

BGEN McLernan was concerned with the second proposed Executive Order which states in part, "Isolation of a group by natural disaster or capture or other action by a hostile body (whether or not such body represents or purports to represent a government, recognized or unrecognized) which makes communication with higher headquarters impossible are examples of situations or conditions having this effect." He said that this should be stated to be related to a PW situation only. His concern was that it had been departed from a PW situation, and it could be interpreted to apply in any situation. COL Arnold replied that it pertains to pre-capture situations as well. BGEN McLernan said he would submit a wording that was satisfactory to him.

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PROPOSED DRAFT OF 1300.7A DISCUSSED

After a 10 minute break, LTC Gomon led the Committee through the 13 July draft of 1300.7A.

CODE OF CONDUCT TRAINING SUPERVISION

Discussion arose about paragraph VI pertaining to the responsibility of supervision of training for the Code of Conduct. MGEN McNeil thought that there was a simpler way to do it than was being proposed mainly by utilizing already existing Service Inspector Generals vice establishing a permanent OASD office. The Vice Chairman said he wanted to be sure that overseer had teeth in his authority. The final consensus was that there would be inspections controlled at the OSD level consisting of an interservice mix of inspectors. MGEN McNeil said he would have some of his inspectors submit some proper wording to correctly phrase this.

DOD TO TASK ITRO CONCERNING CODE TRAINING

Concerning paragraph 5, page 9, it was decided that DoD would task ITRO(Interservice Training Review Organization) to study the follow-on phase as to whether or not the instructor training facility would be expanded to include training of all high risk personnel.

CHAPLAINS AND MEDICAL PERSONNEL

Pertaining to the enclosure, Mr. McKenzie did not feel that Part II under Article I was properly worded which said "Only if the captor adheres to the Conventions may medical personnel and chaplains exercise a degree of flexibility concerning some of the provisions of the Code of Conduct in order to perform their professional duties." The difficulty is how to word it so there can be no argument that medical personnel and chaplains must assume regular military responsibilities if they are denied the ability to act in accordance with such provisions under the Geneva Conventions pertaining to such personnel. Mr. McKenzie could not suggest the proper wording, however. Mr. McKenzie also said later in the session that the statement under the "special note" regarding medical personnel and chaplains was not entirely correct. As worded it stated, "Medical personnel and chaplains are prohibited by law (Title 10, USC) from assuming command over nonmedical personnel;" he said there are exceptions. It was agreed to place the word "generally" before "prohibited."

MENTION OF COMMUNISTS' TRIALS DELETED

It was decided to delete the portion at the top of page 16 which states, "...and the Communists have never tried an American PW as a war criminal, even though many PW's have been physically coerced into

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falsely "confessing" to being "War Criminals." It was felt it was gratuitous to mention this and might invite difficulty for future POW's.

WORDING ON POW ELECTION PROCESS STILL DEEMED INCORRECT

On page 19A the Vice Chairman expressed concern about the election process in a PW camp again. The suggestion that the Communists might appoint a camp or prisoner representative combined with the fact one might be elected poses the dilemma of split responsibility. It was agreed this wording would be worked on some more.

SUMMARY

NINETEENTH SESSION, 15 JULY, 1976

Summary of Discussion

WHEN IS THE CODE OF CONDUCT APPLICABLE?

The Chairman reopened the question concerning the applicability of the Code in that he wanted to face the issue more directly. COL Arnold agreed that the words "at all times" are not in the Executive Order promulgated by President Eisenhower but, he said, it also states that every member of the Armed Forces is expected to measure up to standards while he is in combat or captivity. It can still be interpreted that this does not exclude the Code from applying while he is not in such conditions, he said. "Specifically....I can't envision a time, ref. Article V, when it would be appropriate for an American fighting man to make written or oral statements disloyal to his country." The Chairman said that it seems to him to be first, a legal issue. Was the original Executive Order meant to have a blanket application at all times? If, in the second place, the answer to the first is uncertain, then the question is, should it?

Mr. Holmes said that he had not addressed this particular point before but he would have an answer by the Monday session.

Putting the legal issue aside, the Chairman tried to gain a general consensus concerning this issue. The Vice Chairman mentioned that a group of six (LTGEN Clark, COL Bullard, COL Day, COL Arnold, LTC Gomon, and Mr. Watkins) had met that morning and agreed that while there was a broad spread of applicability aimed at POW status, some articles were quite general in nature and include conduct under normal circumstances. This, he said, probably needs a legal resolution. They came down to the point of two obstacles, he said. One would be to say that the Code applies "at all times" with a caveat to meet circumstances not foreseen by the original Committee or - delete the phrase, "at all times." The group's conclusion was that the phrase should be left in. In answer to the Chairman, LTGEN Clark said that in the case of the straying of an individual over a border, the Code would not apply - with certain reservations. Such an individual should not attempt to escape, for example, nor engage in any harassment toward his captors. Therefore, a caveat of some sort is needed to describe such a circumstance. LTC Gomon then directed the attention of the Committee to pertinent portions of the proposed 1300.7, which states, "The Code of Conduct is applicable to all members of the Armed Forces at all times. In cases on nonhostile detention, those Articles concerning evasion, escape, and resistance to exploitation may not be applicable. However, under no circumstances will a departure from the basic requirement for honorable conduct to protect the best interests

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of the United States be authorized or condoned." Then, on page one of the enclosure, it says, "The Code of Conduct is applicable to all servicemembers at all times in both peacetime and combat, in land, sea, and airspace environments, and including periods in which servicemembers may be held captive by a hostile nation or force." On page five under "Explanation." the proposed 1300.7 states:

1. EXPLANATION

The Code of Conduct applies to all Service members at all times. A member of the Armed Forces, as a fighting man, has a duty to support the interests and oppose the enemies of the United States regardless of the circumstances in which he may find himself, whether in active participation in combat or in captivity.

During circumstances of nonhostile detention some flexibility is permitted by the Code of Conduct concerning the obligations to evade, to escape and concerning communication with the captor. (See Special Note #1)

Then, lastly, LTC Gommon referred the Committee to the special note #1, which states:

SPECIAL NOTE #1.

The additional flexibility afforded members of the Armed Forces who are subjected to nonhostile detention (such as accidental border crossing, neutral country internment, or arrest for vehicular traffic violation in a foreign country) relate to the obligations to evade, (Article II) to escape (Article III) and to limit communications with a captor (Article V). Appropriate responses by Service members and other guidance for these circumstances may be covered, if required, by separate instructions. However, in no case will departure from the basic requirement for honorable conduct to protect the best interests of the United States be authorized or condoned.

So, the Chairman asked, the basic mechanism is to define some nonhostile activity; can you define "nonhostile detention?" It was explained that it was being arrested in a foreign country for a

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traffic violation or drunkenness, for example. A lengthy discussion followed during which an effort was made to determine, therefore, that the lack of hostility has nothing to do with relations between the countries. Each specific appeared to have an exception, however, and the Chairman expressed his concern over the degree of loopholes this special note provides. The words as stated don't lead me to any great confidence in the sense it's really clear what kind of limits are placed on individuals in such cases where the Code partially applies, he said. "What is the fundamental purpose in trying to precisely pin this down?", he asked. COL Arnold replied, it is to decide when the Code applies and when it does not; "That's the policy issue at stake. Does it apply at all times or does it apply only part time?"

RADM Lawrence entered the discussion with the point that by overcomplicating this issue they might be buying more problem than they're solving. With all the caveats it's going to complicate the training problem, he said.

COL Arnold mentioned the problems, however, such as with COL Morgan in Lebanon, when he said he didn't feel the Code applied in his situation; and Specialist Strickland, the detainee in Ethiopia, who said he felt as long as what he said were his personal opinions he wasn't being disloyal to the United States, and Captain Wilbur who said since he could find no constitutional basis for the Vietnam war he didn't think the Code applied, etc. Uncertainties also exist among persons in the medical community who are always finding uncertainties as to whether this does or does not apply. "I'm suggesting that we need a settlement as to whether it does or doesn't apply," COL Arnold said. If you say it applies at all times you've solved the problem but if you decide it doesn't apply at all times, when you try and define where it doesn't you either define it exactly or you leave it open to interpretation. RADM Lawrence restated his concern that if there are certain caveats it could destroy the effectiveness of the training by the confusion that would be interjected. "I don't really have any hang-up about taking 'at all times' out of there just to say it's applicable to all members of the Armed Forces of the United States and stop there. I think to the average guy it's very obvious to him when he should abide by the Code of Conduct." The Vice Chairman said, however, that it strikes him that there would be less explanation necessary if the caveats are left in rather than if they were taken out.

The Chairman suggested a possible solution. His proposal was to remove the words pertaining to nonhostile detention, the special note, etc., from the training directive, 1300.7, and place it somewhere in the Report to address the issue as an explanation of this restrictive interpretation. This would make the Committee's position available but it wouldn't end up being involved directly in the training document which would be exposed to everybody.

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The Committee concurred with this idea. The words "at all times" were left in the directive.

COL Arnold then continued leading the Committee through the report pointing out various changes that had been made. (In view of the fact the Committee voted to change certain portions of the Code.) "Major Conclusions and Recommendations" on page 8A was expanded he explained, because previously it had listed more reasons for not changing the Code than reasons for changing it.

STATEMENT CONCERNING POW CULPABILITY DEBATED

The Vice Chairman said that he thought the substance of what was said under "Training" was all right but that it needed some editing. Also, he said he gets a "little restless" with the statement on page 18, "investigators must keep in mind the fact that captivity is not a state of culpability." It's probably true, he said, but he's not sure it is in the best interest of the United States to say anything in any way that would make it easier for a man to make a decision which would allow himself to become captured. It might be better not to say it; we're dealing with an enemy, he said, that doesn't agree at all with having its people be captured and who ignores them after they're captured. "I'm not sure people don't try harder if their country doesn't expect them to be captured. It leaves an opening which can be misconstrued."

It was explained by COL Arnold that this was put in to circumvent "the inference that some people might make that the idea of those investigations were presuming that the guy was guilty and therefore you'd better investigate him and find out how to prosecute him. It was to demonstrate that the Committee had no intentions in this direction that the words were put in the report."

COL Day said that the comments were directed at the investigator and that he has no problem with the phrase as it is. CAPT Vohden said that if there is the Executive Order stating there should be an investigation then he didn't feel it made any difference if this wording were left in the report. MGEN McNeil said he thought that perhaps it is better not said. RADM Lawrence said he was bothered by the opposite idea. The feeling in the past, he said, had been that if an individual had suffered through the PW experience then he didn't deserve any more punishment. RADM Lawrence felt this was an incorrect concept.

It was decided to accept BGEN McLernan's proposal to leave the preceding statement "Such investigations should recognize honorable performance as well as identify any allegations of misconduct" and delete the words that follow; "investigators must keep in mind the fact that captivity is not a state of culpability."

COURT-MARTIALS IN CAPTIVITY

To the sentence, "The suggestion that PW's might conduct their own courts-martial while captivity was not favored because of the impossibility in the PW environment of providing the accused with a proper defense" was added "and otherwise complying with the requirements of the UCMJ" so it does not give the implication that the only reason for not conducting courts-martial in captivity was the impossibility of providing a proper defense.

CONSISTENCY OF THE CODE OF CONDUCT WITH THE GENEVA CONVENTIONS

The concern expressed previously by the Chairman about the discussion on page 20 was that training of the Code of Conduct had put forth the idea in the past that the POW camp was an extension of the battlefield which is opposed to the intent of the Geneva Conventions. In the previous session, during which Dr. Ahearne was absent, it was agreed that it would probably be better to leave out specific mention that the POW camp is not an extension of the battlefield. However, the Vice Chairman said, if in the future, intelligence requirements and communications are such that POW's could provide a meaningful purpose, why rule it out? The discussion concerning this topic ceased at this point with the implied consensus that this topic as written is all right.

STATUS OF MEDICAL PERSONNEL UNDER THE CODE OF CONDUCT

The topic of applicability of the Code to medical personnel and chaplains has been discussed in several Committee sessions. Based on the words supplied by Mr. Holmes, the Report reads: "Some questions also arose concerning the status of medical personnel and chaplains under the Code of Conduct and the Geneva Conventions. Article 33 of the Geneva Conventions specifically provides that these two categories of personnel shall not be considered as PW's but as a minimum shall be entitled to the benefits and protection afforded by the Convention to PW's generally. The privileged status of these retained personnel under the Convention might be considered to give them latitude which might be viewed as contrary to the Code of Conduct. However, the character of the Code as a moral guide is very important when considering this apparent conflict. Even when performing their roles as retained personnel, medical personnel and chaplains are subject to the Code of Conduct," etc. This wording was accepted by the Committee. On page 23, however, COL Bullard said he didn't think Mr. McKenzie would agree with the wording under "Conclusions" which states: "The Code of Conduct is consistent with the Geneva Conventions. It applies to every member of the Armed Forces during combat or captivity. However, if medical personnel and chaplains are treated as retained personnel, they must be allowed added flexibility in their

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behavior, which does not violate the intent and spirit of the Code." COL Bullard said, regardless of whether or not they're treated as retained personnel, it's whether or not the captors permit them to administer to the medical and spiritual needs of their fellow PW's. As Mr. McKenzie mentioned during the last session, "Regardless to what extent the captors recognize the Geneva Conventions or adhere to it, if they do permit medical personnel and chaplains to go about their professional duties when they should be allowed to do it."

COL Arnold asked would COL Bullard supply the wording desired and COL Bullard replied that he would do so.

ESCAPE OF OPPORTUNITY

On page 27 under "Escape" the concern, COL Arnold said, was that the Report did not adequately discuss escape of opportunity. The proposed rewording was approved except under "Recommendations." There, in the sentence, "Training directives should emphasize that unreasonable escape attempts are neither required nor desirable under the Code of Conduct," the Vice Chairman thought that "desperate and ill-planned" should be substituted for "unreasonable." His reasoning was that perhaps this would communicate better with individuals who might interpret Article III too literally and attempt escape simply for escape's sake without any consideration for the chance of success, the consequences to other POW's, etc. It was agreed to accept the proposed wording.

CAPT Vohden asked the question, "Do I understand this conclusion to mean that if a man is a prisoner he can not attempt an escape unless he has permission of the SRO?" "If he's alone he is his own authority in the way it's intended in the writing," COL Arnold said. We're trying to advance the thought that the SRO might want to set forth pre-arranged rules concerning escapes of opportunity or he may want to abrogate any such attempts at all for a specific period of time because he has other plans or knows of other actions being contemplated.

PERIODIC REVIEW OF CODE OF CONDUCT TRAINING

On page 32 there was a request to strengthen the argument for a periodic review of the Code which has been entered, COL Arnold said. Further, in the Proposed Implementing Documents the inputs received from Mr. Holmes were included.

ISSUE PAPERS

RADM Lawrence asked if there wasn't included somewhere a discussion concerning the issue of military and civilian personnel. COL Arnold said that there was but that it had not been accumulated

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in its final form as of yet. It will be put in Section V, he said.

Later in the session, the Chairman asked that all the issue papers distributed at the previous sessions, ie., Military/Civilian Relationship Under Conditions of Detention or Captivity, Disclosure of Information, Necessity for Common Service Fitness/Efficiency Reports and Awards and Decorations, Policy for PW's During Periods of Captivity, Applicability of the Code of Conduct in Other Than Declared Wars, and Periodic Review of the Code of Conduct - be rewritten using inputs received by various Committee members and distributed by Friday evening. COL Arnold said that he would.

SECOND PROPOSED EXECUTIVE ORDER

The portion of the second proposed Executive Order, "Prescribing Amendments to the Manual for Courts-Martial, United States, 1969 (Revised) concerning command of isolated units, it was pointed out, had proposed rewording by BGEN McLernan which was incorporated to address his concern on this issue. This should foreclose the opportunity of somebody outside the chain of command of that organized unit making them operate contrary to the normal command channel, COL Arnold said. BGEN McLernan surfaced a new problem with the wording, however. If an entire unit is captured with a few other stragglers, one of whom is senior, one might read into the way it's written that the senior doesn't have command authority which is not what is intended either. BGEN McLernan said that the lawyers he had research this said they could live with it as stated if the sentence were deleted which states, "Isolation of a group of individuals not to include organized units, by natural disaster or capture or other action by a hostile body (whether or not such body represent or purports to represent a government, recognized or unrecognized) which makes communication with higher headquarters impossible or illustrative of situations or conditions having this effect."

COL Arnold responded, however, the lawyers he had draft it see it as a necessary inclusion. COL Arnold said that he would staff this issue.

OVERVIEW OF DoD DIRECTIVE 1300.7

Next, LTC Gomon led the Committee through the latest revision of DoD Directive 1300.7 (dated 12 JUL 76).

MULTI-SERVICE EVALUATION TEAM OR SERVICE I.G. STRUCTURE?

MGEN McNeil had submitted an alternate page 6 which detailed that a Service I.G. structure would be utilized vice the "Multi-Service Evaluation Team" as written in the draft which implied a

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permanent OSD function be established. LTC Gomon asked which did the Committee want? The Vice Chairman expressed his concern again that with the number of geographic locations involved where the Code would be taught, the team might only provide a sampling for its inspection. The Vice Chairman said that he wasn't sure they weren't giving the inspection team an impossible task. A discussion followed concerning this which could be summed up best by the Chairman's remarks that the directive does not say all areas will be evaluated annually but rather than annually there will be an evaluation.

With some minor word changes, MGEN McNeil's input was accepted.

TO WHAT LEVEL DOES OSD EVALUATION OF THE CODE OF CONDUCT TRAINING EXTEND?

Concerning page 7 COL Danford said that he was a little concerned about bringing all the Code of Conduct related training programs plus all the printed material up to the OSD level for approval. Although he agrees with the idea of centralization and standardization, he said he believes that OSD will probably not want to delve into the detail of reviewing certain materials. Rather, OSD should approve the policies the Services are using to implement their programs, he said. He suggested substituting "review" for "approve" in the first sentence of paragraph 5. Further, he said he felt the staff at the OSD level would become so overburdened as to become unresponsive. COL Day interjected that the wording was an effort to prevent unauthorized changes to training pamphlets, etc., which might change the interpretation of the Code as occurred before. The Chairman shared COL Danford's concern. Therefore, to establish the OSD overview at a high level it was agreed to insert "service level" before "Code of Conduct" so the sentence will state: "Approve all Service level Code of Conduct related training programs to assure conformity to this directive."

It was agreed that the wording in page nine was all right concerning training materials being approved by OSD.

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REPORT OF THE DEFENSE REVIEW COMMITTEE FOR THE CODE OF
CONDUCT VOLUME 2 SUPPLEMENT (U) ASSISTANT SECRETARY OF
DEFENSE (MANPOWER AND RESERVE AFFAIRS) WASHINGTON DC
1976

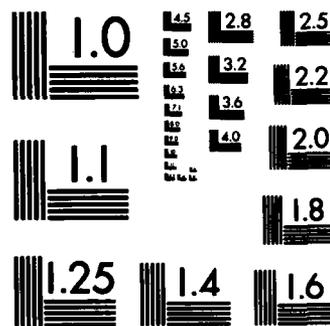
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MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

SUMMARY

TWENTIETH SESSION, 19 JULY, 1976

Summary of Discussion

COL Arnold began the session by addressing the 16 July draft of the Report by the Defense Review Committee on the Code of Conduct. COL Arnold then led the Committee through various word changes that had been made since the last draft the Committee reviewed.

CONSISTENCY OF THE CODE OF CONDUCT WITH THE GENEVA CONVENTIONS

On page 23, COL Arnold pointed out the re-editing which had been undertaken as a result of the previous session's discussion which states under "Conclusions": "The Code of Conduct is consistent with the Geneva Conventions. Every member of the Armed Forces is expected to measure up to the standards embodied in the Code of Conduct while he is in combat or captivity. It applies equally to all members of the Armed Forces at all times. However, if medical personnel and chaplains are permitted to perform their professional duties, they must be allowed added flexibility in their behavior, which does not violate the intent and spirit of the Code."

PERIODIC REVIEW OF THE CODE

Concerning the sentence at the bottom of page 23 which states, "The Committee recommends that the Secretary of Defense Review Committee, similar in charter and membership to that of the 1976 Defense Review Committee for the Code of Conduct, review the Code of Conduct as changing circumstances warrant," the Vice Chairman said that he didn't like it because there is not time element in the statement. It was agreed to change "as" to "when" as suggested by Mr. Holmes.

APPLICABILITY OF THE CODE IN OTHER THAN DECLARED WARS

MAJ Winstead recommended that the title of the section, "Applicability of the Code in Situations in Other Than Declared Wars" be changed because all conflicts since World War II had been other than declared wars. Then the Chairman brought up a good point. He said, "Could this be interpreted, the way we've got this title, that everything else we're talking about applies only in cases of declared wars if this is now the section applying in situations other than declared wars?" The conflict of these words was acknowledged. COL Arnold said that it would be reworded. RADM Lawrence suggested the title, "Clarification of the Applicability of the Code of Conduct." The Chairman asked that COL Arnold check with the Air Force through MAJ Winstead to determine if this proposal concurs with their suggestion.

(twentieth Session - DISCUSSION - continued)

ADDITIONAL SECTIONS

COL Arnold said that the additional sections of the Report which do not have conclusions or recommendations, such as the History and Methodology, will be passed out for approval when they are completed, rather than call another meeting of the Committee.

DOES THE CODE OF CONDUCT APPLY AT ALL TIMES?

COL Arnold then turned the discussion over to Mr. Holmes concerning the legality of the "at all times" aspect of the Code. A lengthy discussion evolved again during which Mr. Holmes said that he had definitely concluded that the Code of Conduct was not intended to be applicable at all times. When asked by the Chairman then, were the actions the Committee had taken so far consistent with that conclusion, Mr. Holmes said they were.

This was challenged by the Vice Chairman, however, in that the proposed training directive, 1300.7, states in an unequivocal manner that the Code is applicable to all Servicemen at all times.

In continuing his discussion, Mr. Holmes said that there are certain times when the Code itself would not be applicable such as when an individual strays across the border of a country behind the "Iron Curtain." The Chairman interposed, however, that such an individual probably thinks of himself as being captured. Yes, but not a captive incident to hostilities, Mr. Holmes replied.

COL Day disputed this in that the very act of taking such an individual as a captive in a manner that is not an ordinary arrest could be construed as a hostile act. Mr. Holmes made the point that even a hostile act can be distinguished from hostilities, although perhaps with some difficulty, he admitted.

The Vice Chairman said that after several months of deliberation they had arrived at the conclusion that the Code really covers a fairly broad spectrum of circumstances, some clearly related to hostilities - combat and captivity - and some not so clearly related. Therefore we have only two options, he said. One is to eliminate the statement "all Servicemen at all times" or to qualify it in some way. If we eliminate it, he said, I think we're going to do harm to the spirit and intent of the Code and a proliferation of guidance will be necessary to explain all the circumstances as to when the Code is or is not applicable.

RADM Lawrence said that there is no way the Code of Conduct can be made so specific that there's not going to be some doubt in some people's minds as to its applicability in certain situations. However,

(Twentieth Session - DISCUSSION - continued)

we've all agreed that one of the most detrimental aspects of what has happened in the past is the fact that men who did not abide by the Code were somehow able to find the loophole that released them from any prosecution. If we have to err, therefore, we would err more safely on the point of making the Code more applicable than perhaps it is, he said. COL Day supported this reasoning and again brought up the point that such circumstances as terrorist seizures were not a factor in 1955 when the Code was drafted. He saw no reason why the Committee in its role of quasi-legislator could not oblige this point and expand the circumstances wherein the Code does apply.

The Chairman said that he would argue that if the document is taken as a whole it is recognized that the Code is not applicable at all times to everybody. This is accomplished by the urging of the Services to provide special training to individuals who might end up in situations wherein it may not apply.

Mr. Holmes still said that it troubles him, however, and MGEN McNeil supported him by saying the big point that they're trying to cover is the period of time when a person is in captivity while there's a hostile action; they're the people that can do the harm and not necessarily the few scattered situations such as the individual detained in Ethiopia, he said.

COL Arnold argued that the Code is applicable at all times. There are certain articles that pertain to certain circumstances but the Code itself applies at all times, he said.

When the Vice Chairman brought up the point that we may be on the beginning of a trend where terrorism may become one of the principle forms of warfare. Mr. Holmes said he thought, therefore, that there should be a clause in the Code to accommodate that because as of now it applies only during captivity.

But, as the Chairman debated, how are you distinguishing types of captivity? For example, he said, in the recent incident of terrorists holding an airplane in Uganda filled mostly with Jewish people, the Israelis certainly were captives.

Not pursuant to hostilities, however, Mr. Holmes replied. But the Code doesn't say combat or captivity pursuant to hostilities the Chairman responded. It does use the two words in juxtaposition, however, Mr. Holmes said.

RADM Lawrence said that one of the key points is that you want every Servicemen to enter a capture situation in a "basic Code of Conduct approach" which is basically not to do anything detrimental to the interests of the United States. I think that's the attitude

(Twentieth Session - DISCUSSION - continued)

you want an individual to have when he enters such a situation, he said.

COL Danford said that it's the spirit of the intent of the Code that's important. It's not a legal document and if it's not stated that the Code is applicable at all times then all sorts of caveats will have to be spelled out which interjects an unnecessary complication. The times discussed when the Code or portions of the Code are not applicable is a very small percent of the time in terms of probability so I go along with the idea of teaching the Code as being applicable at all times, he said.

Except, the Chairman stated, Mr. Holmes just pointed out that's not true.

Mr. McKenzie then asked, if the interpretation is based on words in the Executive Order, why doesn't the Committee propose changes to those words? It was generally agreed, however, not to address the changing of the Executive Order.

The question we're really dealing with, the Chairman said, is how can this directive be stated in the clearest possible terms so that during the training we get across to everyone that in almost all cases they should follow the Code without putting it in such a way as to provide a loophole.

The Vice Chairman offered a possible solution. He suggested that the words "at all times" be eliminated and replaced with an implication of the Code's broad applicability in appropriate places. MGEN McNeil concurred with this suggestion. The Committee was unable to suggest any specific wording, however, and it was left up to the staff to rewrite the directive to implement this correction.

In closing, RADM Lawrence asked that on page one that it be made clear that it is talking clearly about people who returned. COL Arnold said this would be restated.

SUMMARY

TWENTY-FIRST SESSION, 22 JULY, 1976

Summary of Discussion

COL Arnold led the Committee discussion through the 22 July draft of the Report of the Defense Review Committee For the Code of Conduct. Most changes to the previous draft consisted of the attempt to remove the statements that the Code of Conduct is applicable at all times but to leave the implication of the Code's broad applicability. For example, on page 24, the "at all times" phrase was replaced with a statement lifted directly from the Executive Order 10631 originally promulgating the Code which states: "Every member of the Armed Forces is expected to measure up to the standards embodied in the Code of Conduct while he is in combat or in captivity." This was approved but the Chairman asked that "he is" be deleted.

Concerning page I-8 where the subject of command of isolated units is explained, the Vice Chairman asked if, as occurred with the USS Pueblo, the communications officer were senior to the captain of the ship, would the command of the ship's crew switch to the communications officer? COL Arnold replied yes, that is the case. However, the procedure which has been followed most successfully in the past is that the senior officer would let the crew or group maintain its integrity as a group but the captain would be responsive to the senior officer.

It was agreed that this was the best solution as a common sense answer to the problem.

On page V-3 the title was changed to "Applicability of the Code of Conduct in Situations Other Than Armed Conflict" with "Armed Conflict" replacing "Declared Wars."

DoD DIRECTIVE 1300.7

COL Arnold then directed the attention of the Committee to the proposed draft of DoD Directive 1300.7. As in the Report, most revisions were directed towards removing the phrase "at all times" pertaining to the applicability of the Code. For example, "at all times" was deleted from the sentence under III, Applicability and Scope: The Code of Conduct is applicable to all members of the Armed Forces. ~~at-all-times.~~

On page two of the enclosure the word "nonhostile" bothered the Chairman. "The complex circumstances of nonhostile detention by a foreign power will require special instructions." It was decided to delete "nonhostile" and to substitute the sentence "The complex

(Twenty-First Session - DISCUSSION - continued)

circumstances of detention incident to other than armed conflict by a foreign power will require special instructions." The thought here, the Chairman said, was that nonhostile detention almost brings to mind friendly detention.

At the conclusion of discussion concerning the Report of the Committee and the DoD Directive, COL Arnold said that after the changes mentioned during this session were incorporated, he is ready to send these documents to JCS and the Service representatives. He recommended that comments be solicited by 10 August and that the Committee reconvene on 11 August to discuss such changes. This motion was approved.

Then the Chairman addressed the idea of maintaining the library of supportive materials collected by the staff. COL Arnold said that he had understood an education office within DoD had been given this task but he would contact them and ensure that the job was accomplished.

Next, the issue of whether or not the verbatim transcripts of the Committee would be preserved or destroyed was discussed. COL Arnold recommended in order to prevent any problems concerning privacy matters that they be destroyed. The Vice Chairman said he thought the summaries provided enough background material for future committees or historians. A vote was taken and it was agreed that the transcripts would be destroyed.

SUMMARY

TWENTY-SECOND SESSION, 8 DEC 1976

ATTENDEES: John F. Ahearne, Chairman, ASD(M&RA)
LTGEN A.P. Clark, Vice Chairman, USAF(Ret.)
Hon Richard A. Wiley, General Counsel, DoD
COL Theodore D. Wood, USA, representing Mr. McKenzie
CAPT William A. Lawler, USN, representing RAdm Lawrence
MGEN Charles G. Cleveland, USAF
BGEN C.E. Canedy, USA
Dr. Roger E. Shields, DASD(ISA)
CW02 Don Rander, USA
MAJ Charles T. Sweeney, USMC, representing BGEN Schulze

SUMMARY OF DISCUSSION:

COL Arnold opened the session with a brief summary of the Committee's past business and then introduced the issues to be addressed at this session. These issues resulted from Joint Chiefs of Staff JCSM 393-76 and 394-76 and the Joint Service Committee on Military Justice comments on the report of the Committee. In the order they were addressed they were:

- Proposed changes to wording of Article V of the Code of Conduct.
- Proposed DoD Directive 1300.7, "Training and Education Measures Necessary to support the Code of Conduct."
- Proposal to amend the Manual for Courts Martial for purpose of affirming the command authority of the senior ranking prisoner.
- Recommendation concerning the mandatory review of the captivity conduct of future PWs.
- "Legal" right of a PW to escape.
- Question of PWs loss of "status" or loss of privileges for Geneva Convention violation.
- Public Affairs announcement concerning the Committee Report.

Defense Review Committee for the Code of Conduct

Procedural Guidelines

1. The sole purpose of the meetings of the Defense Review Committee is to determine all factors involved so that a thorough evaluation can be made of the effectiveness of the Code of Conduct and related training policy. It is intended that the sessions of the Committee be conducted in such a way as to encourage a deliberative atmosphere, the frank exchange of ideas, and full consideration of all pertinent facts. Any statement, written or oral, of any relevance may be received by the Committee. Interviewees are encouraged to give complete factual accounts of their POW experience and to express candid subjective opinions without fear of sanctions or administrative reprisal.

a. Statements and observations made before the Committee are not intended for use as evidence or to obtain evidence in any disciplinary proceedings, to substantiate any allegation of personal misconduct, to establish pecuniary liability or to support any adverse personnel action.

b. This procedure does not guarantee or imply absolute confidentiality, however, in that after the Committee report has been completed, information used or produced by the Committee may be subject to release under the Freedom of Information Act.

2. During discussions with the Committee and in any statements made to the Committee, the use of names of individual PW's, former PW's, MIA's or KIA's should be avoided whenever possible. This caution is intended to prevent implications which might interfere with casualty status determinations or procedures. It is recommended that instead of using names, interviewees refer to "an individual" or use a similar anonymous identifier.

3. In the case of persons representing organizations or appearing in an individual capacity other than that of PW returnee, the same general guidelines concerning candor and confidentiality will apply.

Please indicate by your signature below that you have read the foregoing guidelines and understand that your statements to and discussions with the Committee will be received in this context.

SIGNATURE _____

PRINTED NAME _____

DATE _____

SECTION VIII

ALPHABETICAL LISTING OF
MEMBERSHIP/CONSULTANTS

ALPHABETICAL LISTING OF MEMBERSHIP/CONSULTANTS

AHEARNE, John F. Dr.
Assistant Secretary of Defense (M&RA) (Acting)
Chairman, Defense Review Committee for the Code of Conduct

ANZALDUA, Jose J.
Second Lieutenant, U.S. Marine Corps
Former POW (Vietnam)
20 May 1976

ARCHER, Earl J.
Major General, U.S. Air Force
Alternate Member, Defense Review Committee for the Code of Conduct

ARNOLD, Tom M. Jr.
Colonel, U.S. Air Force
Executive Secretary, Defense Review Committee for the Code of Conduct

BALLARD, Bobby D.
Major, U.S. Air Force
HQTS, USAF/DPE
Observer

BEARDSLEY, Clarence J.
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JCS J-1
Observer

BIDERMAN, Albert, Dr.
Writer, Specialist in Code of Conduct and Korean POW experiences
Consultant
8 June 1976

BUCHER, Mark L.
Commander, U.S. Navy (Retired)
USS PUEBLO Returnee
10 June 1976

BULLARD, John W.
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OASD/HA
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CANAAN, G.C.
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18 May 1976

CANEDY, C. E.
Brigadier General, U.S. Army
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CIUS, Frank E.
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OSD/ISA
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3 June 1976

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DAMO
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3 June 1976

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25 June 1976

KILEY, Fredrick T.
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18 May 1976

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SECTION IX

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DEFENSE REVIEW COMMITTEE FOR THE CODE OF CONDUCT

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