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MASTER OF MILITARY STUDIES

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Executive Summary

Title: Army Officers Behaving Badly: Exploring the Need for Transparency in the Army's Investigation Process

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Thesis: The Army's investigation process highlights senior officer misconduct cases, but it is insufficiently transparent. The lack of transparency compromises trust.

Discussion: The reporting of senior officer misconduct concerns garners a lot of attention in the media, but little to no information is provided regarding the investigation process, which includes final punishment. Misconduct concerns have the potential to disrupt the Army's foundation of military values, discipline, and sound leadership, so punishment must be swift and transparent for restoration to occur. The lack of transparency in the Army's investigation process hurts its reputation. The Army has a trust stock gained with the American public, but with constant cracks in the Army's foundation of values, discipline, and sound leadership, the trust stock continues to deplete.

Conclusion: As the Army works to promote transparency which includes publicly punishing violators, it is possible that misconduct concerns will reduce. When the Army promotes transparency in dealing with ethical violations, the general officers are truly held accountable for their actions and the trust of the American public is preserved.

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Preface

Misconduct concerns is a problem in the Army. This study was completed to spur discussion about the investigation process involving general officers, which includes disciplinary measures. General officers are an essential part of the Army team, so this problem deserves attention and transparency.

I am thankful to make it to the end of this study. This long and arduous journey was made possible by God's grace and the wonderful support of my family: My husband and our five kiddos were fantastic and cheered me on even when I was not motivated to continue. I am so thankful for my mentor, Dr. Craig Hayden, for his visual diagrams as he strived to help improve my work, and his support as I navigated through this process. I also want to thank my second chair, Dr. Lauren Mackenzie, for her unflinching support and goal-oriented focus to get me to the finish line in a timely manner. I want to acknowledge the Leadership Communication Skills Center team: Dr. Linda DiDesidero, Mrs. Andrea Hamlen, and Mrs. Stase Wells for their professionalism and availability with providing quality feedback on every draft I submitted.

Introduction

The Army has a problem with senior officer misconduct. In 2017, Tom Vanden Brook, a reporter for *USA Today* published an article titled “senior military officials sanctioned for more than 500 cases of serious misconduct” in which he reviewed cases occurring from 2013 to 2017.¹ The misconduct cases cast doubts on the professionalism of the military force. In the article referenced, Vanden Brook further highlights the military’s inability or refusal to investigate the breadth and depth of misconduct concerns.² Vanden Brook’s narrative aligns with Senator Kirsten Gillibrand, a vocal critic of the military’s handling of misconduct cases. Senator Gillibrand states that the military does a terrible job of holding senior leaders accountable even after egregious acts of misconduct.³ Senior officer misconduct concerns affect unit morale and cohesion on a large scale and can cripple mission accomplishment. Senior officer misconduct concerns create fear in a military organization because the enemy now lives within the organization and wields power.⁴

Misconduct concerns have the potential to disrupt the Army’s foundation of military values, discipline, and sound leadership, so punishment must be swift and transparent for restoration to occur.⁵ This paper explores the perceived lack of transparency in the Army’s investigation process, while acknowledging the importance of misconduct concerns or ethics violations. The Army’s investigation process highlights senior officer misconduct cases, and this paper argues that the Army’s current investigation process is insufficiently transparent and thus

¹ Tom Vanden Brook, "Senior military officials sanctioned for more than 500 cases of serious misconduct." *USA Today*, October 25, 2017. <https://www.usatoday.com/story/news/politics/2017/10/24/generals-sex-misconduct-pentagon-army-sanctions-hagel-gillibrand/794770001/>

² Vanden Brook, “Senior military officials sanctioned for more than 500 cases of serious misconduct.”

³ Vanden Brook, “Senior military officials sanctioned for more than 500 cases of serious misconduct.”

⁴ Dean C. Ludwig and Clinton O. Longenecker, "The Bathsheba Syndrome: The Ethical Failure of Successful Leaders," *Journal of Business Ethics* 12, no. 4 (1993), 267.

⁵ Rick Maze, "Campaign Seeks to Improve Army Profession, Ethics," *Army* 64, no. 11 (2014), 27.

reduces the deterrent of punishment for ethical violators. To support this argument, the remainder of this paper is organized as follows: (1) the background of the problem of how the Army handles ethics violations and a description of the study conducted for the paper are provided; (2) literature devoted to the role of transparency and ethics violations procedures in various civilian organization is reviewed; (3) the Army's investigation process and four exemplary cases, followed by implications of the current process are presented; (4) the paper concludes with recommendations for improving the Army's current investigation process based on best practices derived from civilian organizations and academic literature.

Background

Senior Army officers represent a well-trained and disciplined element of the United States military. After twenty years of service, some senior officers attain the rank of general, so they are well-versed on the rules and in some cases, the general officers create these rules.⁶ The study presented in this paper focuses on the process of handling ethics violations committed by Army ranks of Brigadier general and higher, because of their influence and reach. On 7 February 2018, Deputy Inspector General Glenn Fine defined senior officer ethics violations in his congressional testimony to the House Armed Services committee focused primarily on senior officer ethics violations and the investigation process to address the growing concerns of ethical violations. Fine categorized ethics violations into five broad areas: "personal misconduct, improper personnel matters, misuse of government resources, travel violations, and other."⁷ These categories describe the most common violations committed by general officers.

⁶ Congressional Research Service, *General and Flag Officers in the U.S. Armed Forces: Background and Considerations for Congress* (Washington, DC: Congressional Research Service, 2019), 4, <https://fas.org/sgp/crs/natsec/R44389.pdf>

⁷ Senior Leader Misconduct: Prevention and Accountability: Hearing before the Subcommittee on Military Personnel 115th Congress, (2018), 10, (statement of Deputy Inspector General Glenn Fine), <https://armedservices.house.gov/legislation/hearings/senior-leader-misconduct-prevention-and-accountability>

A violation of personal misconduct involves “inappropriate relationships” that disrupt good order and discipline.⁸ The relationship may be sexual or non-sexual. This violation may include abusing government employees and using them for personal-related tasks. A violation of improper personnel matters involves discriminatory practices in the workplace.⁹ A violation of misuse of government resources includes fraud, waste, and abuse of government property.¹⁰ A violation of travel involves claims to defraud the government or engaging in inappropriate charges at the military’s expense for friends and family.¹¹ A violation of other involves other kinds of misconduct not listed such as security violations.¹²

The Army recognizes misconduct concerns and has tried to utilize training to prevent them.¹³ The Army provides annual ethical training at every level of command in the Army to include the CAPSTONE course for general officers.¹⁴ The Army continues to invest in the ethical development of its senior military officers, and misconduct concerns have gradually decreased in the last three years.¹⁵ Despite this investment, misconduct remains a relevant topic of concern as noted in Mr. Fine’s congressional testimony, and it is currently listed as one of the challenges facing the Department of Defense (DoD).¹⁶

Problem Statement

The United States Army is the largest military branch, so it is not unusual that it has the highest number of senior officer misconduct concerns among all the service branches. Since 2013, over 149 Army general officers have been charged with substantiated misconduct

⁸ Senior Leader Misconduct: Prevention and Accountability, 11.

⁹ Senior Leader Misconduct: Prevention and Accountability, 11.

¹⁰ Senior Leader Misconduct: Prevention and Accountability, 11.

¹¹ Senior Leader Misconduct: Prevention and Accountability, 11.

¹² Senior Leader Misconduct: Prevention and Accountability, 13.

¹³ Maze, "Campaign Seeks to Improve Army Profession, Ethics, 27.

¹⁴ Senior Leader Misconduct: Prevention and Accountability, 2.

¹⁵ Senior Leader Misconduct: Prevention and Accountability, 7.

¹⁶ Senior Leader Misconduct: Prevention and Accountability, 1.

concerns.¹⁷ In 2017, in order to address this problem, the DoD IG included ethical conduct as one of the top ten challenges facing the DoD for fiscal year 2018.¹⁸ In 2018, the DoD Office of the Inspector General (OIG) also highlighted senior officer misconduct as a “priority 2” in the semiannual report to Congress.¹⁹ Priority 2 provides for “expedited processing” for senior officer misconduct cases, which means it is “referred within 3 days.”²⁰ Despite recommendations and reports to congress on misconduct, there are few indications of how the Army is handling ethics cases for senior officers. The reporting of senior officer misconduct concerns garners a lot of attention in the media, but little to no information is provided regarding the investigation process or final punishment. The lack of transparency regarding the resolution of senior officer misconduct cases supports the narrative espoused by Senator Gillibrand about “sweeping senior officer misconduct matters under the rug.”²¹

Purpose of the Study

The purpose of this case study is to highlight the lack of transparency surrounding the investigation and handling of senior officer misconduct concerns. The Army is a professional organization with volunteers committed to defending the country against all enemies foreign and domestic. Misconduct concerns erode the fabric that Soldiers as part of a professional organization are sworn to uphold.²² General officers are the pinnacle of the Army organization, and the different ethics violations create a crack at the top. The findings of this study may help provide clarity while making the investigation process more visible and accessible. A clear

¹⁷ Senior Leader Misconduct: Prevention and Accountability, 13.

¹⁸ US Department of Defense, *Top DoD Management Challenges: Fiscal Year 2018* (Washington, DC: Office of the Inspector General, November 2017), 64.

¹⁹ US Department of Defense, Semiannual report to the Congress: April 1, 2018 through September 30, 2018, (Washington, DC: Office of the Inspector General, September 2018), 48.

²⁰ US Department of Defense, Semiannual report to the Congress, 48

²¹ Vanden Brook, “Senior military officials sanctioned for more than 500 cases of serious misconduct.”

²² Maze, “Campaign Seeks to Improve Army Profession, Ethics,” 28.

accountability process helps with eliminating common criticisms of how the Army handles ethics violations by general officers like “different spanks for different ranks,”²³ or even allegations of sweeping matters “under the rug.”²⁴ The foundation of the military values, discipline, and sound leadership hinge on transparency and the Army’s sense of accountability to the American public.

The Army as a military organization receives high trust ratings from the American public, and preserving that trust should motivate general officers to do what is right.²⁵ When general officers fail in their duty and choose to engage in ethics violations, the Army as an organization still has an obligation to do what is right and hold these leaders accountable.²⁶ If the Army stands for nothing, then the public’s trust withers away into naught. An inward review of the Army’s investigation process helps create awareness, and as Sun Tzu eloquently stated, “you must know yourself” to achieve success.²⁷ This research provides an in-depth review of the process that may help change the narrative and maintain the trust of the American public.

Nature of the Study

This study presents a qualitative analysis of how the Army handles ethics violations for general officers. It compares procedures used by civilian organizations with document-based evidence of Army procedures and example cases of Army investigations, in order to address the research question of how Army handling of ethics violators reveals a lack of necessary transparency. A lack of transparency can potentially impact how clear ethics procedures may

²³ Stephen Losey, " 'Different spanks for different ranks': Lawmaker questions lack of courts-martial for Air Force generals." *AirForce Times*, February 21, 2018. <https://www.airforcetimes.com/news/your-air-force/2018/02/21/different-spanks-for-different-ranks-lawmaker-questions-lack-of-courts-martial-for-air-force-generals/>

²⁴ Vanden Brook, “Senior military officials sanctioned for more than 500 cases of serious misconduct.”

²⁵ Charles D. Allen and William G. "Trey" Braun III, "Trust: Implications for the Army Profession," *Military Review* 93, no. 5 (2013), 73.

²⁶ Allen and Trey, Trust, 81.

²⁷ Tzu Sun, *The Art of War* (New York: Basic Books, 1994), 215.

deter future violations and shape the severity of punishments for senior officers. The study relies on qualitative evidence of the process by which the Army handles ethics violations, from reporting to adjudication and punishment. The study presents both document evidence of the process as well as an example case study that demonstrates qualitative research, which focuses on answering compound questions.²⁸ Qualitative case study research creates an opportunity for the researcher to review the problem holistically, which allows the researcher to review the problem within “real-life context” and provide a more substantive review of the problem not readily “answerable by data points.”²⁹ Qualitative research can become a cumbersome process and demand a great deal of time from the researcher during analysis. There is also an element of “researcher bias” that exists with qualitative research and can be a notable disadvantage.³⁰ Despite this concern, a qualitative case study can help describe a process or explain a phenomenon. For this study, the researcher will focus on the process the Army uses to address senior officer misconduct concerns.

The current study utilized document analysis design because it focuses on the examination of documents that may reveal various aspects of the problem.³¹ Document analysis is possible if the researcher has access to the documents pertinent to the study. For this study, the researcher had access to redacted copies of IG investigations reports, news articles, the Army’s Inspector General guide, and an example code of ethics investigation process available for civilian companies. The researcher also reviewed four cases involving general officers from 2013 to 2017, to demonstrate how the Army’s investigation process leads to the same

²⁸ Charles C. Ragin. *The Comparative Method: Moving beyond qualitative and quantitative strategies* (Oakland, CA: University of California Press, 2014)

²⁹ Greg Guest, Emily E. Namey, and Marilyn L. Mitchell. *Collecting Qualitative Data* (Thousand Oaks, CA: Sage 2013), 14.

³⁰ Winston M. Tellis, "Introduction to Case Study," *The Qualitative Report* 3, no. 2 (1997), 12.

³¹ Glenn A. Bowen, "Document analysis as a qualitative research method." *Qualitative research journal* 9, no. 2 (2009), 27.

disciplinary outcome. The four publicly available cases represent the different categories of ethical violations and show the consequences of a non-transparent process. The four cases captured as Report of Investigation (ROI) documents were retrieved from the Department of Defense Inspector General (DoDIG) Freedom of Information Act (FOIA) reading room and the Army IG FOIA reading room, which are available online. The FOIA reports provided the names and positions of the alleged violators, the allegations levied against the violators, the background surrounding each case, the standards violated, the documents and/or testimonies, the analysis of each case, and the conclusions made from each case. Yet before reviewing the documents, it is important to review the literature devoted to the value of transparency in diverse organizational contexts.

Literature Review

This section will focus on the scholarly literature devoted to transparency in ethics violations handling: what it is, why it is important for deterring misconduct, and how it has been achieved in various civilian contexts. Transparency in organizations can be difficult to achieve, but necessary. Researchers Stefan Gold and Pasi Heikkurinen define corporate transparency as “openness and the communication of information in such a way that makes it easy for others to see what actions are being performed and which are not.”³² Corporate transparency in organizations promulgates trust; trust remains a vital element in calculating success in business or building relationships.³³ Corporations recognize the value in transparency, as noted by Howard Schultz during his interview as Starbucks CEO; Schultz espoused “leaders must be

³² Stefan Gold and Heikkurinen Pasi, "Transparency Fallacy," *Accounting, Auditing & Accountability Journal* 31, no. 1 (2018), 321.revisited." *Journal of Management Development* 26, no. 5 (2007)

³³ McManus, Tom, Yair Holtzman, Harold Lazarus, and Johan Anderberg, "Transparency and other hot topics revisited." *Journal of Management Development* 26, no. 5 (2007), 943.

honest and authentic and not hide.”³⁴ Corporate transparency mitigates misconduct and adds to an organization’s trust stock.

Transparency serves as a deterrent because it provides stakeholders a clearer picture of a leader’s behavior.³⁵ Transparency has a powerful effect, and even when things go wrong in an organization, it is not the end; rather, it opens accountability mechanisms and helps with identifying gaps in a process to avoid future mishaps.³⁶ Transparency has a cascading effect that solidifies the organization’s commitment to the public while reducing “reputational risk.”³⁷ A company that espouses a commitment to reducing ethical violations, but fails to promote a transparent process creates a gap between its words and its actions, which can be detrimental.

Halter et al., focuses on organizations with ethical violations and highlighted transparency as a deterrent tool, which helps promote ethical behavior while building trust.³⁸ Transparency is important in deterring misconduct because it provides employees within the organization confidence in the process, and shows that the rules apply at all levels within the company. The employees develop a sense that they can be a part of the solution and are encouraged to report any form of misconduct. When ethical violations are reported and substantiated, publicizing the disciplinary measures sends a strong message that the organization takes ethical violations seriously, and it serves as a deterrent to other senior executives. Public disciplinary measures also flatten the power distance between senior executives and all employees, which increases the trust stock between stakeholders and the organization.

³⁴ Howard Schultz, “Interview with Howard Schultz,” interview by Adi Ignatius, *Harvard Business Review*, July – August 2010, <https://hbr.org/2010/07/the-hbr-interview-we-had-to-own-the-mistakes>

³⁵ Archon Fung, Mary Graham and David Weil, *Full Disclosure: The Perils and Promise of Transparency* (Cambridge: Cambridge University Press, 2007), 50.

³⁶ Fung et al., *Full Disclosure*, 50.

³⁷ Transparency International, “*Stories of Change: Better Business by Preventing Corruption*,” December 4, 2018, https://www.transparency.org/whatwedo/publication/stories_of_change_better_business_by_preventing_corruption

³⁸ Maria Virginia Halter, De Arruda, Maria Cecilia Coutinho and Ralph Bruno Halter, “Transparency to Reduce Corruption?” *Journal of Business Ethics* 84, no. 3 (2009), 373.

In 2016, Pricewaterhouse Coopers, a strategy consulting firm, conducted a study that highlighted the value of transparency and trust in organizations.³⁹ The study shows more senior executives are getting fired for misconduct with a 36% increase in oustings from 2007 to 2016.⁴⁰ Organizations work to promote transparency in their organizations by publicizing disciplinary measures and tying executive bonus compensation to misconduct violations in some cases. Some highly publicized oustings of senior executives involved in ethical violations include: Harvey Weinstein of Weinstein company, John Schnatter of Papa Johns, and Sandy Lerner of Cisco. Michael Greenberg, a psychologist and policy analyst for MITRE and the RAND corporation, published a report on how organizations can promote transparency and deter ethical violations. Greenberg describes the value of simplifying the reporting process for ethical violations and making it accessible to all employees; he also mentions that employees must trust the system or process, and disciplinary measures must be swift for restoration to occur.⁴¹ The organization can self-correct when employees and stakeholders trust the process.⁴²

A demonstrative example of an organization that practices transparency is how the global pharmaceutical company Merck and Company (MSD) has focused on maintaining the trust of its stakeholders and its reputation.⁴³ MSD promotes an “open” culture in which employees are encouraged to report cases of misconduct and develop a vested interest in the organization.⁴⁴ MSD’s efforts led to its recognition as one of the best “corporate citizens” with a great ethics

³⁹ Strategy&PwC, “Are CEOs Less Ethical than in the Past: CEO Success Study,” <https://www.strategyand.pwc.com/ceosuccess>

⁴⁰ Strategy&PwC. “Are CEOs Less Ethical than in the Past,” <https://www.strategyand.pwc.com/ceosuccess>

⁴¹ Michael D. Greenberg, *Culture, Compliance, and the C-Suite: How Executives, Boards, and Policymakers Can Better Safeguard Against Misconduct at the Top*. Santa Monica, CA: RAND Corporation, 2013. https://www.rand.org/pubs/conf_proceedings/CF316.html

⁴² Greenberg, *Culture, Compliance, and the C-Suite*.

⁴³ MSD, Corporate Responsibility Report 2017/2018: Ethics and Transparency, <https://www.msdrresponsibility.com/ethics-transparency/>

⁴⁴ Gold and Pasi, “Transparency Fallacy,” 321.

program for five years in a row.⁴⁵ MSD approach to corporate ethics highlights the importance of its values and trust to the organization and stakeholders. The focused approach of making ethics a transparent factor in the organization remains the key to success. According to the MSD corporate website, “how we operate is as important as what we do. We hold ourselves to high standards of ethical behavior, guided by our Office of Ethics. We also have taken steps to improve transparency about the way we operate.”⁴⁶ MSD claims that it values the trust of its stakeholders, and with international commitments, transparency aids in preserving the reputation of the company. When ethical violations are reported, MSD provides clear guidelines on disciplinary actions—which may include termination, letters of warning, or monetary penalties. These rules apply to senior executives that “engage in misconduct.”⁴⁷ Merck’s approach promotes a shared understanding between stakeholders, employees and the board, and emphasizes the organization’s commitment to maintaining trust.⁴⁸

The case review of Merck’s ethics policy indicates that large civilian organizations can view transparency as a crucial factor in supporting ethics policies and outcomes. Trust and corporate transparency remain entwined when evaluating an organization’s level of accountability. Developing an organization that practices transparency involves the following factors: 1) creating a shared understanding regarding communication with “guidance from the top”, and feedback from the bottom; 2) making the information available using “information

⁴⁵ “Merck Named One of the Best Corporate Citizens by Business Ethics; Only Pharmaceutical Company to make the List for Five Consecutive Years.” *Business Wire* 2004

⁴⁶ MSD, Corporate Responsibility Report 2017/2018, <https://www.msdrresponsibility.com/ethics-transparency/>

⁴⁷ MSD, Corporate Responsibility Report 2017/2018, <https://www.msdrresponsibility.com/ethics-transparency/>

⁴⁸ MSD, Corporate Responsibility Report 2017/2018, <https://www.msdrresponsibility.com/ethics-transparency/>

technology;” and 3) when dealing with processes, highlighting “relevance, timeliness, detail, and accuracy.”⁴⁹

Civilian Process

The Merck example illustrates the centrality of trust to the processes in place to handle ethics violations in civilian organizations and agencies. Misconduct concerns or ethics violations in a company must be reported to preserve the company’s values and reputation. The scope of a company’s responsibility now extends past profit-making as the stakes rise for companies to be ethically responsible.⁵⁰ Ethics violations in companies prompted the creation of the Federal Sentencing Guidelines (FSG) by the United States Sentencing Commission. The FSG was created in 1991 to encourage companies to create an internal code of ethics and a process of dealing with violations.⁵¹ Organizations are responsible for the conduct of their members, and the FSG was formed to ensure companies have a clearly defined investigation process to deter future violators.⁵² Companies suffer from ethical concerns at all levels, but it is more damaging when it involves senior level executives. Listed are some examples of ethics violation cases involving executive leaders at various companies like Kenneth Lay of Enron, Bernard Ebbers of WorldCom, Conrad Black of Hollinger, Dennis Kozlowski of Tyco, and Scott Thompson of Yahoo.⁵³ These executives all received jail terms or very public terminations. These executives

⁴⁹ Peter Kok et al., "A Corporate Social Responsibility Audit within a Quality Management Framework," *Journal of Business Ethics* 31, no. 4 (2001), 292.

⁵⁰ Remi Trudel and June Cotte, "Business Insight (A Special Report): Corporate Reputation; does being Ethical Pay? Companies Spend Huge Amounts of Money to be 'Socially Responsible;' do Consumers Reward them for it? and how Much?" *Wall Street Journal* 2008.

⁵¹ Melinda Burrows, "Building a Scalable, Defensible Ethics Investigation Process," Progress Energy Service Company LLC(2008):1,

https://www.americanbar.org/content/dam/aba/administrative/labor_law/meetings/2008/ac2008/040.pdf,

⁵² Burrows, "Building a Scalable, Defensible Ethics Investigation Process," 2.

⁵³ Investopedia Contributor. "5 Most Publicized Ethics Violations by CEOs." *Forbes*, February 5, 2013.

<https://www.forbes.com/sites/investopedia/2013/02/05/5-most-publicized-ethics-violations-by-ceos/#6f9d621a4bbc>

were responsible for their subordinates, but they shirked their duties in pursuit of personal and financial endeavors to their detriment. The public nature of ethical violations coupled with the implementation of FSG has caused many companies to take ethics violations seriously and act swiftly when violations are reported. In 2004, the FSG was amended to ensure companies improved their ethics programs by:

establishing standards and procedures to prevent and detect violations of laws, creating detection and reporting mechanism for program violations, incentivizing employees who comply with ethical guidance; disciplining those who do not, and responding appropriately to substantiated misconduct to prevent future incidents.⁵⁴

FSG provides organizations with the guidelines to create an effective ethics program and investigations play an important role in achieving this objective. The criteria for a successful ethics program is transparency, from when the complaint report is filed until adjudication is complete. The following example case study of Progress Energy shows how a company's procedures for handling ethics violations demonstrates transparency.

Progress Energy is a subsidiary of Duke Energy. The company was founded in 1925 and it has a deliberate and transparent investigation process informed by the FSG. Progress Energy's investigation process is not applicable to all civilian organizations, but it is representative of the guidelines provided by the US Sentencing Commission. The guidelines for the investigation process in Progress Energy include the following:

- 1) The Corporate Compliance Department (CCD) receives the complaint, notifies the legal department within 24 hours via e-mail, and the report is put into the database.⁵⁵ The legal

⁵⁴ Burrows, "Building a Scalable, Defensible Ethics Investigation Process," 4.

⁵⁵ Burrows, "Building a Scalable, Defensible Ethics Investigation Process," 4.

department in concert with the CCD determines if the allegation is an ethics violation. If it is not an ethical violation issue, it is referred to the appropriate department for action. If it is an ethical violation issue, the following steps must be followed: identify the ethical violation; determine if any other section needs to be notified; assign an investigator, and provide him or her with all relevant details concerning the case.⁵⁶

2) The investigator conducts a personal review of the case to ensure he or she has the basic information to conduct a detailed investigation. The investigator must identify what standards, ethics, values or laws were violated, and if he or she can conduct an unbiased investigation.⁵⁷

The investigator has three to five days to communicate with legal and share his or her investigation plan.⁵⁸ The investigator will communicate with the leaders that need to know about the investigation. Progress Energy specifies that its investigation plan may include the following details: a) identify the concerns mentioned in the complaint, b) identify company policies associated with the ethical violation, c) determine what leaders to notify usually two levels above, d) identify key witnesses and the order of interviews, e) determine if any of the parties involved need to be placed on administrative leave, f) determine where interviews will be conducted, g) provide an estimate regarding the duration of the investigation, and h) prepare a plan to brief updates if the investigation lasts more than two weeks.”⁵⁹

3) The investigation begins, and the investigator is tasked with collecting information to determine if there was an ethical violation. The objectives for the investigator are to a) find out if the allegation can be substantiated, and how the violation was committed; b) determine what standards, ethics, values, beliefs, or laws were violated; c) clearly identify the perpetrator; d)

⁵⁶ Burrows, “Building a Scalable, Defensible Ethics Investigation Process,” 9.

⁵⁷ Burrows, “Building a Scalable, Defensible Ethics Investigation Process,” 9

⁵⁸ Burrows, “Building a Scalable, Defensible Ethics Investigation Process,” 10.

⁵⁹ Burrows, “Building a Scalable, Defensible Ethics Investigation Process,” 10.

determine if a criminal act was committed and then notify law enforcement; e) forecast the backlash the company will suffer; and f) make recommendations to the company to avert future ethical violations of this nature, while documenting all information collected.⁶⁰ Some investigations may take a while to complete, but it is important that the legal department and management receive periodic updates. Information generated at this stage of the process must remain confidential during the investigation. At the conclusion of the investigation, a draft report is provided to the legal department and the HR representative for initial review. The report will contain a) the allegation, b) the summary of all facts collected, c) substantiated facts, and d) conclusion.⁶¹ The final report includes the disciplinary actions the organization decides to take against the violator, which must be verified upon completion.⁶²

Progress Energy's investigation process by itself is not sufficient to maintain ethical conduct among employees and leaders. Organizations have a responsibility to share their code of ethics, values, and beliefs with their employees. Progress Energy encourages employees to report violations, and any reports of retaliation are prohibited. For an effective ethics program, the investigation process must be simple. All reports must be taken seriously, and a confidential investigation must be conducted to determine what standards, ethics, values, beliefs or laws were compromised. The process timeline shows the level of importance associated with an ethics violation. The cases are assigned, and accountability measures are developed to ensure they are tracked and closed out in a timely manner. When employees or stakeholders understand the investigation process and can attest to a transparent process, they are motivated to report concerns. An understanding of the transparent process provides Progress Energy with a built-in

⁶⁰ Burrows, "Building a Scalable, Defensible Ethics Investigation Process," 10.

⁶¹ Burrows, "Building a Scalable, Defensible Ethics Investigation Process," 11.

⁶² Burrows, "Building a Scalable, Defensible Ethics Investigation Process," 12.

capital of trust between the company, its stakeholders and its employees. The trust extends to protecting the identity of the reporters from harassment or intimidation, and maintaining the sanctity of the investigation. The same rules should apply in the Army's investigation process.

Army Process

When a citizen goes through the transformation of becoming a Soldier, the Soldier is imbued with the Army values from his or her initial training and throughout his or her period of service. The Army values were necessitated out of the atrocities of the My Lai massacre of 1968, which included unsanctioned slaughter and rape of Vietnamese villagers. Through the years after the massacre, general officers at the Department of the Army level sought ways to cultivate positive character traits in Soldiers; the Army needed to be a professional force. Twenty-eight years later, after multiple ideas were debated and refined at the Department of the Army level, General Dennis Reimer clarified the Army values that would apply to every soldier regardless of rank:

“honor, integrity, selfless service, courage, loyalty, duty and respect are more than just words. They are the creed by which soldiers live. Common values create the strong bonds that inspire the sense of purpose necessary to sustain soldiers in the brutal realities of combat and help them deal with the demanding requirements of all other military operations. Army values will continue to provide the foundation for everything we do.”⁶³

Whenever senior officers engage in misconduct concerns, the Army values are violated in some manner. Violation of the Army values is the first friction point at the Army's foundational structure, and it affects discipline.⁶⁴

⁶³ General Dennis J. Reimer, “Challenge and Change: A Legacy for the Future,” *Military Review* 77, no. 4 (Jul/Aug 1997): 116.

⁶⁴ Senior Leader Guide: America's Army— Our Profession, Standards and Discipline (2013), <http://data.cape.army.mil/web/repository/aaop/sd/Standards-Discipline-Senior-Leader-Guide.pdf>

The Army thrives on a disciplined force. Discipline displays in action what the Army values require, which is a challenge to always do what is right even when no one is looking.⁶⁵ It is one factor that separates soldiers from thugs. The Army is noted as a professional force due to its emphasis on discipline. In November 2011, the Army conducted an Army-wide survey to determine varied views across the Army on the “State of Discipline and the Enforcement of Standards” within Army units.⁶⁶ The survey from 20,000 respondents provided some common themes that included: “consistently upholding standards, leading by example, communicating, counseling and mentoring, focusing on traditions, and not tolerating unprofessional conduct.”⁶⁷ These common themes highlight the force’s view regarding discipline. The last theme mentioned focuses on intolerance of unprofessional conduct, and that theme applies to all soldiers regardless of rank or position. The importance of discipline cannot be overstated because it is the link between the Army values and sound leadership. When discipline is lost, the soundness of leadership is questioned.

Sound leadership is expected from every general officer in the Army. A sound leader is one who maintains the standards of self-discipline and ethical conduct required by senior leadership to lead by example as well as rank. When soldiers join the Army, they expect to be led by sound and effective leaders. After years of investment in general officers, the expectation is for them to incorporate all they have learned and grow the force positively. With concerns of senior officer misconduct, the means of influence proves ineffective because the troops do not trust the leader. Senior officer misconduct concerns affect soldiers, the unit, the mission, and the Army at large. General officers are charged with providing sound leadership, but when Army values are

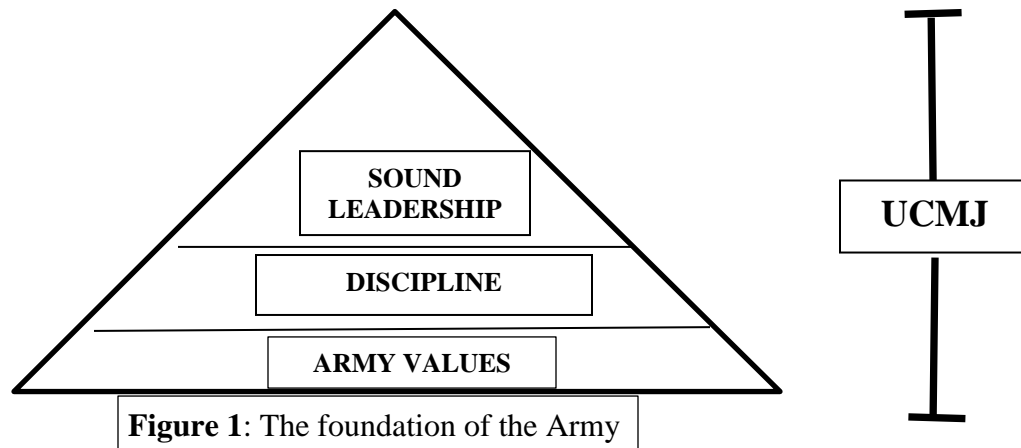
⁶⁵ Senior Leader Guide: America’s Army

⁶⁶ Senior Leader Guide: America’s Army

⁶⁷ Senior Leader Guide: America’s Army

compromised, and discipline is discarded, leadership is ineffective. The violator exists in the unit and maintains access to power at the highest level, which compromises trust within the organization.⁶⁸

The Army's foundation of values, discipline, and sound leadership are intertwined. Misconduct starts with one small infraction, and can grow if left unchecked, further undermining leadership and the organization. The Army values apply to all soldiers alike regardless of rank or status. The violation of the Army values, discipline, and failure to provide sound leadership may ultimately result in the violation of the Uniform Code of Military Justice (UCMJ) as shown below in *Figure 1*.



The UCMJ is the military legal system and it is used by the Army to maintain discipline.⁶⁹ Discipline is a key element the Army needs as a professional organization. The UCMJ is enforced in peacetime and in wartime. When discipline is compromised and ethics are violated,

⁶⁸ Ludwig and Longenecker, "The Bathsheba Syndrome, 267.

⁶⁹ William A. Moorman, "Fifty Years of Military Justice: Does the Uniform Code of Military Justice Need to be Changed?" *The Air Force Law Review* 48 (2000), 188.

the Army employs an investigation process through the Inspector General action process to complete investigations into senior officer misconduct concerns.

The Department of the Army Inspector General (DAIG) or the Department of Defense Inspector General (DoDIG) handle misconduct cases against Army general officers. The Inspector General Action Process (IGAP) or complaint process is broken into seven distinct steps and covered in the Army Regulation (AR) 20-1, Inspector General Activities and Procedures. The process begins with the IG receiving a complaint from a service member, employee, or family member, and then reviews the allegation to determine if there is a need to “open a case... After the investigation is complete, the IG follows up to ensure allegations have been properly addressed, corrective actions have been completed, and then the case is closed.”⁷⁰ The following sections provide a detailed explanation of the steps contained in the process to help establish understanding.

Step One - The IG office offers a variety of means for filing complaints. Complaints may be filed in person, by phone, by letter, by email, or anonymously.⁷¹ During step one, the complainant is required to answer some basic questions regarding the case and complete the Department of Army Form 1559 (Inspector General Action Request).⁷² The DAIG page provides resources for filing concerns but does not support 24-hour reporting. On the webpage, there is an option to call during work hours (8 am – 4 pm (EST), Monday – Friday) or the option to complete an online complaint form.⁷³ While reviewing the site, the Army online complaint form

⁷⁰ Headquarters Department of the Army, Inspector General Activities and Procedures, Army Regulation 20-1 (Washington, DC: Headquarters Department of the Army, November 29, 2010/RAR July 3, 2012), 41.

⁷¹ Army Inspector General, “FAQ,” accessed March 9, 2019, <https://www.daig.pentagon.mil/faq.aspx>

⁷² Headquarters Department of the Army, Inspector General Activities and Procedures, 41.

⁷³ Army Inspector General, “FAQ,” accessed March 9, 2019, <https://www.daig.pentagon.mil/faq.aspx>

listed on the DAIG site is not hyperlinked or searchable for ease of use. A web search revealed that the online complaint form did not exist.

Step Two – In this step, the IG will acknowledge the case and then determine if the complaint is appropriate for investigation by the IG.⁷⁴ If the case warrants an investigation, it is logged in the Inspector General Action Request System (IGARS).⁷⁵ The DAIG website provides a list of complaints that are not IG appropriate.⁷⁶

Step Three –During this step, the investigating officer verbally informs the alleged violator and his or her supervisor about the allegations levied against the suspect. Notifying the suspect of the allegation is a critical step, and it is distinctly captured in the ROI.⁷⁷

Step Four – The investigator will create a “written investigative plan” that is detailed and lists the order the Investigation Officer (IO) expects to follow during the fact-finding process.⁷⁸ As the IO follows the plan, the testimonies received from witnesses and the alleged violator under oath are recorded, transcribed, and confidentiality is emphasized. The results are then captured in an ROI and submitted for a legal review if any of the violations are substantiated.⁷⁹ Substantiated findings mean the evidence found suggests the allegations against the perpetrator are true.

⁷⁴ Headquarters Department of the Army, Inspector General Activities and Procedures, 48.

⁷⁵ Headquarters Department of the Army, Inspector General Activities and Procedures, 48.

⁷⁶ Army Inspector General, “FAQ,” accessed March 9, 2019, <https://www.daig.pentagon.mil/faq.aspx>

⁷⁷ Headquarters Department of the Army, Inspector General Activities and Procedures, 48.

⁷⁸ Headquarters Department of the Army, Inspector General Activities and Procedures, 48.

⁷⁹ Headquarters Department of the Army, Inspector General Activities and Procedures, 49.

Step Five – The violator is officially notified of the findings of the investigation in writing. The violator is informed on the steps to request an ROI. The violator’s supervisor is also notified.⁸⁰

Step Six –This step allows the IG to verify that all steps were completed in order and according to standard. The IG verifies that the different allegations were investigated.⁸¹

Step Seven –This step is the official close out of the investigation with a label attached. The label is marked as founded or unfounded. Founded simply means the case had merit and unfounded had no merit.⁸²

After eight months of research, there was no clear evidence of the process that occurs at adjudication. The research shows that after a case is substantiated, the Service Chief or Service Secretary makes a decision regarding the violator based on the reports provided by the DAIG.⁸³ No other information is provided by the Department of the Army regarding the decision mechanisms or process that occurs at adjudication, which inhibits transparency in the process of rendering appropriate punishment. As the following cases demonstrate, the only visible outcome after the investigation by the IG of a general officer misconduct case is publicized appears to be retirement.

Case Reviews

⁸⁰ Headquarters Department of the Army, Inspector General Activities and Procedures, 49.

⁸¹ Headquarters Department of the Army, Inspector General Activities and Procedures, 49.

⁸² Headquarters Department of the Army, Inspector General Activities and Procedures, 50.

⁸³ Senior Leader Misconduct: Prevention and Accountability, 4.

With a broad understanding of the Army's investigation process, four publicly available cases that represent the different kinds of misconduct concerns highlighted by the Army will be reviewed. The four cases include the following general officers: (1) Major General Grigsby was accused of engaging in an inappropriate relationship. (2) Brigadier General Schweitzer was accused of using the Army's communication system for unauthorized reasons. BG Schweitzer was also charged with exemplary failing to act in an exemplary manner. (3) Lieutenant General Mulholland was accused of failing to treat his subordinates with dignity and respect. (4) LTG Crutchfield was accused of engaging in government official travel for personal reasons. A review of the four cases show that often, when a case is filed, and charges substantiated, the accused retires or is forced to retire. While reviewing the cases, it was also apparent that when the charges involved drinking, sex, or inappropriate relationships, the Army reduced the rank of the general officer, but the outcome of all cases always ended with retirement.

Major General Grigsby served as the Commanding General, 1st Infantry Division. MG Grigsby was charged with engaging in an inappropriate relationship. An anonymous complaint was filed with the DAIG's office on 27 April 2016 regarding MG Grigsby's particular interest in a junior female officer.⁸⁴ The case was reviewed by the DAIG, but it did not meet the criteria for investigation, so the case was closed. Five months later, on 2 September 2016, the DODIG received another anonymous complaint, and a follow-on complaint from a named complainant on 14 September 2016 all directed against MG Grigsby.⁸⁵ The DAIG opened an investigation after the IG directed an investigation on 21 September 2016.⁸⁶ MG Grigsby and his supervisor

⁸⁴ Department of the Army, "FOIA Reading Room Posting of Frequently Requested IG Record: US Army Inspector General Agency Report of Investigation (ROI)(Case 16-00052)," (December 13, 2016), <https://www.foia.army.mil/readingroom/Detail.aspx?id=94>

⁸⁵ Department of the Army, FOIA (Case 16-00052).

⁸⁶ Department of the Army, FOIA (Case 16-00052).

were notified on 22 September.⁸⁷ MG Grigsby's supervisor formally relieved him on 26 September.⁸⁸ It was evident that the Army's investigation process was followed and MG Grigsby violated AR 600-20, Army Command Policy, which states that "relationships between Soldiers of different grade are prohibited... . Military personnel share the responsibility for maintaining professional relationships."⁸⁹ The charge against MG Grigsby was substantiated, and the case was signed and closed by the IG on or about 13 December 2016.⁹⁰ MG Grigsby was demoted to Brigadier General and allowed to retire in 2017.

MG Grigsby's misconduct could have been addressed in April, but it took a subsequent report to get the investigation process started. MG Grigsby was emboldened by a process that failed to hold him accountable, and he engaged in five additional months of ethical violations while serving as a commander. The senior officer charged with enforcing the standard violated the standard and continued to do so even after he was formally notified of the complaint in April 2016. The original complainant may have thought the rules did not apply to MG Grigsby, and that cripples trust.

BG Martin Schweitzer served as the Deputy Director for Regional Operations, J-3.⁹¹ The case referred to when BG Schweitzer was a colonel as the Deputy Commanding General, 82nd Airborne Division. He made "lewd sexual comments about a female congressional member... He sent an inappropriate email about the female congressional member stating she was smoking

⁸⁷ Department of the Army, FOIA (Case 16-00052).

⁸⁸ Department of the Army, FOIA (Case 16-00052).

⁸⁹ Department of the Army, FOIA (Case 16-00052)

⁹⁰ Department of the Army, FOIA (Case 16-00052)

⁹¹ Department of the Army, "*US Army Inspector General Agency Report of Investigation (ROI)(Case 13-024)*," (August 23, 2013), <https://www.foia.army.mil/readingroom/Detail.aspx?id=94>

hot” while mentioning other “sexual acts.”⁹² The DAIG received a complaint on 17 June 2013 from the Office of The Judge Advocate General (OTJAG) regarding inappropriate emails that BG Schweitzer sent.⁹³ The improper email was found as the OTJAG completed a review of documents for a different misconduct case; two other general officers were included in the email chain, but none filed a report.⁹⁴ The DAIG decided to investigate on 8 July 2013.⁹⁵ The Army’s investigation process revealed that BG Schweitzer violated “AR 25-1, Army Knowledge Management and Information Technology, paragraph 6-1, which states that, Soldiers may not use Army communications systems in a way that would reflect negatively on the Army.”⁹⁶ He also violated “Section 3583 of Title 10, United States Code, exemplary conduct, which states that “commanding officers ... suppress all dissolute and immoral practices.”⁹⁷ The charges against BG Schweitzer were substantiated and the case was signed and closed by the IG, but no date was provided on the ROI. BG Schweitzer apologized for his conduct and stated his “comments were an attempt at humor.”⁹⁸ He was allowed to retire in 2014.

It is possible that BG Schweitzer’s misconduct would never have been reported. The inappropriate email was sent in 2011, and even though two other general officers on the email chain chose not to report on the content of the emails, despite the content being a clear violation of army values, discipline, and leadership. A report was filed two years after the ethical violation. BG Schweitzer, who was a Colonel when the misconduct took place, was promoted

⁹² Barbara Starr. "First on CNN: General disciplined over e-mail about member of Congress." *CNN Home*, February 6, 2014. <http://security.blogs.cnn.com/2014/02/06/first-on-cnn-general-disciplined-over-e-mail-about-member-of-congress/>

⁹³ Department of the Army, FOIA (Case 13-024)

⁹⁴ Department of the Army, FOIA (Case 13-024)

⁹⁵ Department of the Army, FOIA (Case 13-024)

⁹⁶ Department of the Army, FOIA (Case 13-024)

⁹⁷ Department of the Army, FOIA (Case 13-024)

⁹⁸ Department of the Army, FOIA (Case 13-024)

because the incident was never reported. The case supports the narrative of “different spansks for different ranks.”⁹⁹ When the email was discovered, BG Schweitzer was awaiting another promotion, which just highlights the problem of transparency with the Army’s investigation process regarding senior officer misconduct. The other general officers in this case also failed the institution.

LTG Mulholland served as the Deputy Commander, United States Special Operations Command.¹⁰⁰ LTG Mulholland was accused of failing to treat his subordinates with dignity and respect by making degrading comments to them.¹⁰¹ On 8 May and 9 May 2014, two separate complaints were received on the DoD hotline regarding LTG Mulholland.¹⁰² On 14 May, LTG Mulholland and his supervisor were notified about the investigation. The Army’s investigation process was followed, and it revealed that LTG Mulholland violated “the following standards: DoD 5500.07-R, Joint Ethics Regulation, which states DoD employees should carefully consider ethical values and treat other employees with respect; AR 600-100, Army Leadership, which states that leaders will treat subordinates with ...respect; and AR 600-20, Army Command Policy, which states courtesy is vital to discipline.”¹⁰³ The charge against LTG Mulholland was substantiated and the case was closed on or about 9 July 2014.¹⁰⁴ LTG Mulholland was allowed to retire in 2014.

⁹⁹ Losey, " 'Different spansks for different ranks'."

¹⁰⁰ U.S Department of Defense. *Report of Investigation: Lieutenant General John F. Mulholland, U.S. Army*. Alexandria, VA: Department of Defense Inspector General, 2014. <https://www.dodig.mil/FOIA/FOIA-Reading-Room/Article/1238869/report-of-investigation-lieutenant-general-john-f-mulholland-us-army-redacted/>

¹⁰¹ U.S Department of Defense, *Lieutenant General John F. Mulholland*.

¹⁰² U.S Department of Defense, *Lieutenant General John F. Mulholland*.

¹⁰³ U.S Department of Defense, *Lieutenant General John F. Mulholland*.

¹⁰⁴ U.S Department of Defense, *Lieutenant General John F. Mulholland*.

LTG Mulholland acknowledged his misdeed and stated that he “failed his own standards.”¹⁰⁵ He also apologized to his team after the incident. There was no public record of corrective action, but the investigation report showed LTG Mulholland was scheduled to retire 1 August 2014.¹⁰⁶ LTG Mulholland was at the zenith of his career, and his comment shows the gravity of the Army’s problem. LTG Mulholland knew the standard, but he may have thought that berating his team would amount to nothing. When leaders think the standards do not apply to them, incidents of this kind happen.

LTG Crutchfield served as the Deputy Commander, United States Pacific Command.¹⁰⁷ LTG Crutchfield was accused of conducting official travel for personal reasons, which resulted in a waste of Government resources.¹⁰⁸ On 15 August, an anonymous complaint was received on LTG Crutchfield.¹⁰⁹ The Army’s investigation process was followed and it revealed that LTG Crutchfield violated the following standards: “Joint Federal Travel Regulations, Volume 1, Uniformed Service Members, which states temporary duty assignment may be authorized only.. conduct Government business; DoD 5500.07-R, Joint Ethics Regulation, which states that employees shall protect and conserve Federal property.... An employee that fails to conserve government resources will be charged with waste; and guidance from the Office of Government Ethics Guidance stating a bona fide official activity, makes the trip official.”¹¹⁰ The charge

¹⁰⁵ U.S Department of Defense, *Lieutenant General John F. Mulholland*.

¹⁰⁶ U.S Department of Defense, *Lieutenant General John F. Mulholland*.

¹⁰⁷ U.S Department of Defense, *Report of Investigation: Lieutenant General Anthony G. Crutchfield, U.S. Army*. Alexandria, VA: Department of Defense Inspector General, 2015, [https://media.defense.gov/2018/Jul/23/2001945725/-1/-1/1/CRUTCHFIELD%20ROI%20\(REDACTED\).PDF/](https://media.defense.gov/2018/Jul/23/2001945725/-1/-1/1/CRUTCHFIELD%20ROI%20(REDACTED).PDF/)

¹⁰⁸ U.S Department of Defense, *Lieutenant General Anthony G. Crutchfield*.

¹⁰⁹ U.S Department of Defense, *Lieutenant General Anthony G. Crutchfield*.

¹¹⁰ U.S Department of Defense, *Lieutenant General Anthony G. Crutchfield*.

against LTG Crutchfield was substantiated, and the case was closed on or about 15 June 2015.¹¹¹

LTG Crutchfield was allowed to retire in 2017.

LTG Crutchfield disputed the findings, but the charges were still noted as substantiated. Even after the allegation was substantiated, an outstanding retirement ceremony with honors was held for LTG Crutchfield and officiated by two senior general officers.¹¹² There was no record of any action taken against LTG Crutchfield. This begs the question about the Army's process and the absence of transparency. This leader violated the standards, but was allowed to retire in style. The transparency problem festers and ethical violations continue.

The reviewed cases show the Army's ability to follow its investigation process, but the process remains incomplete until disciplinary measures are taken. The four cases reviewed all involve male general officers, which highlights biases for the case selection in this study. There were no publicly available cases involving females that occurred between 2013 and 2017. The cases show that the Army takes all acts of misconducts seriously when a case is filed, and charges substantiated, the accused retires or is forced to retire.

Once the IG has completed an investigation, there is no publicly available record of how a decision was rendered on the case. This stage of the process is not transparent. Even when disciplinary actions are taken as noted in the case reviews, there is no way to determine if there is a method to issuing out punishments or if it is based solely on subjective decisions made by the Service Chief or Service Secretary. This paper does not seek to minimize the role of the Service Chief or Service Secretary, but when there is a lack of transparency in issuing disciplinary

¹¹¹ U.S Department of Defense, *Lieutenant General Anthony G. Crutchfield*.

¹¹² 3d U.S. Infantry Regiment "The Old Guard," LT. Gen Anthony G. Crutchfield, <https://www.flickr.com/photos/theoldguard/sets/72157679799426052/>

actions, trust is compromised. The four cases also show the limitations of the Army's investigation process. Army generals appear to operate in a different environment where the rules do not seem to apply, and the opaque disciplinary process provides a safe haven for general officers to continuously engage in ethical violations, which violates the Army's foundation and erodes the public's trust. Ethical violations remain a concern in the Army and in order to correct this problem, the Army must be transparent with the entirety of its investigation process, and not just with the responsibility of the IG.

In civilian corporations and in the Army, it is clear a process exists, but the Army's process does not provide a clear means to file a report. The Army does not have a means to receive 24-hour reporting, and the options available are limiting or non-existent, which discourages reporting. The case review of Progress Energy's investigation process provided a two-week time limit for investigations, and with cases that took longer, periodic updates were required. The Army provides no timeline for investigations, which creates the narrative of "sweeping senior officer misconduct matters under the rug."¹¹³ The Army IG follows a stringent process, and investigators record their findings, which is effective, but there is no further information provided after a misconduct is substantiated. The civilian process shows a clear structure from when a misconduct is received until action is taken against the violator. Transparency is a key component of maintaining trust, and the Army's current investigation process is not transparent at all stages of the process. The Army has an obligation to preserve the trust of the public and hold senior officers charged with misconduct accountable for their actions.¹¹⁴

¹¹³ Vanden Brook, "Senior military officials sanctioned for more than 500 cases of serious misconduct."

¹¹⁴ Headquarters Department of the Army, Inspector General Activities and Procedures, 81.

Implications

The lack of transparency in the Army's investigation process hurts its reputation. The Army remains accountable to the public, so when IG reports to Congress show 149 senior Army general officers have acted badly, it causes concern.¹¹⁵ The real concern is there might be more cases especially with an unclear and inaccessible reporting process. The Army has a trust stock gained with the American public, but with constant cracks in the Army's foundation of values, discipline, and sound leadership, the trust stock continues to deplete.

A thorough review of civilian and military investigation processes reveals a discrepancy in transparency. The comparison table below (see Figure 2) demonstrates how both organizations compare in presenting a transparent investigation process.

Civilian Investigation Process	Army Investigation Process
Complaint is received in different forms and at different times, routed through the legal department and logged in the database.	Complaint may only be received during work hours. The case is reviewed and logged in the database.
Investigator reviews the case, determines what standards were violated, and creates a timeline.	Investigator reviews the case, determines what standards were violated, but there is no timeline created.
Final report includes disciplinary actions taken against the violator	There was no evidence to show that disciplinary actions are taken against violators.

Figure 2: Comparison between Civilian and Military Investigation Processes

General officers should be the best the Army has to offer, but some leaders seem to have lost their way. While the Army's IG investigation process is similar to the investigation process employed at civilian organizations, the Army's process remains incomplete without a public disciplinary process, which suggests a breakdown in transparency. The Army's investigation

¹¹⁵ Senior Leader Misconduct: Prevention and Accountability, 13.

process has made it easy for general officers to commit an ethical violation and leave the organization with a lifetime of retirement benefits, while the Army as an institution is left to deal with the bad publicity. An investigation process that is visible and includes a public disciplinary process will deter general officers from committing ethical violations, but until that occurs, misconduct continues. The rhetoric by Senator Gillibrand can only be discounted when the Army can show it has a clear and accountable investigation process from start to finish, which includes punishment. The lack of transparency in how the Army makes decisions based on internal investigations leads to insufficient levels of punishment and the potential perception of impunity by general officers. Preserving trust is imperative in any organization, so the Army needs to rethink its process and promote transparency at all levels of the process, from reporting to the pronouncement of punishment commensurate with the violation.

Recommendations

In order to combat the misconduct concerns involving general officers, the Army must be transparent with its investigation process, which means the Army should be more open about how general officer cases are handled from reporting until disciplinary action is taken. Transparency will serve as a deterrent for ethical violators when public disciplinary measures are enforced. A means of promoting transparency with the Army's investigation process is by providing investigation timelines to the IO to ensure the case is investigated in a timely manner. It is possible that a case may require more time, and that can be addressed in the same manner as shown in the civilian case study on Progress Energy; the IO will be required to provide periodic updates. Connecting investigation timelines to ethical violations emphasizes the Army's

intolerant approach to ethics violations, and it promulgates transparency. The use of timelines will serve as a deterrent because the violators know punishment will be swift.

After an ethical violation is levied against a general officer and substantiated, demoting that general officer and putting him or her back into the force will show the rules apply to everyone.¹¹⁶ To employ these demoted general officers, the Army currently utilizes corrective training with junior Soldiers that violate the standards. This means the general officers can become a part of the solution when they are required to serve as proponents for the ethics they violated. For instance, if a general officer makes lewd remarks, then the corrective training will include a short clip on ethics from the violator shared with the force. A personal story and apology provides the Army audience with the realistic training they need and adds a layer of transparency to the process. Understandably, the former general officer becomes uncomfortable serving in a junior rank, but these general officers also continue to contribute to the Army, while the public's trust is maintained. When the process is transparent enough to include disciplinary measures, it serves as a deterrent.¹¹⁷ Some general officers also have their identity bound to the military, so giving them an opportunity to continue to serve promotes redemption in the Army, while the Army preserves years of investment and knowledge instilled in these officers.¹¹⁸

The Army invests time and resources in its general officers and in most cases, general officers make sound ethical decisions. The minority that conduct ethical violations create a concern for the Army and further research in this area to understand how the Army's culture

¹¹⁶ Vikram R. Bhargava, "Firm Responses to Mass Outrage: Technology, Blame, and Employment," *Journal of Business Ethics* (2018), 16.

¹¹⁷ Paul H. Robinson and John M. Darley, "The Role of Deterrence in the Formulation of Criminal Law Rules: At its Worst when Doing its Best," *Georgetown Law Journal* 91, no. 5 (2003), 951.

¹¹⁸ Cass W. Gaska, "The Rate of Suicide, Potential for Suicide, and Recommendations for Prevention among Retired Police Officers" (Ph.D., Wayne State University, 1980), 52.

contributes to this problem will be helpful. The Army's culture supports catering to general officers. For instance, a general officer may not be allowed to open his or her own car door or even utilize a clicker to advance his or her own slides in a brief; things should always be done for the general officer. The more rank general officers achieve, the farther away their subordinates seem to get them away from reality.¹¹⁹ The culture must change, and general officers should remain engaged and attuned in their organizations and with the Soldiers.

Future Research

The violation of ethics is a problem that exceeds the investigation process and the scope of this paper. There are various areas that can contribute value to this important problem such as changing the Army culture and instituting public punishments as deterrence methods, and attempting to understand the effects of power on the brain and how leaders may be corrupted by that power.¹²⁰

Conclusion

General officers in the Army are expected to uphold the Army values, maintain discipline and provide sound leadership. A few general officers fail to meet this expectation when they commit ethics violations. Ethics violations compromise the organization, but the problem is further compounded by a non-transparent investigation process. The Army's investigation process provides a response, which is incomplete. As the Army works to promote transparency which includes publicly punishing violators, it is possible that misconduct concerns will reduce.

¹¹⁹ Ludwig and Longenecker, "The Bathsheba Syndrome, 265

¹²⁰ Jerry Useem, "Power causes brain damage." *The Atlantic*, July/August 2017 issue.

<https://www.theatlantic.com/magazine/archive/2017/07/power-causes-brain-damage/528711/>

Although organizational cultures can be difficult to change, evidence exists that they can and do when their survival depends on it. In the first step of his eight-step change model, John Kotter advocates for the need to create a sense of urgency.¹²¹ The lack of transparency with the Army's investigation process needs to be addressed immediately for real change to occur. The narrative of "different spansks for different ranks" may only be reversed when the Army's investigation process becomes transparent.

Organizations that are transparent with their ethical processes enjoy the trust of stakeholders and employees, and the Army thrives on trust. When the Army promotes transparency in dealing with ethical violations, the general officers are truly held accountable for their actions and the trust of the American public is preserved.

Bibliography

Allen, Charles D. and William G. "Trey" Braun III. "Trust: Implications for the Army Profession." *Military Review* 93, no. 5 (2013): 73-85.

Alpi, Kristine M, MLS, MPH, PhD, AHIP and John Jamal Evans, PhD. "Distinguishing Case Study as a Research Method from Case Reports as a Publication Type." *Journal of the Medical Library Association* 107, no. 1 (2019): 1-5.
doi://dx.doi.org.lomc.idm.oclc.org/10.5195/jmla.2019.615.

Army Inspector General. "FAQ," accessed March 9, 2019,
<https://www.daig.pentagon.mil/faq.aspx>.

¹²¹ John P. Kotter, *Leading Change* / John P. Kotter, Harvard Business School Press, 1996, 33

- Bhargava, Vikram R. "Firm Responses to Mass Outrage: Technology, Blame, and Employment." *Journal of Business Ethics* (2018): 1-22. doi://dx.doi.org.lomc.idm.oclc.org/10.1007/s10551-018-4043-7.
- Bowen, Glenn A. "Document analysis as a qualitative research method." *Qualitative research journal* 9, no. 2 (2009): 27-40.
- Burrows, Melinda. "Building a Scalable, Defensible Ethics Investigation Process." Progress Energy Service Company LLC (2008):
https://www.americanbar.org/content/dam/aba/administrative/labor_law/meetings/2008/ac2008/040.pdf
- Congressional Research Service. *General and Flag Officers in the U.S. Armed Forces: Background and Considerations for Congress*. Washington, DC: Congressional Research Service, 2019. <https://fas.org/sgp/crs/natsec/R44389.pdf>.
- Department of the Army. "FOIA Reading Room Posting of Frequently Requested IG Record: US Army Inspector General Agency Report of Investigation (ROI)(Case 16-00052)." December 13, 2016, <https://www.foia.army.mil/readingroom/Detail.aspx?id=94>.
- Fung, Archon, Mary Graham, and David Weil. *Full Disclosure: The Perils and Promise of Transparency*. Cambridge: Cambridge University Press, 2007.
- Gaska, Cass W. "The Rate of Suicide, Potential for Suicide, and Recommendations for Prevention among Retired Police Officers." Ph.D., Wayne State University, 1980.
<https://search-proquest-com.lomc.idm.oclc.org/docview/303087061?accountid=14746>.
- Gold, Stefan and Heikkurinen Pasi. "Transparency Fallacy." *Accounting, Auditing & Accountability Journal* 31, no. 1 (2018): 318-337.
doi://dx.doi.org.lomc.idm.oclc.org/10.1108/AAAJ-06-2015-2088.
- Greenberg, Michael D. *Culture, Compliance, and the C-Suite: How Executives, Boards, and Policymakers Can Better Safeguard Against Misconduct at the Top*. Santa Monica, CA: RAND Corporation, 2013. https://www.rand.org/pubs/conf_proceedings/CF316.html.
- Guest, Greg, Emily E. Namey, and Marilyn L. Mitchell. *Collecting Qualitative Data*. Thousand Oaks, CA: Sage 2013.
- Halter, Maria Virginia, De Arruda, Maria Cecilia Coutinho, and Ralph Bruno Halter. "Transparency to Reduce Corruption?" *Journal of Business Ethics* 84, no. 3 (2009).
- Headquarters Department of the Army. *Inspector General Activities and Procedures, Army Regulation 20-1*. Washington, DC: Headquarters Department of the Army, November 29, 2010/RAR July 3, 2012.

- Investopedia Contributor. "5 Most Publicized Ethics Violations by CEOs." *Forbes*, February 5, 2013. <https://www.forbes.com/sites/investopedia/2013/02/05/5-most-publicized-ethics-violations-by-ceos/#6f9d621a4bbc>.
- Kok, Peter, Ton van der Wiele, Richard McKenna, and Alan Brown. "A Corporate Social Responsibility Audit within a Quality Management Framework." *Journal of Business Ethics* 31, no. 4 (2001): 285-297. doi:1010767001610.
- Kotter, John P. *Leading Change / John P. Kotter*. Professional Development Collection. Harvard Business School Press, 1996.
- Losey, Stephen. " 'Different spansks for different ranks': Lawmaker questions lack of courts-martial for Air Force generals." *AirForce Times*, February 21, 2018. <https://www.airforcetimes.com/news/your-air-force/2018/02/21/different-spansks-for-different-ranks-lawmaker-questions-lack-of-courts-martial-for-air-force-generals/>
- Ludwig, Dean C. and Clinton O. Longenecker. "The Bathsheba Syndrome: The Ethical Failure of Successful Leaders." *Journal of Business Ethics* 12, no. 4 (1993): 265- 273. Proquest (1302719016).
- Maze, Rick. "Campaign Seeks to Improve Army Profession, Ethics." *Army* 64, no. 11 (2014): 27-28. Proquest (1620435277).
- McManus, Tom, Yair Holtzman, Harold Lazarus, and Johan Anderberg. "Transparency and other hot topics revisited." *Journal of Management Development* 26, no. 5 (2007).
- "Merck Named One of the Best Corporate Citizens by Business Ethics; Only Pharmaceutical Company to make the List for Five Consecutive Years." *Business Wire*, 2004. <https://www.businesswire.com/news/home/20040504005971/en/Merck-Named-Corporate-Citizens-Business-Ethics-Pharmaceutical>.
- Moorman, William A. "Fifty Years of Military Justice: Does the Uniform Code of Military Justice Need to be Changed?" *The Air Force Law Review* 48, (2000): 185-194. <https://search-proquest-com.lomc.idm.oclc.org/docview/195188190?accountid=14746>.
- Office of the Inspector General. *Senior Leader Misconduct: Prevention and Accountability: Hearing before the Subcommittee on Military Personnel 115th Congress*, (2018) (statement of Deputy Inspector General Glenn Fine). <https://armedservices.house.gov/hearings?ID=82D42601-CFE4-4E79-A72C-8A4D0AB53DF1>.
- Ragin, Charles C. *The Comparative Method: Moving beyond Qualitative and Quantitative Strategies*. Oakland, CA: University of California Press, 2014.

- Reimer, Dennis J. "Challenge and Change: A Legacy for the Future." *Military Review* 77, no. 4 (1997): 108-116. <https://search-proquest-com.lomc.idm.oclc.org/docview/225339793?accountid=14746>.
- Robinson, Paul H. and John M. Darley. "The Role of Deterrence in the Formulation of Criminal Law Rules: At its Worst when Doing its Best." *Georgetown Law Journal* 91, no. 5 (2003): 949-1002.
- Schultz, Howard. "Interview with Howard Schultz," interview by Adi Ignatius, *Harvard Business Review*. July – August 2010. <https://hbr.org/2010/07/the-hbr-interview-we-had-to-own-the-mistakes>.
- Senior Leader Guide: America's Army– Our Profession, Standards and Discipline (2013), <http://data.cape.army.mil/web/repository/aaop/sd/Standards-Discipline-Senior-Leader-Guide.pdf>.
- Strategy&PwC. "Are CEOs Less Ethical than in the Past:CEO Success Study." <https://www.strategyand.pwc.com/ceosuccess>.
- Sun, Tzu. *The Art of War*. New York: Basic Books. 1994.
- Transparency International. "Stories of Change: Better Business by Preventing Corruption." December 4, 2018. https://www.transparency.org/whatwedo/publication/stories_of_change_better_business_by_preventing_corruption.
- Trudel, Remi and June Cotte. "Business Insight (A Special Report): Corporate Reputation; does being Ethical Pay? Companies Spend Huge Amounts of Money to be 'Socially Responsible;' do Consumers Reward them for it? and how much?" *Wall Street Journal*, 2008.
- U.S Department of Defense. Semiannual report to the Congress: April 1, 2018 through September 30, 2018. Washington, DC: Office of the Inspector General, September 2018.
- U.S Department of Defense. *Report of Investigation: Lieutenant General Anthony G. Crutchfield, U.S. Army*. Alexandria, VA: Department of Defense Inspector General. 2015. [https://media.defense.gov/2018/Jul/23/2001945725/-1/-1/1/CRUTCHFIELD%20ROI%20\(REDACTED\).PDF/](https://media.defense.gov/2018/Jul/23/2001945725/-1/-1/1/CRUTCHFIELD%20ROI%20(REDACTED).PDF/).
- U.S Department of Defense. *Report of Investigation: Lieutenant General John F. Mulholland, U.S. Army*. Alexandria, VA: Department of Defense Inspector General. 2014. <https://www.dodig.mil/FOIA/FOIA-Reading-Room/Article/1238869/report-of-investigation-lieutenant-general-john-f-mulholland-us-army-redacted/>.
- U.S Department of Defense. *Top DoD Management Challenges: Fiscal Year 2018*. Washington, DC: Office of the Inspector General, November 2017.

Useem, Jerry. "Power causes brain damage." *The Atlantic*, July/August 2017 issue.
<https://www.theatlantic.com/magazine/archive/2017/07/power-causes-brain-damage/528711/>

Vanden Brook, Tom. "Senior military officials sanctioned for more than 500 cases of serious misconduct." *USA Today*, October 25, 2017.
<https://www.usatoday.com/story/news/politics/2017/10/24/generals-sex-misconduct-pentagon-army-sanctions-hagel-gillibrand/794770001/>.