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ARMED FORCES STAFF COLL NORFOLK VA
TRAINING IN ARTICLE V OF THE CODE OF CONDUCT.(U)
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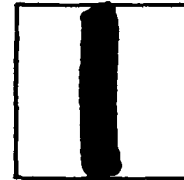
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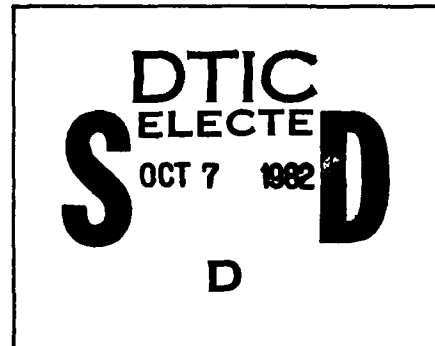
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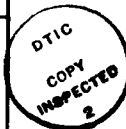
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STAFF STUDY

TRAINING IN ARTICLE V OF THE
CODE OF CONDUCT

MAJ J. R. Deely, USA

31 October 1972

ABSTAINER

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**TITLE OF STAFF STUDY: TRAINING IN ARTICLE V OF THE CODE
OF CONDUCT**

PROBLEM STATEMENT: To determine if Army training doctrine on Article V of the Code of Conduct should be modified.

ASSUMED POSITION: Action Officer in OACS for Force Development,
Headquarters, Department of the Army

ABSTRACT

Article V of the Code of Conduct and the entire Code have been criticized from different aspects since they were adopted in 1955. Previous training conducted by the Services did not necessarily resolve the confusion generated by this criticism.

The study examines AR 350-30, "Training, Code of Conduct," 5 November 1971, in light of that criticism and concludes that as the regulation is currently written it resolves these problems and serves as an excellent guideline for training.

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Class 52	Seminar Number 5	Date Submitted 31 October 1972	Classification of Study UNCLASSIFIED

TRAINING IN ARTICLE V OF THE CODE OF CONDUCT

THE PROBLEM

1. To determine if Army training doctrine on Article V of the Code of Conduct should be modified: 1
2

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 statement disloyal to my country and its allies or their cause.*

FACTS BEARING ON THE PROBLEM

2. The Code of Conduct was developed in 1955 as a result of the findings of the U.S. Defense Advisory Committee on Prisoners of War on their investigation into the behavior of U.S. servicemen in captivity during the Korean Conflict.** 3
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3. The Code of Conduct was promulgated in Executive Order 10631, dated 17 April 1955 and implemented by Department of Defense Directive 1300.7, 8 July 1964 and Army Regulation 350-30, 15 December 1971. 7
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4. The rights of prisoners of war are clearly defined by the Geneva Convention on Prisoners of War of 1929. The convention permits a prisoner to divulge considerably more information than is permitted by a strict interpretation of Article V.*** 10
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*U.S. Defense Advisory Committee on Prisoners of War, POW, The Fight Continues After The Battle, Report (Washington, D.C.: U.S. Government Printing Office, 1955), p. 21.

**Ibid., p. 37.

***Elizabeth R. Smith, "The Code of Conduct in Relation to International Law," Military Law Review, Vol. 31, January, 1966, p. 119.

5. Articles 104 and 134 of the Uniform Code of Military Justice hold a
prisoner of war accountable for his actions while in captivity. However,
he is accountable for actions in violation of the judicial code, not the
Code of Conduct.*

6. There is a general uneasiness in the military and in the civilian
population as to the real meaning of Article V and the implications of
statements made beyond the "letter of the code".**

DISCUSSION

7. At the time that the crew of the U.S.S. Pueblo was returned to U.S.
military control there was much consternation as to the meaning of
Article V, and there were calls for its revision.***

8. It was noted at the time that Article V is not meant to be a
"Spartan Code" and that, in part, it quotes Article 17 of the Geneva
Convention. The intent of Article V is to require the prisoner to
comply with the convention but also to imply that he could go beyond
that point provided that he gives no information harmful to his
country, its allies or to fellow prisoners.****

9. Army Regulation 350-30, "Training, Code of Conduct," as currently
written emphasizes the teaching of the provisions of the Geneva

*Ibid., pp. 118-119.

**BG S. L. A. Marshall, "The Pueblo and the Code," The Newleader,
April 14, 1969, pp. 10-11.

***"Codes of Conduct," The New York Times, March 16, 1969.

****BG S. L. A. Marshall, "Code for War Captives," New York Times
March 22, 1969.

Convention. It reflects that a prisoner may reveal more than name, 1
rank, serial number and date of birth in the completion of a capture 2
card under the provisions of Article 70 of the Convention. Article 71 3
further permits the POW to send and receive letters and postcards 4
in limited numbers. The correspondence will obviously reveal 5
additional information in the process of being censored, but as long as 6
the information is not harmful to the U.S., its allies or fellow prisoners, 7
it is encouraged in the regulation. 8

10. The content of AR 350-30 indicates that the strict wording of 9
Article V is an aid to the man at the time of his capture. It is a code 10
on which he can fall back in the initial shock of his situation. It recog- 11
nizes that he can and will reveal additional information to his captor 12
as time progresses but that there is a line beyond which he cannot go. 13

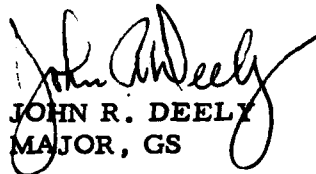
11. Proper implementation of AR 350-30 would allay many of the 14
misconceptions and doubts in the minds of U.S. servicemen. It is 15
clear and concise and reduces to a minimum the confusion which 16
has been abundant on the interpretation of Article V. The training 17
establishes an initial line of defense--name, rank, serial number and 18
date of birth--but recognizes that prisoners who go beyond that point 19
are subject to punitive action only under the provisions of the UCMJ, 20
not the Code of Conduct. 21

CONCLUSIONS

12. Army Regulation 350-30, as it is currently written, adequately provides for the training of Army personnel in the meaning of Article V of the Code of Conduct. 1
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13. The training provided reflects the intent of the Secretary of Defense's Advisory Committee on Prisoners of War and strengthens areas previously criticized as being weak in Code of Conduct training. 4
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RECOMMENDATIONS

14. It is recommended that: 7
- a. No revision be made to the training doctrine on Article V of the Code of Conduct reflected in AR 350-30. 8
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- b. The memorandum at Enclosure A supporting the above conclusion be forwarded to the Chief of Staff. 10
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JOHN R. DEELY
MAJOR, GS

ENCLOSURES:

- A - Proposed Memorandum to the Chief of Staff
B - Detailed Discussion

ENCLOSURE A

(Date)

MEMORANDUM FOR: CHIEF OF STAFF, UNITED STATES ARMY

SUBJECT: Training in Article V of the Code of Conduct

1. The attached staff study concludes that training in the subject matter under the provisions of AR 350-30, Training, Code of Conduct, complies with the letter and spirit of the Code and adequately presents the implications of Article V.
2. Accordingly, it is recommended that AR 350-30 not be revised.

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as

Assistant Chief of Staff for Force
Development

ENCLOSURE B

DETAILED DISCUSSION

1. To determine if the Army training doctrine with regard to Article V of the Code of Conduct should be changed, it is first necessary to determine why the Article was developed, how it was to be implemented and how the Army currently teaches the article.
2. As a result of interviews held with American military men returning from captivity in the Korean conflict a great deal of adverse publicity was received regarding their conduct as prisoners. To put it in the proper perspective, of the 4,428 returning prisoners 192 were found to be chargeable with serious offenses against fellow prisoners or the United States. One out of twenty-three was suspected of a crime, while in our society as a whole, at that time, one in fifteen in the U.S. had been arrested and fingerprinted for the commission or alleged commission of criminal acts.*
3. The Secretary of Defense formed an advisory committee to look into the matter and to recommend what steps should be taken to highlight the problems which might be encountered by future prisoners of war. In the area of how a prisoner should communicate with his captors the committee heard recommendations that the prisoner should be able to say anything he pleases and at the other extreme that he should give only his name, rank, and serial number. There were obvious merits and limitations to both ends of the spectrum and to all combinations in the middle. The committee agreed that a line of defense must be drawn and it would be best if it were as far forward as possible. The name, rank, and serial number provision of Article 17 of the Geneva Convention was accepted as that line. The date of birth was added to assist in establishing the identity of the prisoner. It was recognized that a trained interrogator, particularly one who did not adhere to the Convention, would break this initial resistance. The soldier must be trained to resist in successive positions with the final line to be drawn at no disclosure of vital military information or disloyalty to his country or comrades. The code was promulgated by President Eisenhower in 1955 and implemented by DOD Directive 1300.7.**

*Op. cit., Defense Advisory Committee Report, p. VI.

**Ibid., pp. 18-19.

4. The code was brought into the limelight when the crew of the U.S.S. Pueblo was captured by the North Koreans. The Naval Board of Inquiry resolved none of the problems related to the code in its investigation of the incident. A New York Times editorial called for a revision of the code but it was staunchly defended by Brigadier General S. L. A. Marshall in a letter to the paper. He contended that the code was quite good enough if only it was understood by the "Times" and in fact by the military services.

5. The code does not have the force of law even though it was promulgated by an executive order. It is assumed to be unenforceable to the extent that no sanctions exist in the Uniform Code of Military Justice.* It becomes increasingly difficult to require adherence to the code when a representative of the U.S. government signed a false document to obtain the freedom of the U.S.S. Pueblo crew and prominent members of Congress consistently question the motives of our involvement in conflicts. It is ludicrous to require a prisoner living under the most adverse conditions to further erode his position by not stating what his political leaders tell the world.

6. In response to the direction of the Secretary of Defense, the Secretary of the Army has approved the Department of the Army guidance in the conduct of training in the Code of Conduct. It is designed to instill confidence that a prisoner can deny information and resist enemy interrogation, exploitation and indoctrination.

7. The Code of Conduct training expands the individual understanding of the basic truths and advantages of our democratic institutions, the moral fiber provided by religious convictions and national, military and unit history and traditions. The serviceman is to be instructed in his rights under the applicable provisions of the Uniform Code of Military Justice.

8. The soldier is to be instructed in his right to write letters and postcards but that the contents should not assist the enemy intelligence or propaganda efforts against the interests of the United States. If he is forced to appear before newsmen for interviews the guidelines for letter writing apply. The guidelines obviously will be tempered by the attitudes of his fellow citizens if they are to be judged by courts martial or boards of inquiry.

*Op. cit., Elizabeth R. Smith, p. 88.

9. The soldier is also to be informed that the Soviet Union and other Communist Bloc nations took exception to Article 85 of the Geneva Convention which provided the convention's protection to prisoners of war who were convicted of an alleged crime under the laws of the captors. Under the Communist Bloc proviso a prisoner so convicted can be treated as a war criminal and need not be repatriated until his sentence is served. In this situation the signing of confessions, true or false, can be most detrimental to the prisoner.*

10. When the Code of Conduct was initially promulgated it came under much criticism as being too vague or too Spartan. It was subject to liberal and strict interpretation. It was noted that it was in conflict with the Geneva Convention on Prisoners of War and duplicated or usurped provisions of the Uniform Code of Military Justice. It received further notoriety when the U.S.S. Pueblo crew was returned to U.S. control. Army Regulation 350-30 has addressed these criticisms and corrected the misconceptions and inadequacies of the rather sparsely worded Code of Conduct. The Code was designed to be brief and quite obviously could not address all situations in which a prisoner might find himself. It is up to the individual services, which have been delegated the training mission, to insure that each serviceman is aware of the spirit of the code and that it is designed to assist him in a uniquely terrifying experience.

11. The values of our society constantly change; it is true now, it was true in the past and it can be expected to continue to be true in the future. Our national motives are questioned by legislative leaders, executive and judicial leaders, military leaders and average citizens and soldiers. The Code of Conduct is designed to serve a prisoner in these times, and particularly in these times by giving him a way to react in his initial situation. As his captivity lengthens any information he may have becomes generally less valuable to the captor. The Code sets up a final line of resistance as the avoidance of harm to the U.S. or fellow prisoners. This admittedly is vague but it does not have the force of law and only the proper training and motivations will ensure that the potential prisoner lives under the spirit of the Code of Conduct.

*Op. cit., Defense Advisory Committee Report, p. 22.

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