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Naval Rules of Engagement: Management Tools for Crisis

Bradd C. Hayes

July 1989

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This paper was prepared as a contribution to the project on "Avoiding Nuclear War: Managing Conflict in the Nuclear Age," being conducted jointly by The RAND Corporation and the RAND/UCLA Center for the Study of Soviet International Behavior. The Project is supported by a grant from the Carnegie Corporation of New York.

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N-2963-CC

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Management Tools for Crisis**

Bradd C. Hayes

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**Prepared for
The Carnegie Corporation**

**Project on
Avoiding Nuclear War:
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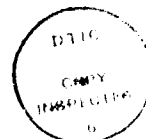
PREFACE

The RAND Corporation and the RAND/UCLA Center for the Study of Soviet International Behavior are jointly conducting a study for the Carnegie Corporation entitled "Avoiding Nuclear War: Managing Conflict in a Nuclear Age." This project has two broad objectives. First, it seeks to contribute to an understanding of the escalation process from peace to crisis to conventional and nuclear conflict. In so doing, it emphasizes the nature of U.S.-Soviet interactions that can fuel, retard, or reverse the process. Second, it aims to identify and assess possible measures—both unilateral and cooperative—that might help to inhibit unintended escalation or to increase the likelihood that the escalation process, once begun, will be controlled or reversed in ways that minimize the risks of unwanted nuclear confrontation yet still protect vital national interests.

This Note contributes to the larger study by exploring the benefits and limitations of one tool for managing conflict—rules of engagement (ROE). Rules of engagement are control mechanisms vital to crossing the treacherous thresholds of escalation along the spectrum of conflict. Although a broad range of publications mention rules of engagement, only a few seminal articles in the unclassified literature have appeared, and they deal with a limited range of ROE issues. No single publication has examined in depth all critical areas affecting ROE. This paper, therefore, is a primer on ROE, covering a broad range of topics from format to objectives. This primer is part historic, part descriptive, and part analytical. In analyzing ROE usefulness and effectiveness, the author remained close to his roots as a naval officer and drew heavily on the application of naval ROE.

Although the focus of the larger Carnegie study is on U.S./Soviet interactions, a dearth of U.S./Soviet scenarios from which to draw convinced me to concentrate on Third World crises. Since many experts believe that any future U.S./Soviet confrontation will likely arise out of an escalating Third World crisis rather than as a result of direct conflict, an examination of rules engagement during a recent crisis will benefit the study's overall objective. Therefore, a substantial portion of the analysis examines how naval rules of engagement were implemented in Persian Gulf operations during the latter months of the Iran-Iraq War, even though that crisis had very little possibility of escalating into a U.S./Soviet confrontation. Study of these operations appeared warranted

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since much discussion about rules of engagement occurred throughout the war's final 14 months.

This Note's contents will interest analysts of crisis and confrontation, as well as to civilian and military decision makers charged with formulating and executing crisis management.

SUMMARY

Since World War II, the Navy has been the United States' principal instrument of crisis response. During this period, analysis has shown that the most bellicose advice given by military advisors to civilian policymakers for dealing with these crises came from naval officers. Further, commanders in the field were even more aggressive than their superiors in their recommendations. This situation implies that during a crisis, if left to their own devices, naval commanders may exceed the scope of action desired by the National Command Authorities. The Navy was accused of doing just that during the Cuban missile crisis.

One of the best tools available to policymakers to help manage armed forces during crisis is a set of orders known as rules of engagement (ROE). Rules of engagement are guidelines specifying under what conditions or circumstances force may be used to satisfy political and/or military demands. Tension inescapably exists in a system that subordinates armed forces under civilian control while retaining military command. Managing this tension by delineating the boundaries of military action in support of political objectives is another major role of ROE. Finally, ROE have use in managing another related tension--centralized versus decentralized control. This function is accomplished by authorizing varying levels of the chain of command to decide when to use force. Although this tension may involve interactions between civilian and military leaders, it can (and often does) involve interactions within the military chain of command.

Although rules of engagement, in some form or another, have been around since rulers first sent men into battle, only in recent years have they received the type of scrutiny and attention they deserve. A coordinated set of maritime rules of engagement did not exist until 1981, and the joint services didn't establish a standardized peacetime ROE until 1986. Since then, the Joint Chiefs of Staff has coordinated all military rules of engagement.

BACKGROUND

Two types of rules of engagement exist: *command by negation* and *positive command*. They are opposite sides of the same ROE coin. Command by negation allows a commander to exercise a wide range of options unless countermanded by higher

authority. Positive command only allows certain actions to occur when specifically authorized by higher authority. The term *rules of engagement* is often mistakenly used to describe actions, orders, or policies that do not meet its exacting criteria. Accordingly, I will examine closely the differences between policies, orders, and rules of engagement.

The desired objectives of ROE change significantly as forces proceed along the spectrum of conflict. In peacetime, rules of engagement are involved primarily with self-defense and conflict avoidance. Self-defense is the foundation upon which ROE are built, and it remains a factor no matter what other objectives come into play. A commander is authorized to exercise his inherent right of self-defense whether or not this right is explicitly stated in the rules of engagement. In crisis, ROE help manage the tension between self-defense and political objectives. In wartime, ROE are very limited because political and military objectives are generally in tune.

To satisfy the informational purposes of this paper, I will examine:

- How rules of engagement are developed, disseminated, and revised.
- How rules of engagement are intended to facilitate the management of tension between political and military objectives and between civilian control and military command.
- How rules of engagement can be used to protect forces, control escalation, signal intent, and exercise force.

In drafting rules of engagement, planners must consider three competing areas of concern: political, military, and legal. Tightly drawn rules can significantly curtail the freedom of action allowed by field commanders during a crisis, perhaps endangering their forces, whereas loosely written rules may permit actions that have unforeseen political effects. If ROE don't balance these competing areas of concern, unexpected political or military consequences may occur. I will describe in some detail how this balance is achieved within the joint arena.

Regardless of how carefully rules of engagement are crafted, they cannot supply the total answer to crisis control. No matter how tightly defined the ROE are, some latitude is always provided for a commander's own judgment. The more information the commander has, the better equipped that commander is to make a decision in line with national objectives. Many personal and professional factors color the considerations with which a commander must deal before executing rules of engagement. Factors coloring a

commander's perception include the political climate, past experience, the nature of current operations, other orders, the reliability of warning systems and information, and career goals. Since a study of these factors exceeds this paper's intended scope, I do not deal with them in great detail. However, their contribution to understanding crisis management is critical and deserves future attention.

To help determine what information is most critical to the decision process, scenario-driven testing of the rules of engagement is extremely important. The closer these tests come to simulating the tension, time constraints, and confusion of battle, the better the training and more valuable the lessons learned will become. As we understand the dynamics of crisis better, the ROE that help manage crisis should become more effective. To be effective, those people implementing the rules of engagement must understand them in their political context. If policymakers fail to provide the political context, commanders in the field will be forced to supply their own. Certainly, a commander's personal foreign policy agenda may not match that of political leaders.

CASE STUDIES

The forces first tasked with patrolling the Persian Gulf in the waning months of the Iran-Iraq War received no such political context. Commanders had no clear political objectives, designated enemies, measures of success, or guidelines with which to assess the political climate. During this period, the pendulum of hostility swung from a relatively benign environment to an openly violent one. The use of rules of engagement dutifully followed the pendulum's swing. The Iraqi attack on the USS *Stark* in May 1987 occurred in a relatively benign environment. There was no buildup of hostilities between the United States and Iraq, nor was there any warning of the attack. With no clear charter to declare belligerent or unidentified aircraft hostile, the men aboard the USS *Stark* did not use the ROE and 37 men on board were killed. Conversely, following a buildup of hostility with Iran and operating under a clear charter to declare all unidentified aircraft hostile, the USS *Vincennes* did employ the ROE and shot down an Iranian airliner in July 1988, killing everyone on board. Unquestionably, changes in the ROE played a significant role in this tragedy by lowering the threshold of violence.

CONCLUSIONS

But rules of engagement do not provide the entire answer to the question of why force is initiated at any particular time. The analysis concludes that although ROE

provide the framework within which the use of force is managed, other factors play a significant role in the decision process leading to the employment of force. Perceptions, as much actions, determine where and when a commander will decide to use ROE. Navy pilots routinely intercept Soviet fighters coming out of Vietnam, for example, and have never fired a missile in defense at them. Yet in early 1989, Navy pilots downed two Libyan fighters during a similar intercept mission. Since the intercept rules of engagement were the same in both cases, that other factors play an equal, if not more significant, role in the decision to use force is obvious. Nevertheless, understanding the ROE framework is vital to understanding crisis management.

ACKNOWLEDGMENTS

This Note benefited from the helpful comments by several RAND colleagues, including Robert Brown, Jim Winnefeld, Arnold Kanter, Preston Niblack, Jim Quinlivan, as well as from Scott Sagan of Stanford University. Marine Major Wallace Warriner, United States Marine Corps, of the Navy's Judge Advocate General staff, also provided invaluable assistance. The contributions are gratefully acknowledged, but these individuals bear no responsibility for the views expressed, which are solely my own.

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I. OVERVIEW: UNDERSTANDING RULES OF ENGAGEMENT

To help ensure that commanders at sea conduct their operations in compliance with national objectives, political leaders, military planners, and legal experts formulate *standing orders* known as *rules of engagement* (ROE). ROE specify under what circumstances force may be used to achieve political and military objectives. Although a broad range of publications mention rules of engagement, only a few seminal articles in the unclassified literature have appeared, and they have dealt with a limited range of ROE issues. To my knowledge, no single publication, has examined in any depth all critical areas affecting ROE. This paper's intent is to serve as a primer on ROE covering a broad range of topics from format to objectives. As a primer, it is part historic, part descriptive, and part analytical.

It examines how rules of engagement are used by the National Command Authorities (NCA) to protect forces, control escalation, signal intent, and exercise the use of force. It explores how ROE manage the inherent tension between granting the necessary autonomy for naval commanders to exercise their right of self-defense while still directing their actions toward the accomplishment of political objectives. Alexander George, a noted professor of international relations, observed, "The requirements of prudent crisis management may . . . seriously conflict with and, in the interest of avoiding war, may have to be given priority over some of the standard requirements of conventional military strategy."¹ Managing the conflict between political and military requirements is one important objective of ROE.

CIVILIAN CONTROL AND MILITARY COMMAND

Since men of arms have gone to sea in ships, they have received their orders from political superiors. They have been told where to go, when to go, and what to do when they arrived. Before wireless communication, political leaders giving broad orders to naval commanders were almost rolling dice. They could not be certain of any outcome because naval commanders (of necessity) exercised great autonomy. With a few naval commanders, such as Lord Nelson, politicians more often than not were delightfully surprised with the outcome. In his study concerning Cold War crises, Richard Betts

¹ Alexander L. George, "Crisis Management: The Interaction of Political and Military Considerations," *Survival*, Vol. 26 (September/October 1984), p. 223.

noted that "in the nineteenth century American naval officers sometimes made foreign policy as much as they executed it. Lack of communications often left the initiative for gunboat diplomacy in the hands of ship captains who seized territories in the Pacific or coerced small nations such as Korea."² Although naval commanders may continue to desire the freedom of action necessary to apply the "Nelson touch," political leaders today fear the risks are too numerous and the consequences too great to grant such autonomy.

The logic of conflict is the logic of politics rather than the logic of the military. "Military expediency," wrote John Spanier, a well-known professor of political science, "does not usually determine political strategy."³ This realization compels the acceptance of political control over military actions. General Karl von Clausewitz wrote that "the subordination of the political point of view to the military would be contrary to common sense, for policy has declared the War; it is the intelligent faculty, War only the instrument, and not the reverse. The subordination of the military point of view to the political is, therefore, the only thing which is possible."⁴

CRISIS MANAGEMENT

This subordination of the military view is particularly important in times of crisis, when political objectives far outweigh military ones. As tensions rise, so do the dangers of losing political control. Every Third World crisis involving superpower clients runs some risk, however slight, of leading to a confrontation between the superpowers themselves. As one chief of naval operations (CNO) declared, "If war with the Soviets ever comes, it will probably result from a crisis that escalates out of control."⁵

In today's world, crisis is more the rule than the exception. The United States has not formally declared war since World War II. In fact, despite the more than 200 conflicts that have followed, no nation has *declared* war since the Arab-Israeli War of 1948.⁶ Understanding what measures are available to manage crises is of paramount

²Richard K. Betts, *Soldiers, Statesmen, and Cold War Crises* (Cambridge, Mass.: Harvard University Press, 1977), p. 140.

³John Spanier, *The Truman-MacArthur Controversy and the Korean War* (Cambridge, Mass.: Harvard University Press, 1959), p. 3.

⁴Karl von Clausewitz, *On War*, (New York: Viking Penguin Inc., 1985), p. 405. See also Spanier, p. 3.

⁵James D. Watkins, "The Maritime Strategy," USNI *Proceedings*, Special Supplement, January 1986, p. 8.

⁶Wallace Warriner, ROE Briefing given to the Naval War College, 9 November 1988.

importance for the NCA. Rules of engagement "are one of the most effective tools for implementing strategic decisions made at higher levels, and provide a mechanism for controlling the shift from peace to war."⁷ Crisis rules of engagement, rather than ROE pertaining to a U.S./Soviet confrontation, thus become the primary focus of the case studies in Section III.

Although the overall Carnegie study entitled, "Avoiding Nuclear War: Managing Conflict in a Nuclear Age" (of which this paper entails a small portion), focuses on controlling U.S./Soviet interactions, the dearth of recent cases that could provide insight into crisis use of ROE convinced me to focus on the 1987-1988 Persian Gulf crisis, even though the probability of a U.S./Soviet confrontation during that crisis was remote. These case studies provide fertile ground for examining ROE use during crisis for several reasons. First, rules of engagement were widely discussed by policymakers and military planners during the final months of the Iran-Iraq War. Second, the length of the crisis—approximately 16 months—provided an almost slow-motion look at crisis escalation. Third, the case studies demonstrate both the benefits and limitations of ROE for managing crisis. Finally, as a participant during a portion of the crisis, I was able to experience firsthand the escalatory changes in the Gulf. My bent toward naval matters and naval ROE reflect both my background and the historical role the Navy has played in crisis response.

THE SALIENCE OF NAVAL RULES OF ENGAGEMENT

Because of their mobility, navies often provide the first response in a crisis situation. In any future crisis involving a confrontation between superpower clients, a reasonable expectation is that both superpower navies will respond with a show of support. Each superpower naval confrontation inescapably bears, no matter how fallow, the seeds of a nuclear exchange. The United States has responded time and again to sensitive situations by sending in the Navy.

Since World War II, the Navy has provided crisis response in over 80 percent of the more than 200 situations involving U.S. forces, and that number grows every year.⁸

⁷J. Ashley Roach, "Rules of Engagement," *Naval War College Review*, Vol. 36, No. 1 (January/February 1983), p. 47.

⁸C. A. H. Trost, *Statement by Admiral C. A. H. Trost, U.S. Navy, Chief of Naval Operations, Before the House Appropriations Defense Subcommittee on the Posture and Fiscal Year 1990 Budget of the United States Navy*, 1 March 1989. See also Barry Blechman and Stephen

The reasons are obvious. The flexibility and forward-deployed status of naval forces make them the most timely and responsive forces available. Nevertheless, good reasons exist to exercise caution in their use. Richard Betts reported that "since World War II the most bellicose recommendations [to the president] have come from the chiefs of naval operations and field commanders, though army field commanders tend to be more cautious than air and naval commanders."⁹ In other words, those commanders who have most often dealt with crises—naval field commanders—have been among the most aggressive in their recommendations of how to deal with them.

Although the need for detailed and well understood rules of engagement for all services is critical in controlling future crises, this paper concentrates on the Navy because it is the most often used service, its requirements for self-protection are unique, and it is the service with which I'm most familiar. When I discuss "naval rules of engagement," note that they do not exist outside of the framework established by the Joint Chiefs of Staff (JCS).

Surprisingly, joint standardization of these rules of engagement wasn't accomplished until late in the twentieth century. The chief of naval operations first proposed standardization for the Navy in 1979, and maritime rules of engagement were adopted in 1981. Admiral William Crowe, while serving as Commander-in-Chief, U.S. Pacific Command, proposed that the maritime rules be expanded and adopted as joint rules of engagement. However, the JCS did not agree upon standardized peacetime rules of engagement until 1986.

Kaplan, *Force Without War: U.S. Armed Forces as a Political Instrument* (Washington, D.C.: Brookings Institution, 1978).

⁹Betts, p. 4. In fairness, Betts noted that military recommendations have not generally been more bellicose than those of civilian advisors, and often have been more cautious.

II. RULES OF ENGAGEMENT: A PRIMER

WHAT ARE RULES OF ENGAGEMENT?

The Joint Chiefs of Staff defines rules of engagement as "directives that a government may establish to delineate the circumstances and limitations under which its own naval, ground, and air forces will initiate and/or continue combat engagement with enemy forces."¹ These orders determine the boundaries of autonomy within which a naval commander can act. ROE consist of two different types of orders: first, general orders that allow the commander a wide range of action unless countermanded by higher authority (*command by negation*); second, restrictive orders that detail actions which can be taken only when authorized by higher authority (*positive command*).² Rules of engagement are occasionally applied to the employment of particular weapons systems, as well as to total-force employment.³ Thus, positive command rules are always in use for the employment of nuclear or chemical weapons and for use of riot-control agents and chemical herbicides.⁴

A wide variety of circumstances require the use of ROE. Day-to-day operations have a standing set of rules that allow a commander to defend his forces. Commanders have always enjoyed the right of self-defense. Rules of engagement are derived from that right and not vice versa. Specific military operations build upon those self-defense rules but deal with a much broader range of concerns (for example, limiting civilian casualties). During a crisis, standing self-defense rules are normally backed by contingency rules similar to those used in specific operations. I will address both day-to-day and operationally specific rules of engagement throughout this paper.

Rules of engagement are simply a means to an end, and the desired objective varies from situation to situation. However, some objectives to which rules of engagement contribute are:

- Self-defense.

¹JCS Pub 1, *Department of Defense Dictionary of Military and Associated Terms* (Washington, D.C.: U.S. Government Printing Office, 1979), p. 298. See also Roach, p. 46.

²George, p. 227.

³W. Hays Parker, "The Law of War Adviser," *JAG Journal*, Vol. 31, Summer 1980, p. 11.

⁴U. S. Navy Department, *Law of Naval Warfare*, NWIP 10-2 (Washington, D.C.: U.S. Government Printing Office, 1974), paragraphs 613n8 (nuclear weapons) and 612n7 (chemical weapons); Executive Order 11850 (riot control agents and chemical herbicides) as discussed in Roach, pp. 47-48.

- The prevention of conflict.
- The transition between crisis and conflict.
- The management of conflict.
- The management of tension between civilian leadership and military commanders.
- The management of tension between centralized and decentralized command.
- The appropriate balance between political, military, and legal requirements.

These objectives can vary significantly with changes along the spectrum of conflict (see Figure 1). During peacetime, rules of engagement are primarily aimed at force protection and preventing an unprovoked use of force that could initiate an undesired crisis. During a crisis, rules of engagement not only provide for self-defense, but help prevent unauthorized and uncontrolled escalation, while simultaneously protecting national interests and advancing national objectives. During conflict, they are aimed at effectively exercising force within the bounds of international law. Most cases I refer to in this paper deal with situational rules of engagement applicable to a particular crisis or operation.

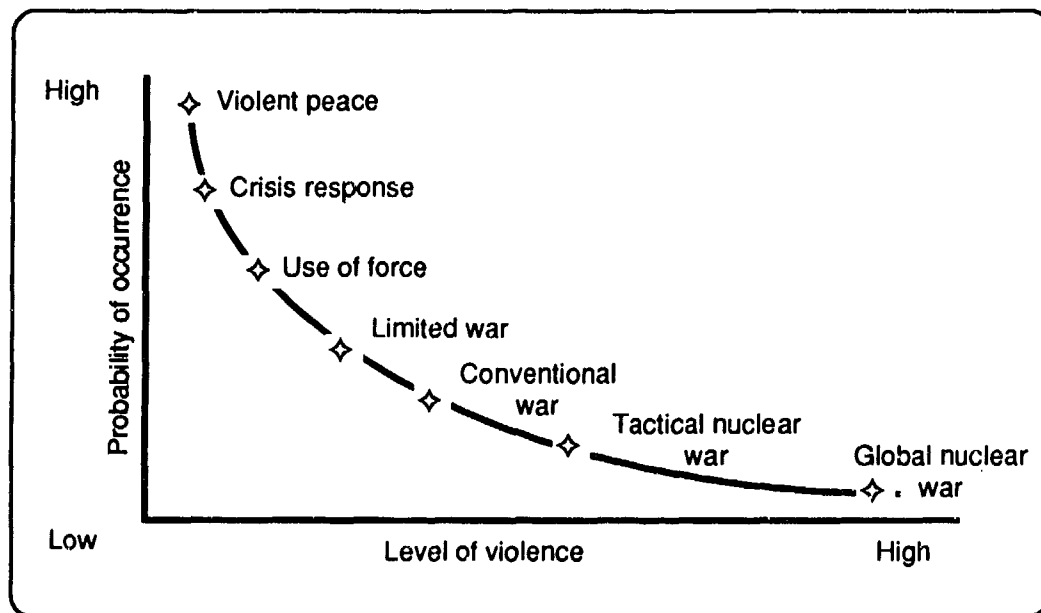


Fig. 1—The spectrum of conflict

Before jumping into a deeper discussion of exactly what ROE are and are not, actually reading a set of ROE will be helpful. Probably the shortest, most concise set of rules recently drafted was for the 1983 invasion of Grenada. The rules, written personally by the Joint Chiefs of Staff, started out as a single rule but eventually resulted in the following four rules:⁵

- Use force and weapons as may be essential to mission accomplishment.
- Minimize disruptive influence of military operations on the local economy commensurate with mission accomplishment.
- Execute essential tasks rapidly with minimum damage and casualties.
- Treat Cuban/Soviet nonbelligerent civilians with the same respect provided other civilians.

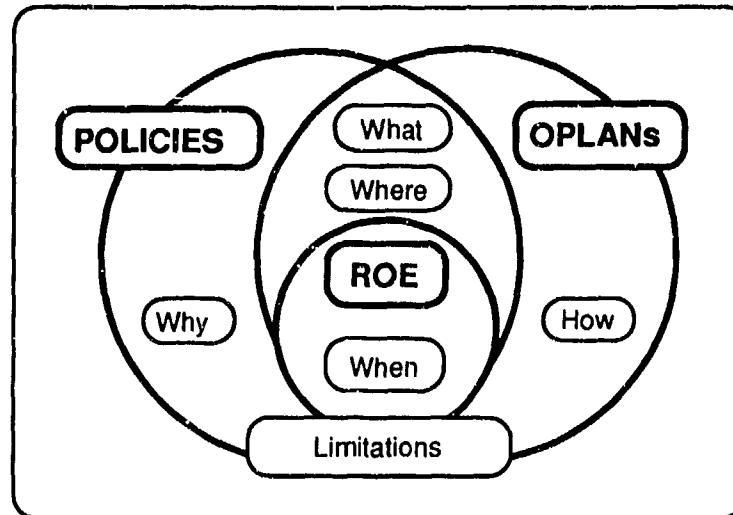
Obviously, these were operationally specific rules. Since there were no joint peacetime rules of engagement in 1983, each service used its own self-defense criteria to supplement the above four rules. Because they were operationally specific, the Grenada rules did not contain contingency statements associated with self-defense rules. The decision to use force was made in Washington. Only the amount of force used was contingent upon the level of resistance encountered by U.S. forces.

Because rules are both defensive and situational, differentiating between policy decisions, operational orders, and rules of engagement may at times be difficult. In the simplest terms, policy decisions deal with *what, where, when, and why* force will be used; operational orders deal with *how, when and where* force will be implemented; rules of engagement confine themselves to *when* force is allowable, and, only then, to what extent it is to be used (see Figure 2).⁶ Ambiguity arises because all three deal with *when* force will be implemented and with the limitations to be imposed. Rules of engagement always allow operational commanders (and often their subordinates) to determine *when* force is

⁵Warriner.

⁶Once ROE have delineated *when* force can be used, they often place limitations on the use of that force dealing with the *what, where, and how*. But ROE always begin with the *when* because, by definition, ROE detail *when* force can be used. I did not mention the *who* because it becomes self-evident. That is, self-defense ROE apply to everybody and situational ROE are only given to those forces to whom they apply.

necessary for self-protection. However, they generally restrict the amount of force that can be used in that effort.⁷



Note: OPLANs = operational plans; ROE = rules of engagement.

Fig. 2—Relationship between policies, plans, and ROE

In approving a special operation in support of national policy (for example, the bombing of Libya in 1986), the NCA determines when force will be used, where it will be aimed, and how much will be applied. Since a policy decision to use force has already been made in such operations, situational ROE necessarily emphasize limitations on its use.

No policy decision becomes a rule of engagement until it is transmitted in the proper format by the JCS, the unified or specified commander-in-chief (CINC),⁸ or the operational commander to individual naval units (ships and squadrons). For example, the

⁷Generally speaking, ROE only allow the minimum force necessary to avert a threat. For example, if a threat could be averted by firing warning shots, then the use of lethal force would be unjustified.

⁸A unified command is composed of U.S. combat forces from two or more services, has a broad and continuing mission, and is normally organized on a geographical basis. The unified commands are: U.S. Pacific Command, U.S. European Command, U.S. Southern Command, U.S. Atlantic Command, U.S. Central Command, U.S. Special Operations Command, U.S. Space Command, and U.S. Transportation Command. A specified command is composed of U.S. combat forces (normally from a single service), is organized on a functional basis, and has a broad and continuing mission. The specified commands are: Strategic Air Command and Forces Command.

NCA made a policy decision in April 1988 to assist all neutral shipping that came under attack in the Persian Gulf if such assistance was requested. That policy decision was not put into effect by commanders in the Gulf until they received an official change to the rules of engagement authorizing such actions. That change came through the JCS. In the end, the policy decision and the rules of engagement were identical—that is, assist neutral shipping under attack when requested to do so—because the policy decision dealt strictly with the problem of *when* to exercise force.

If higher authorities determine that existing rules of engagement are adequate to perform a specified task, that task can proceed as directed. If not, new rules must be drafted and approved. ROE revisions can be recommended at any level of the chain of command but must ultimately be approved by the JCS. In highly visible operations and when time permits, these rules of engagement are reviewed, along with the operational orders, by the NCA.

Over the years, misunderstandings of exactly what rules of engagement are has led policymakers and tacticians to misidentify tactics, doctrine, or procedures as rules of engagement. Therefore, understanding what rules of engagement *are not* is just as important as understanding what they are. A senior navy international law and ROE expert stated:

Under [the] JCS definition, ROE should *not* delineate specific tactics, should *not* cover restrictions on specific equipment operations, should *not* cover safety-related restrictions, should *not* set forth service doctrine, tactics or procedures. Frequently, these matters are covered in documents called ROE. ROE should never be 'rudder orders,' and certainly should never substitute for a strategy governing the use of deployed forces, in a peacetime crisis or in wartime.⁹

Rudder orders, better known as operational orders, are the province of the operational commander. These orders specify the tactics, weapons, and timing of military operations, as well as the rules of engagement. Operational orders must conform to the same legal restrictions as rules of engagement but are complementary and separate. Both operational orders and rules of engagement are contained in operational plans (OPLANs) prepared by unified or specified commanders-in-chief.

⁹Roach, p. 46 (emphasis in original). This is not a universally held belief. Another expert insists "JCS definitions are not policy *per se*, and such a limited view of ROE is not consistent with their proper use at all levels, and particularly at the operational level." See W. Hays Parker, "Righting the Rules of Engagement," USNI *Proceedings*, Vol. 115, No. 5 (May 1989), p. 86.

ROE FORMAT

Because rules of engagement are applicable over the entire spectrum of conflict and pertain to all levels of forces, basic ROE are issued by the JCS in accordance with applicable Department of Defense (DoD) directives. Commanders-in-chief can propose supporting ROE that are forwarded with operational plans or contingency plans (CONPLANS). Operational commanders are also free to propose modifications to the ROE for review up the chain of command. I will discuss this procedure in the subsection on planning near the end of this section. Rules of engagement are listed as an appendix, normally Appendix 8, to every joint OPLAN and adhere to the format specified in the *Joint Operational Planning System*, Volume I (see Figure 3).

REFERENCES	
1. SITUATION	
a. General	
b. Enemy	
c. Friendly	
d. Assumptions	
2. MISSION	
3. EXECUTION	
a. Concept of Operation	
(1) General	
(2) U.S. National Policies	
b. Tasks	
c. Coordinating Instructions	
(1) Coordination with other forces or agencies	
(2) Dissemination of ROE	
(3) Provision of ROE to augmentation forces	
4. ADMINISTRATION	
5. COMMAND AND CONTROL	
a. Identification of friend, foe, or neutral ROE Policy	
b. Relation of ROE to code words/nicknames	
c. Specific geographical boundaries where ROE are applicable	

NOTE: ROE = rules of engagement.

Fig. 3—Joint Chiefs of Staff ROE format

References

This section contains a list of DoD directives, ROE promulgated by the Joint Chiefs of Staff, and existing and proposed ROE of the supported commander to be applied during the conduct of operations in support of the OPLAN.

Situation

General: The general situation anticipated at the time the OPLAN is to be implemented must be described. All information necessary to give subordinate units accurate insight concerning the contemplated ROE should be included. This section should provide operational commanders with an understanding of the political objectives. It should set the climate so that misunderstandings are eliminated.

Enemy: As obvious as it may seem, identifying the enemy or enemies is important. In the Iran-Iraq War, the United States had no enemy and was officially neutral. However, the identification of belligerent states—countries that are at war—is equally important. Additionally, this section should describe capabilities, tactics, techniques, and probable courses of action that may affect existing or proposed ROE in relation to accomplishment of the U.S. mission.

Friendly: Equally important is the identification of friendly forces. This section should describe any friendly forces that will require individual ROE (for example, air, land, sea, hot pursuit) to accomplish their mission. Where appropriate, the specific ROE to be applied should be listed. A list of neutral, nonbelligerent countries that may be operating in the area is also important. ROE that specifically deal with how friendly forces are to be treated should be listed.

Assumptions: All assumptions not included in the basic OPLAN on which the ROE are based should be listed.

Mission

The mission should be stated in such a way that ROE will include provisions for conducting military operations in accordance with the Law of Armed Conflict. Peacetime missions should be stated in such a way that the ROE conform to international law.

Execution

Concept of Operation: The intended course of action should be summarized and the general application of the ROE stated. This concept of operation in the application of

force is generally referred to as *the* rules of engagement. Part of this concept includes the definitions of *hostile intent* and *hostile action*, upon which all self-defense decisions are made.

U.S. National Policies: Appropriate U.S. national policy statements and documents pertaining to ROE and the Law of Armed Conflict (or other international law) should also be listed. Reference to allied ROE should be included when their participation can be expected. If necessary, specific guidance can be included in a tab. A separate list of "no strike" targets may be included in another appendix and should include facilities afforded special protection under international law.

Tasks: Guidance should be provided for development and approval of ROE prepared by subordinate units.

Coordinating Instructions: At a minimum, the following should be included: coordination of ROE with adjacent commands, friendly forces, appropriate second-country forces, neutral countries, appropriate civilian agencies, and Department of State elements; dissemination of ROE; and provision of ROE to augmentation forces of other commanders.

Administration

Any requirements for special reports should be listed.

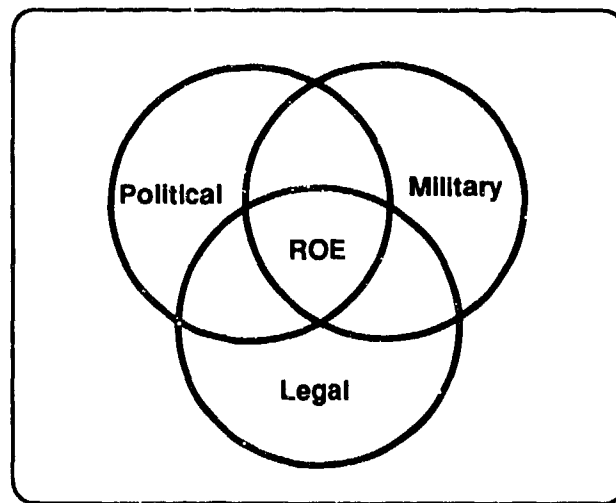
Command and Control

The appropriate annex that discusses command and control should be referred to. Pertinent extracts of information necessary to support the basic plan should be provided, including: identification of friend, foe, or neutral ROE policy; relation of the ROE to use of code words and nicknames; and specific geographic boundaries or control measures within which ROE are applicable.

ROE CONSIDERATIONS

Although format is important, content is more so. Most of the remainder of this section examines the various considerations that must be weighed when drafting rules of engagement. Three primary areas of concern exist: political, military, and legal.¹⁰ Figure 4 shows in Venn-diagram form the interplay between these considerations.

¹⁰Roach depicts four areas of influence by splitting the political area of influence into "diplomacy" and "policy."



NOTE: ROE = rules of engagement.

Fig. 4—Relationship between ROE and political, military, and legal considerations

POLITICAL CONSIDERATIONS

The late international law expert, D. P. O'Connell, in his book, *The Influence of Law on Sea Power*, noted that:

[P]recise rules are impossible [to formulate] when the government has not made its mind up [as to what the political objectives are], and this is likely to be the case in any catalytic use of sea power. . . . Governments have tended to dispatch naval units or fleets without any very clear objectives in mind, and in the hope that the navy will do something to resolve the situation and nothing to aggravate it. . . . Vagueness and imprecision in the rules of engagement can only compound the dangers of uncontrolled escalation.¹¹

In other words, sending the closest available battle group to the scene of a crisis just to see what effect it will have is dangerous. Another danger, O'Connell noted, is that "in the absence of precise thinking and sufficient theoretical preparation, rules of engagement are unlikely to express sufficiently the detailed controls that contemporary political constraints on military conduct require."¹²

¹¹D. P. O'Connell, *The Influence of Law on Sea Power* (Annapolis, Md.: Naval Institute Press, 1975), pp. 170-171.

¹²O'Connell, *Influence of Law*, p. 170.

Former Secretary of Defense Caspar Weinberger asserted that this "precise thinking" and "theoretical preparation" should not only be completed before sending in forces, but that both political and military leaders should understand and approve the actions. He outlined six controversial tests that the United States should apply when deciding to commit military forces into a crisis situation:

1. The United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interests.
2. If we decide it is necessary to put combat troops into a given situation, we should do so wholeheartedly, and with the clear intention of winning.
3. We should have clearly defined political and military objectives. We should know precisely how our forces can accomplish those clearly defined objectives.
4. The relationship between our objectives and the forces we have committed, their size, composition and disposition, must be continually reassessed and adjusted if necessary.
5. Before the U.S. commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress.
6. The commitment of U.S. forces to combat should be a last resort and used only when other means have failed.¹³

For our discussion, the third test—clearly defined political and military objectives—is the most important. Without these clearly defined objectives, the naval commander may find understanding the political context of the mission difficult and may be forced to supply his own.

Such was the case in Lebanon in 1983 when the United States committed Marines ashore in support of a multinational force trying to restore peace in the area. The mission was impossible. The forces were too small and the dissensions too deep. Their actual mission turned out to be trying to avoid casualties. They operated under rules allowing them to return fire when fired upon. However, the Marines were billeted at the Beirut

¹³Caspar Weinberger, "The Use of Military Power," *The New York Times*, 29 November 1984, p. A1 (discussed in Guy B. Roberts, "Self-Help In Combatting State-Sponsored Terrorism: Self Defense and Peacetime Reprisals," *Case Western Reserve Journal of International Law*, Vol. 19, Spring 1987, pp. 266-267).

airport, which was vulnerable to rocket, mortar, and artillery fire from the surrounding highlands. Their attackers were invisible, and therefore, invulnerable. At the urging of Robert McFarlane, the President changed the rules to allow the Navy to bombard Beirut from offshore in support of the Marines and the Lebanese Armed Forces. "When the Joint Chiefs of Staff transmitted the President's decision to modify the Rules of Engagement, the order stated that 'nothing in this message shall be construed as changing the mission for the U.S. multinational force.'"¹⁴

The local Marine commander interpreted that message as a strong indication that his troops were to do nothing to antagonize the local population, so he "ordered the sentries to keep their magazines in their ammunition pouches as a precaution against an accidental or over-cager discharge of a weapon that might kill or wound one of the thousands of Lebanese civilians who visited the airport daily."¹⁵ His interpretation of the situation proved fatal. On 23 October 1983, a virtually unarmed sentry was unable to stop a suicide terrorist with a truckload of explosives. The result was the loss of 241 Marines and the chain of command turned once again to the rules of engagement.

The problem, however, was not so much with the ROE as it was with their incorrect use. McFarlane, in effect, used the rules of engagement to change policy (that is, to actively support the Lebanese Armed Forces) instead of changing policy and then drafting supporting ROE. With no change in official policy, nor formal statements supporting a change, commanders were compelled to supply their own interpretations, with disastrous results.

MILITARY CONSIDERATIONS

Mission accomplishment and self-defense are always prime military considerations. Mission accomplishment cannot be attained (and, perhaps, not even understood) outside established political objectives. Just as importantly, mission accomplishment in crisis may actually require naval forces to make themselves vulnerable to attack. Retired navy captain Wayne Hughes noted that at the crisis level, "naval forces operate under strict rules of engagement. A major tactical problem is to apply pressure with visible presence while facing the continuing threat of an enemy

¹⁴David C. Martin and John Walcott, *Best Laid Plans: The Inside Story of America's War Against Terrorism* (New York: Harper & Row, 1988), p. 121.

¹⁵Martin and Walcott, p. 129.

surprise attack. In crisis containment visible presence is an asset; in active combat it is a liability."¹⁶

The military concern is that rules of engagement may be written so tightly that tactical commanders feel preempted from taking action. The NCA has felt justified in drafting tightly written rules because, historically, "U.S. crisis situations have been handled under tight control of the National Command Authority. In effect, tactical command has been exercised from Washington, with much of the chain of command bypassed and sometimes poorly informed."¹⁷ The NCA has built a command and control (C²) system to support this top-down control. A legitimate concern exists that local commanders will become so dependent on the C² system that it "will cause them to freeze and wait for orders when initiative is called for. In theater war, pace and timing will be everything, even as communications deteriorate and the fog of war descends."¹⁸

Self-Defense: The Foundation for ROE

Clearly, the greatest concern for the military commander is the defense of his forces. Admiral Crowe, chairman of the Joint Chiefs of Staff, stressed that naval commanders "have an unambiguous responsibility to protect their units and people."¹⁹ Article 51 of the United Nations Charter says: "Nothing in the present Charter shall impair the *inherent right* of individual or collective self-defense *if an armed attack occurs*" Justifiable self-defense makes an otherwise illegal use of force legal. But in international law, that inherent right of self-defense has developed a somewhat ambiguous meaning. As one military international lawyer stated, "All rules of engagement contain a standard blurb that the commanding officer has the inherent right of self-defense. I spent one full year learning what that meant, and I'm still not sure I understand. So just saying it does not give one much to go on."²⁰

The sticky legal point concerns preemptive self-defense. I will discuss this matter in some detail in the next subsection dealing with legal considerations. For the naval

¹⁶Wayne Hughes, *Fleet Tactics* (Annapolis, Md.: Naval Institute Press, 1986), p. 225.

¹⁷Hughes, p. 225. See also Dan Caldwell, "The Cuban Missile Affair and the American Style of Crisis Management," RAND Note N-2943-CC (Santa Monica, Ca.: The RAND Corporation March 1989). Also published in *Parameters*, Vol. 19, No. 1 (March 1989), pp. 49-60.

¹⁸Hughes, p. 227.

¹⁹William J. Crowe, Jr., 18 August 1988, "Second Endorsement on Rear Admiral Fogarty's Formal Investigation into the Circumstances Surrounding the Downing of Iran Air Flight 655 on 3 July 1988," letter dated 18 August 1988, p. 1.

²⁰Warriner.

commander, there is no legal dilemma. Domestic law, in the form of *Navy Regulations*, clearly allows preemptive self-defense. The regulation reads: "The right of self-defense may arise in order to counter either the use of force *or an immediate threat of the use of force.*"²¹

Another military factor that affects ROE is operational doctrine. For example, an operational doctrine that allows over-the-horizon targeting and beyond-visual-range weapons release, establishes an ROE. A BVR doctrine can result in shooting down misidentified targets (as happened with the USS *Vincennes*) and that, in turn, can have tremendous political consequences. Operational doctrine also establishes procedures to sort out friend and foe. Amicide (killing one's friends) has been a major problem in every war. By establishing "no attack" areas in the ocean to protect own-force submarines, or air corridors to protect returning aircraft, operational doctrine affects ROE. Hays Parker, one of the military's leading experts in ROE, noted that "integration of such information into ROE pragmatically permits ROE to be the single reference point for fire control measures. National ROE *do* provide authority to fire; but common sense dictates that the on-scene commander establish fire control measures as part of his ROE to ensure that he is carrying out his assigned mission while minimizing risk to third-country nationals or friendly forces."²² Although militarily and politically good reasons for caution exist, conservative operational doctrines—like conservative ROE—tend to place forces at risk during crisis.

LEGAL CONSIDERATIONS

One purpose of international law is to discourage the illegal use of force by states. Not only is abiding by international law often politically beneficial for nations, but the continuation of international cooperation and welfare demands nations be held to some minimum standard of conduct in order to avoid international anarchy. International law purports to establish this minimum standard. Lacking an effective international enforcement agency, these laws are obeyed primarily out of a sense of moral and practical obligation. As with any set of laws, international law has established a coterie of terms with specific legal meaning.

Professor D. P. O'Connell noted that:

²¹U. S. *Navy Regulations* (Philadelphia, Pa.: Naval Publication Forms Center, 1973), paragraph 0915 (emphasis added).

²²Parker, "Righting the Rules," p. 87.

Rules of Engagement necessarily make reference to concepts of international law, such as territorial sea, the contiguous zone, hot pursuit, the avoidance of non-military damage and positive identification. Rules of engagement, which emanate from a central naval authority, are supplemented by operational orders from the task-force commander, which on occasions may elaborate upon the concepts of international law which are utilized, in particular to specify the circumstances and conditions of visit and search, or the amount of force to be employed to terminate hot pursuit.²³

Because of such concepts' technical legal nature, every staff—from the office of the secretary of defense to that of the task force commander—has assigned to it a legal advisor. In most cases, this legal advisor is supposed to be the expert not only on international law, but on the rules of engagement as well. As one military legal expert declared, "It's not so much that I answer questions on ROE, but I question the answers. By that I mean, one of my principal jobs in reviewing ROE in operational plans is to ensure they are not overly restrictive because of a misconception of so-called prohibitions."²⁴

Self-Defense and International Law

In arguing against Canada's self-defense claim following its attack on the U.S. steamship *Caroline* in 1837, Secretary of State Daniel Webster stressed several conditions that must be met in order to justify the use of force in self-defense:

- The threat must be immediate.
- Force must be required to counter it.
- The force used must be proportional to the threat.

Rules of engagement must be formulated to ensure that these three conditions are met.

The U.N. Charter leaves the impression that self-defense can only be reactive—that is, force may only be used in self-defense "if an armed attack occurs." The problem is that the military and political costs of having to absorb a first blow are often

²³D. P. O'Connell, "International Law and Contemporary Naval Operations," *British Year Book of International Law*, Vol. 44, 1970, p. 22.

²⁴Warriner.

unacceptable. Numerous legal scholars have argued that the language of the charter does not necessarily exclude anticipatory self-defense.²⁵

The United States has long adhered to the practice of preemptive self-defense. In response to a series of unprovoked submarine attacks on U.S. ships, President Franklin D. Roosevelt established an anticipatory self-defense rule of engagement for U.S. naval forces before the country's formal entry into World War II.²⁶ And as noted above, *Navy Regulations* clearly authorize preemptive action.

Deciding when preemptive self-defense is authorized falls within the realm of rules of engagement and is the reason for the preceding lengthy discussion. Insisting that a *hostile act* occur before U.S. forces react may seem politically wise; however, if that hostile act results in the deaths of U.S. service members, then the political benefits may become political liabilities. It is a fine line indeed. To help commanders walk this fine line, rules of engagement normally contain definitions of *hostile intent* upon which a commander can base a decision to declare an opposing force hostile and direct fire against it. During peacetime, hostile intent is generally determined only after an accumulation of nonlethal but potentially aggressive actions have occurred. For example, an opposing ship in peacetime may have to load its rails with missiles, illuminate U.S. forces with its fire-control radar, and train its missiles on U.S. forces before a commander is authorized by the rules of engagement to declare it hostile. Even then, a naval commander must exercise his best judgment as to whether hostile intent has really taken place. However, in a period of crisis, that same determination may be made if a

²⁵Roach; W. Thomas Mallison, "Aggression or Self-Defense in Lebanon in 1982?," *American Society of International Law Proceedings*, Vol. 77, 1983, pp. 174-191; Jeffrey A. McCredie, "The April 14, 1986 Bombing of Libya: Act of Self-Defense or Reprisal?," *Case Western Reserve Journal of International Law*, Vol. 19, Spring 1987, pp. 215-242; Christopher Greenwood, "International Law and the United States' Air Operation Against Libya," *West Virginia Law Review*, Vol. 89, Summer 1987, pp. 933-960; Guy B. Roberts, pp. 243-293; Gregory F. Intoccia, "American Bombing of Libya: An International Legal Analysis," *Case Western Reserve Journal of International Law*, Vol. 19, Spring 1987, pp. 177-213; Rex J. Zedalis, "Preliminary Thoughts on Some Unresolved Questions Involving the Law of Anticipatory Self-Defense," *Case Western Reserve Journal of International Law*, Vol. 19, Spring 1987, pp. 129-175. For an opposing view, see Istvan Pogany, "Nuclear Weapons and Self-Defense in International Law," *Connecticut Journal of International Law*, Vol. 2, Fall 1986, pp. 97-119.

²⁶The President declared in a speech on 11 September 1941, "Let us not ask ourselves whether the Americans should begin to defend themselves after the first attack, or the fifth, or the tenth attack, or the twentieth attack. The time for active defense is now." (Bruce Harlow, "The Legal Use of Force . . . Short of War," *USNI Proceedings*, Vol. 92, No. 11 (November 1966), p. 94.)

ship merely illuminates U.S. forces with a fire-control radar. Clearly, rules of engagement can significantly raise or lower the threshold of violence.

Professor O'Connell insisted that there is an "ambiguous borderland between 'hostile intent' and 'hostile act', and . . . [that] it may become necessary to specify in closer detail the point at which 'hostile intent' is translated into 'hostile act', so that the tactical advantage does not irrevocably pass to the potential attacker."²⁷ In fact, U.S. planners were faced with that exact situation following the attack on the USS *Stark*. I will discuss later how they changed the rules of engagement and the definitions of *hostile intent* and *hostile act* to meet this concern following the *Stark* attack.

Self-Defense versus Self-Help

Non-self-defense conditions under which force has historically been applied to obtain political objectives come under the legal definition of self-help. I stress the distinction between self-defense and self-help because the nature of their associated rules of engagement and their legality are significantly different. Self-defense necessarily requires *command by negation* ROE. Self-help (or any other special operation) imposes strict *positive command* rules when expanding self-defense measures. The distinction between self-defense and self-help is also important for the naval commander since *Navy Regulations* clearly state: "*The use of force in time of peace by United States naval personnel against another nation or against anyone within the territories thereof is illegal except as an act of self-defense.*"²⁸

Categories of self-help include retorsion, retaliation (reprisal), and intervention. Retorsion consists primarily in *signalling* gestures, which I will discuss in Section III. Intervention is just that—an overt interference in the affairs of another state. For our discussion, the most crucial form of self-help is reprisal.

Although reprisals are generally considered illegal under current international law, a growing body of opinion supports the notion that certain reprisals should gain legal acceptance. President Reagan declared in 1981, shortly after the Iranian hostages had been released, "Let terrorists be aware that when the rules of international behavior are violated, our policy will be one of swift and effective *retribution*."²⁹ Secretary of State George Shultz expanded this theme when he stated, "We must reach a consensus in this

²⁷O'Connell, "International Law," p. 25.

²⁸*U.S. Navy Regulations*, paragraph 0915 (emphasis added).

²⁹Richard Halloran, "Swift U.S. Retribution for Terrorists Called Doubtful," *The New York Times*, 3 February 1981, p. B13 (emphasis added).

country that our responses should go beyond passive defense to consider a means of active prevention, preemption and *retaliation*."³⁰

The administration implemented this policy on 14 April 1986 when it attacked targets in Libya in response to a terrorist bombing in West Berlin that killed two Americans on 5 April. Although the administration used the language of reprisal to warn terrorists and states supporting them, it felt compelled to use the language of self-defense when justifying its actions before the United Nations. Secretary Shultz described the offensive as "an act of self-defense . . . proportionate to the sustained, clear, continuing, and widespread use of terror against Americans."³¹

The United States based its actions on evidence linking the West Berlin bombing with Libyan officials and repeated Libyan threats to carry out further terrorist acts. It was this *accumulation of events* upon which the United States based its "self-defense" claim. The accumulation of events logic used in the Libyan operation was subsequently used on two separate occasions against Iran, as I will discuss later.

MANAGING THE DILEMMAS

The primary concerns of the military commander and the policymaker are quite different. This difference underlies the tension inherent in any political/military relationship and is reflected in the process that prepares and revises ROE. The primary consideration for the policymaker is to ensure the drafting of rules that allow the NCA to maintain control over military force so that it best serves national objectives. The primary consideration for the military commander is to ensure that he maintains the ability to defend his forces and employ them in the most militarily effective manner. These two considerations provide both a foundation and dilemma for those drafting rules of engagement. The dilemma is one of action versus reaction. Peacetime rules of engagement tend to be reactive in order to maintain political control. However, as we shall see in the incident involving the USS *Stark*, the political price for reaction and hesitancy can be unacceptably high. Conversely, preemptive self-defense also has political costs, as we will see in our discussion of the USS *Vincennes*' shooting down of an Iranian airliner.

The dilemma of action versus reaction manifests itself in three separate but related areas of tension: civilian control and military command, centralized and decentralized control, and escalation (or crisis) control.

³⁰Guy B. Roberts, p. 248 (emphasis added).

³¹Guy B. Roberts, p. 287.

Civilian Control and Military Command

The kinds of rules of engagement in effect in a particular crisis can be determined as much by the crisis' political implications as by its military ones. Although this may be an uncomfortable situation for a field commander to be in, it may be a fact of life, requiring a thorough understanding of the political objectives. Even then, the military commander must be willing to submit to civilian control, or rules of engagement lose some of their effect. President Truman and General MacArthur had their famous falling out over precisely this principle. The political objectives sought by Truman and the military objectives sought by MacArthur were incompatible.

Although Truman's objective vacillated between restoring the border at the 38th parallel and unifying the peninsula in Korea, MacArthur was myopic in his desire to win the war. "We must win," he declared. "There is no substitute for victory."³²

As their confrontation grew, one tactic used by Truman to control MacArthur was altering the rules of engagement under which MacArthur operated. Of course, that wasn't the only reason the rules changed. They changed when either the military or the political situation required it. However, "MacArthur chafed against restrictions on his command authority from the beginning. He was denied permission to pursue enemy aircraft into Chinese air space, bomb hydroelectric plants on the Yalu, and bomb Racine in North Korea on the Soviet border. . . . His advice was rejected, limitations were placed on his freedom of action, and he complained bitterly that he was being shackled."³³ Since MacArthur was unwilling to submit fully to civilian control, he interpreted some of the rules as "permissive, not restrictive, and that implicit in his directive was the discretion normal to field command."³⁴ In other words, MacArthur treated rules that Truman meant to be positive command ROE as command by negation ROE.

But the real conflict was not over the nature of the ROE; rather, it involved the inherent tension between civilian control and military command. This tension resulted from a genuine difference of opinion as to what the objectives ought to have been, but was aggravated by the personality clash between the principals. For Truman, preservation of political control was at the heart of the issue. He had no thought of letting MacArthur usurp that control.

³²Walter Millis, *Arms and the State: Civil-Military Elements in National Policy* (New York: The Twentieth Century Fund, 1958), p. 319.

³³Betts, pp. 18-19. See also Spanier, p. 108.

³⁴Courtney Whitney, *MacArthur: His Rendezvous with Destiny* (New York: Knopf, 1956), p. 326. See also Spanier, pp. 108-109.

In his *Memoirs* the former President recalls the anecdote which Lincoln produced when confronted by a somewhat similar move on the part of General McClellan: "... it made me think of the man whose horse kicked up and stuck his foot through the stirrup. He said to the horse: 'If you are going to get on, I will get off.'" Like Lincoln, Truman was in no doubt as to who was going to get on and who would get off.³⁵

An increasing trend in U.S. politics is the election of political leaders who have no substantive military experience, let alone naval experience. This lack of military understanding may cause them to question the rationale behind certain rules. Conversely, the logic of diplomacy may well escape the naval commander and cause him to question his role in a particular crisis. Managing this tension between political control and military command is part of the job of rules of engagement. Rules of engagement can help manage systemic tension, but they cannot overcome personal biases. The reality of the situation is that even though civilians establish policy, military commanders must interpret and execute it.

This tension was clearly evident during the 1962 Cuban missile crisis. Chief of Naval Operations George Anderson felt that Secretary of Defense Robert McNamara had overstepped the line from civilian control onto the soil of civilian command.

McNamara had been spending time at the operational headquarters of the blockade, and the naval officers were irked at what they considered his interference. The secretary insisted on making detailed decisions about the operation of the blockade line, without regard to standard procedure or the chain of command. Friction mounted. McNamara then noticed that a single U.S. destroyer was standing outside the blockade line and asked Anderson what it was doing there. The secretary was anxious to make clear that the President did not want to harass any Soviet ships and wanted to allow the Russians to be able to stand off or retreat without humiliation. Anderson was reluctant to answer because some of the civilians in the secretary's party were not cleared for highly sensitive information, but he drew McNamara aside and explained that the ship was sitting on top of a Russian submarine.

The final blowup came when McNamara demanded to know what the navy would do if a Soviet ship refused to divulge its cargo. Anderson brandished the Manual of Navy Regulations in McNamara's face and shouted, "It's all in there." The Secretary retorted, "I don't give a damn what John Paul Jones would have done. I want to know what you are going to do, now." Finally, Anderson replied, "Now, Mr. Secretary, if you and your deputy

³⁵Spanier, p. 17.

will go back to your offices, the Navy will run the blockade." Within less than a year, Anderson was removed from his post.³⁶

The lesson taught by Anderson's removal was not lost on other senior naval officers. If you want to get along, go along. *Military objectives and political objectives will not always be in harmony with each other*, and often military objectives must be sacrificed to achieve political objectives. Had Anderson realized that, he would have fared much better and probably served longer.

In the spring of 1965, U.S. pilots reported that the North Vietnamese were constructing antiaircraft missile sites. The military wanted to attack the sites before they became operational. However, President Johnson's declared policy at the time was: "I won't let those Air Force generals bomb the smallest outhouse north of the 17th parallel without checking with me."³⁷ The ROE reflected that policy by not permitting attacks outside South Vietnam unless authorized by the president. Military commanders, therefore, had to ask for permission to destroy the sites. The answer from Washington was no. The resultant ROE directly reflected the presidential policy decision (that pilots could fire only when fired upon).

The military objective prompting the request was the elimination of weapons systems that would take their toll in lives and aircraft if left undamaged. The military wanted command by negation ROE so they could deal with the situation as it developed. However, the overriding political objective was to refrain from doing anything that would provoke the Soviets into entering the conflict on a greater scale. To support this policy objective, the positive command ROE did not allow any action that would trigger escalatory reactions by the Soviet Union. Policymakers feared the Soviets would be forced to react if their technicians were killed in such attacks. From one military point of view, "it was, says [a] former U.S. Air Force colonel and veteran of the Korean and Vietnam wars, a case of unrealistic rules of engagement frustrating the men of the United States sent into combat."³⁸

From the political point of view, it was not an unrealistic rule of engagement. Rules of engagement cannot be judged nor understood outside the political context in

³⁶Beus, p. 10.

³⁷Beus, p. 10.

³⁸Ed Crews, "ROEs that Kill," USNI *Proceedings*, Vol. 114, No. 9 (September 1988), p. 121.

which they must be used anymore than they can be understood outside of the military context.

Centralized versus Decentralized Control

A related tension facing military commanders is that created between a superior's desire to maintain control and the field commanders' requirement to protect the forces. This tension is not necessarily a civilian versus military one, although in crisis it generally tends to be.³⁹ However, the military chain of command's desire to maintain control is every bit as strong as that of civilian leaders.

An interesting aberration in this desire for control was the 1968 *Pueblo* case. At the time, the McNamara regime was still in place and McNamara's unfortunate confrontations with CNO Anderson during the Cuban missile crisis and with General Lucius Clay during Berlin tensions had poisoned the well for McNamara and his protégés. Because of those experiences, McNamara strongly discouraged field commanders from initiating any action that might have political ramifications. Not only did this have an adverse effect on the already-strained military-civilian tension, it had the unforeseen result of upsetting the balance between centralized and decentralized control. As described by retired Rear Admiral Daniel Gallery:

I feel sure . . . there will be some half-assed "explanations" from the Defense Department as to why the *Enterprise* didn't send planes. The real explanation is simple—nobody had the guts to do it without orders from Washington—and orders never came.

In the chain of command that afternoon there were two four-star and one three-star admirals. I should think at least one of them would have issued shooting orders to help the *Pueblo* on his own authority. If Washington disapproved, the worst that could happen to him would be retirement a few years early—on three-fourths pay. But no one was willing to stick his neck out that day.⁴⁰

During President Carter's administration, the balance once again became slightly askew and this tilt was reflected in the rules of engagement. While Carter was in office, naval aviators did not have the authority to fire in self-defense but had "to request permission from the task force commander before returning fire. [And] under the Carter rules, if the enemy was disengaging and returning to his base, the American pilot had to

³⁹See Caldwell, pp. 4-5.

⁴⁰Beus, p. 146.

hold his fire."⁴¹ When Ronald Reagan succeeded to the presidency, the rules changed. In fact, the events of the early 1980s proved to be a watershed for rules of engagement.

President Reagan had occasion to review the rules of engagement shortly after assuming office. In 1981, Libya's leader, Colonel Muamar Qaddafi, attempted to make the waters of the Gulf of Sidra off-limits to foreign vessels. This policy was in direct opposition to the United States' long-standing policy of ensuring freedom of navigation in international waters. To counter Qaddafi's claim, the NCA directed a routine naval exercise in the area by ships of the Sixth Fleet. "Leery of being accused of going off half-cocked, the Pentagon wanted specific orders from the President for every contingency."⁴² To satisfy the Pentagon, the administration devised an elaborate "stairstep plan" of proportionate responses. "Under the Rules of Engagement, [Navy] F-14s were to intercept any approaching aircraft and escort them away from the exercise area, firing only if fired upon. That was a change from the Carter administration."⁴³ Pilots now had authority *in the cockpit* to return fire in self-defense. "Under the Reagan rules, there would be no free shots at Americans. What we should do is follow them back into hangar, the President said when he approved the stairstep plan."⁴⁴

On the morning of 19 August 1981, patrolling F-14s were directed to intercept two Soviet-built Su-22 fighters coming out of the Libyan airbase at Ghurbadiyah. As the F-14s were about to complete the intercept, they were fired upon by the Libyans, who turned and headed home when their missiles didn't acquire. "Under the Carter Rules of Engagement neither [of the U.S. pilots] would have fired. Under the Reagan Rules of Engagement, [they] squeezed the trigger."⁴⁵

Where one "sits" determines what one sees. As the above shows, commanders must interpret the policies, orders, and rules of engagement they receive. Occasionally, these policy decisions, operational orders, and rules of engagement work at cross purposes.

On 3 December 1983, an F-14 reconnaissance aircraft flying over Lebanon was shot at by heat-seeking SA-7 anti-aircraft missiles. Under the rules of engagement, the fighter could have responded in self-defense, but it was unarmed and unescorted. A policy decision was made by the president to retaliate for the missile firings the following

⁴¹Martin and Walcott, pp. 68-69.

⁴²Martin and Walcott, p. 68.

⁴³Martin and Walcott, p. 68.

⁴⁴Martin and Walcott, pp. 68-69.

⁴⁵Martin and Walcott, p. 71.

day by attacking radar and antiaircraft sites behind Syrian lines. Once the policy decision was made, the Joint Chiefs turned it into tasking for the Commander-in-Chief, U.S. European Command, in Germany. He in turn tasked local battle group commander Rear Admiral Jerry Tuttle, who was aboard the USS *Independence*, to prepare an operational plan. The plan Tuttle submitted had carrier-based bombers attacking the designated sites at noon on 4 December. Submitted up the chain of command for review, the plan was approved with one suggestion added by the Joint Chiefs: 'Try to make it an early morning raid so that it occurs within 24 hours of the offending incident.

At the CINC level, in an apparent effort to maintain some control, that suggestion was changed to an order. Despite three protests, Admiral Tuttle was ordered to change the time of the raid. The results were that neither the proper types nor amount of ordnance could be loaded on the aircraft. Even more significant, instead of ground personnel being troubled by having to look up into the noonday sun, the navy pilots now had to look into the glare of the rising sun, making their targets nearly impossible to acquire.

Because the NCA viewed this action not as a reprisal but as a self-defense issue, the rules of engagement only permitted attacks against the offending sites and insisted that collateral damage (that is, civilian casualties) be strictly limited. Thus, although the rules of engagement required surgical bombing, the operational order (which was based on a policy "suggestion") made such precision impossible. The results were predictable. Not much damage was done to the designated targets, but two U.S. aircraft were lost, one airman was killed, and another was captured.⁴⁶

Managing Escalation

Not all crises can be resolved without using force. Although self-defense rules of engagement form the foundation for all other rules of engagement, the most pertinent ROE for managing conflict are those dealing with the application of force in situations other than self-defense. To facilitate and control the transition across the threshold from crisis to conflict, three things must be done: political objectives must be clearly defined and communicated; ROE must, whenever possible, be preplanned and well thought out; and the ROE must be exercised. If these three things are accomplished, the military commander will be more confident in exercising the rules of engagement without undue fear that he is acting either precipitously or hesitantly.

⁴⁶Martin and Walcott, pp. 140-144.

Before the Libyan operation in 1986, the rules of engagement used by U.S. forces were debated at length by the National Security Council and the President.⁴⁷ They finally agreed upon a set of graduated ROE that were to be used in "escalating stages of retaliation." The military-political tension was represented best by the secretaries of defense and state. "Weinberger . . . believed that American commanders in the field should have the right to decide how to commit their firepower, and Shultz . . . wanted Washington to determine in advance just how to escalate in response."⁴⁸

The NCA was not looking to escalate the conflict and took unusual measures to ensure that collateral damage was kept to a minimum. The rules of engagement required that all systems—communication, acquisition, weapons, and so on—were operating properly before an aircraft could drop its bombs. As a result, of the nine planes targeted against the Azziziyah Barracks in downtown Tripoli, only two dropped their bombs.

ACHIEVING A BALANCE

The lessons of the early 1980s were clear: A balance between centralized and decentralized control and between political, military and legal considerations is absolutely essential in avoiding military and/or political disaster. "ROE, that's always the problem," said Admiral Crowe.⁴⁹ To help achieve this balance, rules of engagement were altered after the Lebanon fiasco to allow for preemptive self-defense. Admiral Crowe noted, "That was the first time in my career in peacetime I had seen dramatic changes in ROE."⁵⁰ But the Admiral recognized that rules of engagement have limitations. He said, "You just don't put it in a message and say that takes care of it. . . . It's hard to persuade guys that for fifteen years now have been told, Don't get us in a war, that you're serious that if [someone] challenges us, we're going to shoot him. That's hard to get across. You have to persuade people the mood has changed, that the situation is now different."⁵¹

If political tactics fail and a situation escalates, the transition from crisis to combat may be difficult. This transition, however, is the most crucial period for political leaders if they are to maintain situational control. "How we handle rules of engagement . . . to deal realistically with the potential threat is crucial," declared a former CNO testifying

⁴⁷David Gelman, "The Poindexter Doctrine," *Newsweek*, 21 April 1986, p. 24.

⁴⁸Gelman, p. 24.

⁴⁹Martin and Walcott, p. 280.

⁵⁰Martin and Walcott, p. 280.

⁵¹Martin and Walcott, p. 280.

before Congress. "The rules of engagement must change to meet emerging circumstances."⁵²

Wayne Hughes provided one of the most succinct discussions of the interplay between military, political, and legal considerations.

A truism of international conflict is that a nation must succeed both militarily and politically. During a major war the political elements are subordinated: world opinion and international law are at best slighted, at worst flouted. At the crisis level both military and political considerations weigh heavily; circumscribed force is the order of the day. The military tactician thinks in terms of executing his combat mission with minimum losses to his own force. The statesman, on the other hand, thinks in terms of the political objective that precipitated fighting or the threat of it. These military and political objectives come into conflict. The tactical commander in a crisis or confrontation cannot escape friction between military and political aims; the goals of statecraft confine his military plans.

Though military men at the scene of action in the chain of command bridle at the amount of control exercised from Washington in a crisis, the record of forty years of crises suggests that such rudder orders are likely to continue. Detailed direction of localized transitory military operations, even those involving shooting, has flowed and will probably keep flowing directly from the seat of government to the tactical commander at the scene of action because of their enormous political content.⁵³

To assist the tactical commander, Hughes made four recommendations for incorporation into the NCA's command and control doctrine.⁵⁴ First, make sure the NCA speaks with a single voice. A tactical commander receiving direction from a political "Hydra" will be confused at best, and act rashly at worst. Second, keep the chain of command informed of any orders that have been sent directly to the scene of action. Third, provide suitable explanations for orders that assign forces, reinforcements, and so on. Not only does this help clear the "fog of war," it also builds military support for political actions and provides a way for the military to make alternative recommendations. Finally, hedge against failure by ensuring that a plan to restore the chain of command is available. Compliance with the first three recommendations will greatly assist in the accomplishment of the fourth. If a crisis escalates rapidly, it could quickly exceed the range of control that can be effectively managed from Washington, and restoring the chain of command would be imperative.

⁵²James D. Watkins, *SASC Hearings on FY85 Budget*, Part 8, p. 3864.

⁵³Hughes, pp. 225-226.

⁵⁴Hughes, p. 226.

As the number and complexity of rules of engagement increase, so does the NCA's difficulty in maintaining control during a crisis, unless the NCA clearly understands what comprises the basic body of the standing orders and which additional rules come into play as the crisis intensifies. Alexander George suggests that "top-level political and national command authorities have at their disposal (1) full data on existing and programmed rules of engagement, and (2) specialized staff officers capable of quickly identifying appropriate modifications of rules of engagement in order to better meet crisis management requirements."⁵⁵

Because of the varied complexity and nature of each crisis and the impinging interplay of international law, the recent trend has been to establish general rules of engagement (command by negation) with an aim to supplementing them as the situation requires (positive command). The assumption underlying this approach is that a "graduated escalation" of events will allow time for a systematic evolution and development of specific ROE.⁵⁶ The risks of this assumption are obvious.

A naval commander who is in a situation in which time constraints prevent development of specific rules of engagement: (1) may overreact, thus escalating a crisis before political authorities have time to establish civilian control of the situation; (2) hesitate (underreact), thus losing the initiative and risking the loss of both political and military objectives since military options will be reduced; or (3) apply the "Nelson touch" and respond appropriately to the situation, preserving the best available military and diplomatic options. Without adequate ROE, political leaders, in effect, "pay their money and take their chances."

To aid the naval commander in coping with rapid escalation, graduated rules of engagement must be drafted, briefed, and understood before entering a potentially hazardous situation. Although the joint peacetime rules of engagement contain a series of options (similar to a shopping list) that allows a commander to tailor the ROE to the situation, the NCA has recently favored a graduated, or stepping-stone, approach to ROE over a shopping list approach during special operations. That is, the NCA established a logical progression of ROE that paralleled the likely progression of escalation. Graduated approaches include actions such as interrogations, requests, warnings, boardings and searches, harassment, self-defense, and use of force.

⁵⁵George, pp. 227-228.

⁵⁶See Caldwell, p. 2.

OTHER FACTORS INFLUENCING THE DECISION TO USE FORCE

Up to this point I have noted the influence of policy decisions, military priorities, and international law on drafting and implementing rules of engagement. Some critical factors influencing a commander's decision to use force in self-defense are found outside the rules of engagement. During the crucial moments in which a decision must be made, what determines whether a naval commander will employ force? Answering this question would go far beyond the limited purposes of this paper, yet the subject must be broached. Critical factors are those that combine, sometimes in unexpected ways, to create the climate in which the decision maker must act. Rules of engagement do not fashion the climate. They may influence it but normally the climate is produced by a number of other factors, including:

- **History.** If force has been required during similar scenarios in the past, a commander will likely interpret facts and actions as requiring the need for force in the current situation. In early 1989, navy fighters downed two Libyan fighters during a scenario similar to one in 1981. In the 1981 incident, Libyan fighters fired missiles at patrolling U.S. F-14s but missed and were subsequently destroyed by the U.S. aircraft. In the 1989 incident, U.S. fighters destroyed the Libyan fighters preemptively. I'm not certain what role the earlier attack played in the most recent decision to fire preemptively, but clearly U.S. pilots were not going to take the first shot this time.

- **Current events.** If the current situation is hostile, all actions will be colored by that fact. Conversely, if the current situation is peaceful, a commander is less likely to act rashly or violently. In commenting on the 1989 Libyan incident, a "Pentagon official steeped in the rules of engagement for military pilots said that 'if the pilots had been Russians and done the same thing [as the Libyans], they wouldn't have been shot down.' He said U.S. and Soviet fighter pilots have frequently engaged in mock aerial combat after spotting one another and have built up a trust that does not exist between U.S. and Libyan fliers."⁵⁷

- **International tensions.** This factor is related to the previous one. If no political tension or rivalry exists in an area, that a naval commander will precipitate tension or use force injudiciously is unlikely. A peacetime incident at sea, for example, is unlikely to escalate into a crisis. Although the U.S. and Soviet navies have a history of incidents at sea, these incidents have not escalated because those people involved have decided that the incident was not intended to inflame conflict. Additionally, the U.S./Soviet incidents

⁵⁷George C. Wilson, "Despite New Details, Libyan MiG Incident Is Still Puzzling," *The Washington Post*, 26 March 1989, p. 16.

at sea agreement has helped to defuse the situation by allaying suspicions and providing a forum in which to register complaints.

- **Public pressures.** Public pressure undoubtedly played an important role during the waning years of the Vietnam War. Believing that a particular action may be popular or unpopular can influence, openly or subconsciously, whether a commander takes that action.

- **Political pressures.** Congress brings enormous pressure to bear on the military. Occasionally, Congress has held up the promotion of senior officers whose actions they have deemed inappropriate. Although this concern may not be the conscious focus of a commander in times of crisis, it can nonetheless affect his decisions. Certainly the political pressure placed on senior naval officers during the McNamara years played a role in crisis decision making.

- **Professional pressures.** Career ambition cannot be overlooked as a decision-making factor. Military officers are not blind to how contemporaries have fared after making controversial decisions. Nor are they insensitive to their superiors' biases and desires. How officers perceive decisions as affecting their careers will unavoidably influence their choices of action or caution.

- **Reliability of information.** Commanders do not operate in informational vacuums. Nor do they operate with perfect information. The "fog of crisis" is created by conflicting data, false alarms, partially functioning warning systems, and information overloads.

- **Lessons learned.** The bulk of training and tactics is drawn from lessons learned during past crises, war-gaming, or exercise analysis. One purpose of training is to promote conformity along with proficiency throughout the fleet. The military recognizes that many variables can affect battlefield decisions and that common training is the best method available to try to coordinate separate efforts. But other lessons are learned besides those found in formal educational settings. These lessons probably play as influential a role in the decision-making process as does formal training.

- **Personal bias.** Like all men or women, military officers are laden with varying degrees of ambition and conscience. They display their own idiosyncrasies, have their own leadership styles, and reflect differing attitudes. Both aggressive and nonaggressive officers serve in the military. No easier generalizations can be made about military officers than can be made about any other sector of society. Every individual reacts to stress differently and brings along the baggage of personal experience. All these factors will have some bearing on what decision a commander makes.

Obviously, we could expand this list. All of us filter, in some way or another, the information we receive. The biblical assertion that "we now see through a glass, darkly"⁵⁸ was never more accurate than when describing the climate associated with political crises.

THE PLANNING PROCESS

Having discussed at some length what ROE are and are not, as well as the numerous considerations that affect them, I turn now to the planning process by which peacetime rules of engagement are drafted, promulgated, and reviewed. As I mentioned at the beginning of this paper, all ROE are now incorporated into joint operational plans. The following discussion provides a broad look at the deliberate planning process (see Figure 5). The planning process is obviously a lengthy one and is not likely to be followed during a time-constrained crisis.⁵⁹ However, the process does provide a foundation upon which crisis planning and management can take place; though it may seem far afield from the present discussion of ROE, it provides the framework within which crisis planning and rules of engagement are drafted and discussed at the highest levels of government.

To achieve a balance between political, military, and legal considerations, the secretary of defense and Joint Chiefs of Staff undertake periodic reviews of standing rules of engagement. Volume I of the *Joint Strategic Capabilities Plan (JSCP)* requires conformity in ROE issued by unified and specified commands. Numerous JCS documents (over a dozen) provide these commanders with ROE guidance. Volume I of the *Joint Operations Planning System* provides the ROE format (see Figure 3). All proposals for new or recommended changes to rules of engagement are reviewed by the JCS and briefed to the NCA when required.

Normally, ROE are briefed as part of a larger operational plan. Operational plans deal with the conduct of military operations in a hostile environment. Obviously, rules of engagement play an integral and important role in such plans. OPLANs are normally prepared only for situations critical to national security that demand detailed prior planning. Contingency plans are prepared for scenarios not as critical to security because of their low probability of occurrence during the *JSCP* timeframe.

⁵⁸1 Corinthians 13:12.

⁵⁹See Caldwell, p. 3.

THE ORIGIN – Joint Strategic Capabilities Plan

- Tasks.
- Forces.

PHASE 1 – Initiation

- CINC receives planning task from JCS.
- Major forces available for planning are designated.

PHASE 2 – Concept Development

- Mission statement.
- Subordinate tasks are derived.
- Concept of operations is developed.

THE PRODUCT: A CONCEPT OF OPERATIONS.

PHASE 3 – Plan Development

- Forces are selected and time-phased.
- Support requirements are computed.
- Strategic deployment is simulated.
- Shortfalls are identified and resolved.
- Operational plan is completed.

THE PRODUCT: A COMPLETED PLAN.

PHASE 4 – Plan Review

- Operational plan is reviewed and approved by JCS.
- CINC revises plan in accordance with review comments.

THE PRODUCT: AN APPROVED PLAN

PHASE 5 – Supporting Plans

- Supporting plans are prepared.

THE RESULT – A Family of Plans

NOTE: JCS = Joint Chiefs of Staff; CINC = unified and specified commander-in-chief.

Fig. 5—The planning process

BILATERAL ROE: PREVENTING INCIDENTS AT SEA

In 1972, the United States and the Soviet Union signed an agreement on the prevention of incidents at sea.⁶⁰ This agreement has been described as a bilateral set of

⁶⁰The full title is: Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on the Prevention of Incidents on

ROE strictly covering the interaction between the two signatories. The agreement does not technically fall under the definition of ROE since it does not specify when forces can open fire. Rather, it attempts to prevent or defuse situations that could lead to the use of force. Although the agreement has not eliminated all incidents at sea, it has significantly reduced them and has provided a forum for discussion of those incidents that do take place.

The very fact that a forum exists in which complaints can be aired has significantly reduced the dangers of escalation or political crisis between the United States and the Soviet Union. The agreement was reached because leaders recognized that incidents at sea provoke an emotional response, especially in the United States, unlike any other military interaction. Therefore, the dangers associated with incidents at sea could provide an unforeseen catalyst to crisis. "These dangers can be divided into three categories: (1) the physical danger to lives and vessels posed by a collision; (2) the possibility that an incident, even if relatively minor in itself, will provoke a crisis or even a war; and (3) the risk of direct and immediate combat and escalation as a result of misperception or misinterpretation of an incident by local commanders."⁶¹

The dangers most relevant to this study are those leading to conflict or promoting a climate of hostility. The case studies that follow, although not involving the Soviet Union directly, demonstrate that incidents at sea create emotional grounds for demands or reprisals. This phenomenon is not new. History is littered with stories, some very bizarre, that brought countries to the verge of war or actually involved them in war.⁶²

This uncommon level of emotion attached to naval incidents, along with some underlying tactical instabilities, contribute to the problem of crisis control. The case studies of the USS *Stark* and the USS *Samuel B. Roberts* demonstrate that in today's technological advanced climate, an overwhelming advantage is gained (even in the Third

and over the High Sea, May 25, 1972. The complete text appears in U.S. Department of State, *United States Treaties and Other International Agreements*, Vol. 23, Part 1, 1972 (Washington, D.C.: U.S. Government Printing Office, 1973), pp. 1168-1180.

⁶¹Sean M. Lynn-Jones, "A Quiet Success for Arms Control: Preventing Incidents at Sea," *International Security*, Vol. 9, No. 4 (Spring 1985), p. 162.

⁶²Lynn-Jones, on p. 163, relates the story of Captain Robert Jenkins, a British smuggler, who lost his ear when his ship was boarded by sailors from a Spanish vessel. In 1738, he displayed his severed ear before Parliament and created an uproar that resulted in the War of Jenkins' Ear between Great Britain and Spain (1739-1741).

World) by the side that strikes first. Fortunately, Soviet literature indicates that the Soviets are unlikely to initiate conflict at sea before it has been initiated on land.⁶³

Thus, crisis scenarios will continue to be the breeding ground of concern for naval encounters. Even (or especially) in these circumstances, the incidents at sea agreement will play a significant conciliatory role when client states of the two sides are involved. The 1972 agreement serves four basic purposes: to regulate dangerous maneuvers, restrict other forms of harassment, improve communication at sea, and establish regular naval consultations and exchanges of information.⁶⁴ Although no treaty can eliminate a deliberate initiation of war, agreements like this one can reduce the possibility of an unintentional conflict arising from a misunderstanding.

⁶³See James J. Tritten, *Soviet Naval Forces and Nuclear Warfare: Weapons, Employment, and Policy* (Boulder, Colo.: Westview Press, 1986).

⁶⁴Lynn-Jones, p. 174.

III. CASE STUDIES

U.S. INTERESTS AND INVOLVEMENTS IN THE PERSIAN GULF

The United States has maintained a naval presence in the Persian Gulf since 1949. The importance of this naval presence increased beginning in the early 1970s. About the time the Gulf States were assuming greater control over their oil reserves, the Arab-Israeli conflict reignited and the Soviets started making increased inroads into the area. The Soviets concluded long-term treaties of cooperation and friendship with Egypt (1971), Iraq (1972), Somalia (1974), Ethiopia (1978), South Yemen (1979), Syria (1980), and North Yemen (1984). Even though the Egyptian and Somalian treaties were later abrogated and North Yemen remained supportive of the West, the Soviets managed to position themselves at important choke points from which they could threaten the West's primary supply of oil. The Soviet invasion of Afghanistan (1979), when linked with the Soviet support of the Arab oil embargo (1973) and of the Arab condemnation of the Camp David Accords (1978), increased Western suspicion of Soviet intentions in the area. With the overthrow of the Shah in Iran (1979), there was enough unease in Washington that in 1980 the government issued the so-called Carter Doctrine, which decreed that the U.S. would use force, if necessary, to keep the Persian Gulf open.

Two major schools of thought emerged concerning the Soviets' increased interest in the Middle East. One school insists Soviet policy has been basically defensive in nature. The Soviets' only concern, according to this view, is to ensure that the Middle East does not become a Western bastion that can be used for military or subversive attacks against the Soviet Union. The other school sees the Soviet policy as offensive: The Soviet objective is to limit and eventually exclude Western influence from the area (to be replaced, of course, by Soviet influence).

U.S. policymakers have generally accepted the offensive school's arguments and determined that the Soviet presence in the Gulf had to be countered. They have pursued a policy aimed at securing the West's oil supply, reducing Soviet influence in the area, and supporting moderate Arab regimes. For years, the Shah of Iran had been an able and effective surrogate for the United States in ensuring that these objectives were met. With his overthrow, a new calculus had to be used to determine how best to protect Western interests. In his testimony before Congress concerning the operations in the Gulf, Secretary Weinberger unequivocally tied the operation to the need to counter Soviet designs in the area. The Soviet "objective in the Gulf," he declared, "is to establish a

presence that ultimately enables them to manipulate the movement of Persian Gulf oil. For these reasons, the United States must be present, vigilant, and resolute in the Gulf."¹ He reiterated this policy's three objectives and noted that they had been endorsed by eight U.S. presidents for over four decades.

I include this brief historical background because it provides the political context in which naval commanders were operating at the beginning of the period I am about to address. It is important, because the political context being stressed publicly (a U.S./Soviet scenario) was not, in fact, the political context in which the rules of engagement established for the Gulf were used.

Following the outbreak of the Iran-Iraq War (1979), the immediate threat to oil supplies was no longer the Soviet Union. Gulf shipping was suddenly being held hostage by a regional conflict. And yet, as late as 1987 the United States was still justifying its presence in terms of East/West interests, when in fact the real concern was regional stability. The United States believed a victory by either side could dramatically upset the delicate balance of power in the Gulf. Either a dominant Iran or Iraq could threaten Middle East allies and interrupt oil supplies. Although regional instability could provide inroads for Soviet influence and support, the Soviet Union did not remain the focus of U.S. attention.

The United States decided to tread the thin line of neutrality while alerting both belligerents that it would not allow Gulf shipping to be threatened. The policy adopted by the Reagan administration was fraught with risks. The Gulf is a confined area (meaning there is no place to hide) and it is congested with traffic (meaning target acquisition systems can easily be saturated). Without a dramatic realignment of force structure and deployment patterns, the United States was unable to deploy enough ships to police the entire Gulf. President Reagan was hoping for allied support in this effort. But because Europe and Japan rely much more heavily on Gulf oil for their survival than does the United States, they felt they could not support any policy that could threaten their supply by alienating the suppliers. They felt that the U.S. policy carried the double risks of disaffecting both sides and escalating out of control.

¹Caspar Weinberger, *A Report to the Congress on Security Arrangements in the Persian Gulf*, transcript dated 15 June 1987, p. i.

Until late 1986, the United States maintained only a moderate presence in the Gulf. In November of that year, the Kuwaitis announced they would seek international protection for their ships. Having recently purchased much of their defense hardware from the Soviet Union, they first contacted the Soviets for support. In December they asked the U.S. Coast Guard for the requirements necessary to re-register their ships under the American flag. In January they asked the U.S. Embassy if Kuwaiti vessels operating under the American flag could receive U.S. naval protection. That same month, President Reagan reconfirmed the U.S. commitment to keep the Gulf open and responded with guarded optimism to the Kuwaiti proposal. By March 1987, the United States had offered and the Kuwaitis had accepted protection for 11 Kuwaiti tankers. This plan limited Soviet protection to only three Kuwaiti tankers.

This reflagging policy increased the United States' legal interest in the area and provided it with a self-defense rationale to protect shipping. The international community has generally accepted the tenet that an attack against a state's citizens or their property constitutes an attack against the state itself. Reagan's policy had the concomitant benefit of regaining Kuwaiti support for the United States. The Kuwaitis had turned increasingly to the Soviets for support since the United States refused to sell them Stinger missiles in 1984.

Since helping Kuwait, an ally of Iraq, appeared to swing the United States in favor of Iraq in the Gulf War, the plan was nearly derailed in May 1987 when a jet from Iraq mistakenly attacked the USS *Stark*, killing 37 sailors. The reflagging process nevertheless proceeded after the United States received an apology from Iraq along with a promise to aid in the investigation of the incident. The attack on the *Stark* underscored the risks and costs associated with an increased U.S. role in the Gulf. Both Congress and the Navy expressed justifiable concerns about this policy. Many believed Reagan had committed the country to a potential use of military force for a dubious and ill-defined political objective. Additionally, this policy was to be carried out in a volatile area requiring very careful considerations about the appropriate application of that force. The potential for political damage (as well as military casualties) to the United States was great. Either a failure to protect international shipping or a misuse of force against smaller and weaker countries held this potential. Figure 6 briefly lists the chronology of significant events that occurred as a result of this policy's implementation.

- January 1987
 - Kuwaitis ask U.S. to reflag tankers.
- March 1987
 - U.S. agrees to reflagging scheme.
- May 1987
 - USS *Stark* attacked by Iraqi jet.
- July 1987
 - U.S. tanker escort operations begin.
 - Bridgeton* hits Iranian mine.
- September 1987
 - U.S. helicopters attack *Iran Ajr* laying mines.
 - Iran Ajr* captured by U.S. forces and sunk.
- October 1987
 - Sea Isle City* hit by Iranian missile while anchored in Kuwaiti waters.
 - U.S. attacks two Iranian oil platforms.
- April 1988
 - USS *Samuel B. Roberts* hits Iranian mine.
 - U.S. attacks Iranian oil platforms and naval vessels.
- July 1988
 - USS *Vincennes* downs Iranian airliner.
- August 1988
 - Iran and Iraq negotiate a cease-fire agreement.

Fig. 6—Persian Gulf chronology of events

THE OUTBREAK OF VIOLENCE

Two events in 1987 preceded the use of force by the United States against Iran. First, the USS *Stark* was attacked on 17 May by an Iraqi jet, killing 37 sailors on board. Second, on 24 July, a reflagged Kuwaiti tanker, the *Bridgeton*, struck an Iranian mine while being escorted by U.S. naval vessels. The attack on the *Stark* in May 1987 marked an end to the relative quiet enjoyed by U.S. forces in the Persian Gulf. The U.S. escort operations of reflagged Kuwaiti tankers began in July of that year, and for the next 14 months the fleet was periodically required to exercise force, either in self-defense or in support of national policy. A precarious cease-fire was worked out between Iran and Iraq in August 1988.

THE IRAQI ATTACK ON THE USS *STARK*

As we discussed in Section II, for rules of engagement to be pertinent to a specific scenario, the political objectives of that scenario should be well defined. The national

objectives under which naval forces in the Persian Gulf began operating after the start of the Iran-Iraq War were at best amorphous. This was still the case when the USS *Stark* was mistakenly attacked by an Iraqi jet on 17 May 1987. The *Stark* was operating under the *Peacetime Rules of Engagement*. As the press reported, "The American warship attacked by Iraq in the Persian Gulf was on a mission whose purpose has been only vaguely defined, and carried out by a fleet with military muscle held in check by peacetime rules of engagement."² The ROE allowed for self-defense once hostile intent had been determined. Unfortunately, the definition of *hostile intent* required the captain to exercise a great deal of judgment and did little to clear up the atmosphere of ambiguity. More important than what the ROE said was the underlying assumption that the Navy's role was basically to act as a peacekeeping force; as such, it was to be extremely circumspect in its exercise of force.

By the time the United States decided to reflag the Kuwaiti tankers, Iran was increasingly considered the primary threat in the Gulf by the NCA. Commanders had been told that their primary purpose in the Gulf was to provide regional stability and help keep the Gulf open until diplomatic efforts could bring an end to the war. Iran was threatening both regional stability and Gulf shipping. Under these conditions, Captain Brindel, the commanding officer of the *Stark*, interpreted the rules of engagement as being very restrictive. This understanding of the ROE, coupled with the belief that the Iraqis were "friendly" to the United States, resulted in an apparent defensive complacency. "I don't like to say it," Captain Brindel remarked, "but it may have been a matter of time before something like this happened."³

RULES OF ENGAGEMENT CHANGED

Although Pentagon officials declared that the rules of engagement "were sufficient for [Captain Brindel] to use" once "hostile intent toward him" had been demonstrated, the ROE were thoroughly reviewed and quickly changed.⁴ It became apparent to the

²John H. Cushman, Jr., "U.S. Fleet in Gulf: Mission Inscrutable," *The New York Times*, 19 May 1987, p. A10.

³John Kifner, "Stark's Captain Says Ship Failed to Detect Missiles," *The New York Times*, 21 May 1987, p. A18.

⁴Richard Halloran, "Why Didn't Stark Defend Herself? U.S. Awaits the Captain's Report," *The New York Times*, 19 May 1987, p. A10; see also John H. Cushman, Jr., "U.S. Widens Navy's Escort Role in Gulf War Zone Despite Attack on Ship," *The New York Times*, 20 May 1987, p. A12; and John H. Cushman, Jr., "Reagan Discusses Gulf Aims, But Not Navy Role," *The New York Times*, 30 May 1987, p. A1. W. Hays Parker noted that "the attack on the *Stark* is regarded as a failure to follow prescribed procedures rather than a failure of ROE. . . . However, the *Stark*

administration that the political price for reactive ROE was too high. The 37 lives lost aboard the *Stark* caused Congress and the public to question the administration's policies and objectives, as well as the capability of the Navy in meeting those objectives.

As the working environment became more clearly defined, the rules of engagement were also more clearly understood by those who had to use them. Naval commanders had previously been operating in a benign defensive posture, realizing that the outcry in the Arab world would have been enormous had they shot down a "friendly" Iraqi aircraft. When the Iraqi attack prodded a change in U.S. policy (from then on, all unidentified vessels or aircraft were considered hostile rather than merely suspicious), the ROE reflected this change by stressing anticipatory self-defense rather than reactive self-defense. Changes in the Navy's procedures following the *Stark* attack included mandatory "general quarters" when traversing the Strait of Hormuz or when approached in a manner suggesting attack.⁵ Additionally, the rules of engagement included the following changes:

- The definitions of *hostile intent* and *hostile act* were revised. Following the *Stark* incident, "hostile intent was defined as maneuvering by a ship or aircraft so that it could fire a missile, drop a bomb or use gunfire. A radar lock-on by a ship's fire control system was also defined to constitute hostile intent. The rules of engagement defined a 'hostile act' as one in which an aircraft, ship or land forces launch a missile, shoot a gun or drop a bomb."⁶ Before this change, the rules of engagement required that an accumulation of provocative actions to occur before an opposing unit could be declared to have shown hostile intent. This change said that *individual actions* could constitute hostile intent.
- Preemptive attacks were authorized. Although preemptive self-defense had been on the books, it had not been encouraged; now it was.
- Specific guidance was given on how to deal with impending attack from shore-based missile sites.

attack had a chilling effect on interpretation of ROE authority at the cutting edge." (Parker, "Righting the Rules," p. 93 n. 1.)

⁵John H. Cushman, Jr., "U.S. Navy Defense is on Hair Trigger on Escort in Gulf," *The New York Times*, 17 June 1987, p. A8.

⁶Richard Halloran, "Secret U.S. Army Unit Had Role in Raid in Gulf," *The New York Times*, 24 September 1987, p. A14.

In a report to Congress on 15 June 1987, Secretary Weinberger noted that the new Persian Gulf rules of engagement were based on established peacetime (defensive) ROE using supplemental rules specific to the Gulf situation. The rules included specific guidance for threats from aircraft, surface/subsurface vessels, and land-based weapons systems such as the Silkworm missile. As noted above, the most important changes were those clarifying the definitions of *hostile intent* and *hostile act*, encouraging preemptive self-defense.

The revised ROE also made clear that the on-scene commander had the authority to declare a threat hostile (that is, determine hostile intent and hostile action) and to engage it with all available forces. Having lowered the threshold of violence, the NCA attempted to limit rapid escalation (which would have ensured a loss of political control) by stressing the importance of using only proportional force.⁷ Any use of force beyond that necessary to counter the immediate threat or in response to a specific hostile act had to be approved by the NCA. This stipulation precluded extended engagements or pursuit of a platform once it was no longer an immediate threat. Inherent in any liberalization of ROE is acceptance of both a lower threshold of violence and an increased risk that someone will make a mistake.

The new rules of engagement allowed preemptive attacks on any ship, aircraft, or ground site (that is, Iranian Silkworm missile sites) operating in a threatening manner. These new rules were permitted for several reasons: U.S. forces had a legitimate self-defense justification; the new rules were overwhelmingly approved by the U.S. public; and the new *hair trigger* rules were announced to the world (that is, the belligerents were being forewarned).⁸ Along with the new set of rules came a new credibility for U.S. naval forces. Naval commanders operated with a new understanding about their ROE. President Reagan made clear that commanders were fully authorized to defend themselves.⁹ Another factor that dramatically altered the understanding of naval commanders was the punitive letter of reprimand given to Captain Brindel and his forced retirement for not defending his ship.¹⁰

That a significant number of naval commanders viewed the rules of engagement in effect at the time of the *Stark* incident as restrictive and reactive could be seen in their

⁷Navy Judge Advocate General briefing presented in September 1987 to a committee from the Naval War College. Copy in author's possession.

⁸Cushman, "U.S. Navy Defense is on Hair Trigger," p. A1.

⁹Cushman, "U.S. Widens Navy's Escort Role," p. A12.

¹⁰John H. Cushman, Jr., "Navy Forgoes Courts-Martial for Officers of *Stark*," *The New York Times*, 28 July 1987, p. A7.

reaction to revision efforts following the incident. Navy officers insisted that in revising the rules of engagement, "the main point is to insure that ship captains are authorized to shoot down hostile aircraft."¹¹ The implication was that they didn't feel they had sufficient authority before the *Stark* attack. As a matter of argument, the authority to shoot down hostile aircraft really didn't change. Navy captains had always had that authority. What changed were the formal criteria for determining whether an aircraft was hostile, the mindset that recognized an increased sense of danger, and the fate of the *Stark's* commanding officer in the attack's aftermath. Many, if not all, of the changes made were already being considered by Pentagon planners before the *Stark* incident.

The Iraqi attack on the *Stark* highlighted the risks of operating in the Gulf and thus sensitized the rules of engagement to the new danger. ROE were deliberately restrictive before the *Stark* attack in hopes of avoiding just the kind of escalation that eventually occurred. Although this reasoning makes political sense, the military risk is that a surprise attack will not effectively be countered.¹²

BRIDGETON MINE INCIDENT

During the very first escort operation of reflagged tankers, the merchant ship *Bridgeton* was struck by an Iranian mine. The *Stark* attack and the *Bridgeton* mine incident significantly raised the stakes for the United States in the Gulf. Warned by the chairman of the Joint Chiefs of Staff, Admiral Crowe, that escort operations could not be guaranteed to be "casualty-free, or that Iran [would] not escalate the sea war," the operations nevertheless proceeded under the revised rules of engagement.¹³ An unforeseen benefit of the mining incident was that other allies (namely Britain, France, and Italy) reversed past policy and sent naval forces into the Gulf to help protect their shipping.

The United States considered Iranian mining of the Gulf an indiscriminate act of terrorism. This position was generally supported by the rest of the international community. As such, the United States applied the same *accumulation of events* logic toward Iran that it had applied against Libya. People were again openly calling for

¹¹John H. Cushman, Jr., "U.S. Expecting to Send Larger Cruisers to Gulf," *The New York Times*, 31 May 1987, p. A6.

¹²Cushman, "U.S. Fleet in Gulf," p. A10.

¹³Elaine Sciolino, "Admiral Warns of U.S. Losses in Gulf Patrols," *The New York Times*, 6 June 1987, p. A1.

"retaliation" and "reprisals."¹⁴ Because reprisal is a political decision and not a military one, no appropriate military reaction occurred following the *Bridgeton* incident under the new rules of engagement. The NCA appeared comfortable with the revised rules and made no further changes to them following the incident.

U.S. FIGHTERS ATTACK IRANIAN FIGHTERS

On 8 August 1987, a navy F-14 fighter launched Sparrow missiles at one of two Iranian fighters that had taken chase on a navy P-3 reconnaissance aircraft. The Iranian F-4 fighters had disregarded warnings to steer clear of the P-3. No one was injured in the attack because the Iranian fighter was able to evade the missile and both aircraft returned to Bandar Abbas. The decision to fire was entirely the pilot's. Commenting on the incident, Secretary Weinberger reiterated "that the rules of engagement put the decision to shoot in the hands of Navy pilots and ship officers in the gulf."¹⁵ This incident was the first time U.S. forces had fired on Iranian forces since the overthrow of the Shah. It was also the first indication that the forces afloat sensed a change in the environment in which they were operating.

Although much polemic followed the *Stark* attack and *Bridgeton* mine incident, no military reaction had occurred. Therefore, this exchange was unexpected and newspaper reports indicated the F-14 attack could only be explained by the new "hair trigger rules of engagement."¹⁶ The Iranian fighters had closed the P-3 while flying low and fast and had failed to respond to warnings (under the new rules, both these actions were indications of hostile intent), however, they never turned on their target-acquisition radars, which would have been necessary to launch an attack. Whether the pilot would have launched a preemptive attack under the same circumstances before the *Stark* attack and operating under the former rules of engagement is open to question. Although I can't presume to speak for the pilot, operating in the more benign pre-*Stark* environment he would have simply intercepted and escorted the Iranian aircraft.

This incident demonstrated, as well as any, how delicate the balance is between crisis and conflict. Rules of engagement are the only mechanisms bridging that gap available to political and military leaders. Although ROE cannot resolve the dilemma

¹⁴Les Aspin, "Mine Iranian Waters," *The New York Times*, 27 August 1987, p. A27; and Stansfield Turner, "A Simple Way to Avoid Gulf Mines," *The New York Times*, 11 August 1987, p. A23.

¹⁵John H. Cushman, Jr., "Missile Attack: Pulling the Hair Trigger," *The New York Times*, 12 August 1987, p. A3.

¹⁶Cushman, "Missile Attack," p. A3.

between action and reaction, they weigh the risks and establish the balance. They also limit, in a significant way, how far such actions may go once the threshold has been crossed. In the Gulf case, the political fallout of the *Stark* casualties probably exceeded any political price the NCA felt would be exacted as a result of an anticipatory self-defense attack. This belief was partially substantiated when, using the liberalized rules of engagement, the USS *Vincennes* shot down the Iranian airliner.

WARNING SHOTS FIRED

The danger of killing innocent people was just as real on the water as it was in the air. Because mines can be laid by virtually any small craft, every dhow in the vicinity of U.S. vessels became suspect. Under the rules of engagement, every boat, ship, and aircraft placing itself in a position that could threaten U.S. forces or U.S.-flagged vessels was given warnings to clear the area. Unfortunately, many small dhows were not equipped with any communication equipment. When radio warnings failed to turn these small boats away from threatening courses, other means of warning them had to be used. Often the only alternative was to fire warning shots across their bow. On 24 August 1987, the USS *Kidd* fired machine-gun bursts across the bows of two unidentified sailing vessels after they ignored radio warnings and closed to within two-and-a-half miles of four reflagged Kuwaiti tankers. The vessels turned away.¹⁷

Events did not proceed as smoothly two months later. On 2 November, a frigate, the USS *Carr*, opened fire on a suspected Iranian patrol boat. Ignoring both radio challenges and warning shots, the boat sped toward a U.S. tanker, closing to within 500 yards. The decision to open fire, even though "the approaching boat did not fire at the American ships," was made because the boat was making "an apparently hostile run" toward the U.S. tanker.¹⁸ The boat and two accompanying vessels quickly turned away and departed the area. The boats turned out to be United Arab Emirates' fishing vessels. An Indian fisherman on board the lead boat was killed in the incident.¹⁹

Although the new rules of engagement played a major role in this unfortunate attack, like the earlier F-14 attack they were not the only factors. This incident took place at night (which meant the fishing boats may not have been able to see the warning shots); poor visibility hampered the frigate from being able to get a ready identification of the

¹⁷"5 Months of Gulf Clashes," *The New York Times*, 9 October 1987, p. A8

¹⁸Roberto Suro, "U.S. Frigate Fires on Boat Moving Near Gulf Tanker," *The New York Times*, 3 November 1987, p. A3.

¹⁹"U.S. Regrets Death of Fisherman in Gulf," *The New York Times*, 5 November 1987, p. A3.

vessels (which might have precluded the attack); and, the underlying factor was the political climate in the Gulf. Had these vessels approached U.S. ships in another part of the world, even under the same rules of engagement, shots would not have been fired. That tanker attacks by small boats were commonplace in the Gulf colored the interpretation given to unfolding events. Less than a month before, Iranian patrol boats had fired on a patrolling U.S. helicopter (see below). And two weeks before, the professional fate of the officers aboard the *Stark* had been determined. A failure to protect a tanker under their charge would have undoubtedly resulted in similar fates for those aboard the *Carr*.

THE *IRAN AJR* INCIDENT

When the *Bridgeton* was hit by a mine, it underscored the serious threat mines posed to international shipping and U.S. naval forces. The rules of engagement reflected U.S. concern by defining minelaying as a hostile act. As such, anyone caught in the act of mining was subject to immediate attack as a matter of self-defense. As explained by the U.S. task force commander, Admiral Harold Bensen, the *Iran Ajr* "committed a hostile act by laying mines in an anchorage used by American warships."²⁰

Suspecting the *Iran Ajr* might be carrying mines, U.S. naval forces kept the vessel under surveillance after it departed port. During the night of 21 September 1987, army helicopters with night vision equipment witnessed the *Iran Ajr* laying mines. Given permission to attack by the local naval commander, Admiral Bensen—and in accordance with the ROE—they fired rockets and machine guns at the *Iran Ajr*, killing three Iranians and wounding four. The ship was later captured with mines and 26 sailors on board.²¹

Four days after the *Iran Ajr* was captured, the United States blew it up and sank it. Secretary Weinberger, in the Gulf on a tour, gave the order, stating, "We are going to destroy that ship. . . . We are not going to let that ship go back and do it again."²² He continued to stress "that the United States would not hesitate to attack again if it discovered more ships laying mines."²³ Pressure was mounting against the administration to demonstrate even more forcefully U.S. displeasure with Iran. Ever

²⁰Halloran, "Secret U.S. Army Unit," p. A14.

²¹Richard Halloran, "26 Iranians Seized With Mine Vessel; More U.S. Shooting," *The New York Times*, 23 September 1987, p. A1.

²²John Kifner, "United States Blows Up Captured Iranian Vessel," *The New York Times*, 26 September 1987, p. A5.

²³John H. Cushman, Jr., "Chairman of Joint Chiefs Admits U.S. Underestimated Mine Danger in Gulf," *The New York Times*, 30 September 1987, p. A10.

since the *Bridgeton* struck a mine, influential people had urged the administration to retaliate.²⁴ Following the capture of the *Iran Ajr*, the pressure for more forceful action continued to mount.

U.S. HELICOPTERS ATTACK IRANIAN SPEEDBOATS

On 8 October 1987, U.S. military helicopters fired on four Iranian speedboats, sinking three of them and killing at least two Iranians. The helicopters attacked in response to a call for assistance after one of the speedboats opened fire on a patrolling helicopter. A Pentagon spokesman declared, "The firing on the U.S. helicopter was clearly a hostile act. The helicopter crews fired in self-defense."²⁵

An interesting point about this attack is that the attacked helicopter was not hit. It could have simply flown away from the scene and out of danger. Instead, Commander, Middle East Forces, designated the speedboats hostile and ordered helicopter gunships to attack. Although allowed under the ROE, the attack was certainly not compelled by them. In fact, ROE never compel the use of force—they simply authorize it under certain circumstances. The growing tension between Iran and the United States appears to have been the determining factor in ordering the counterattack. As much as anything else, this attack was launched as a signal to demonstrate to Iran that it could not attack U.S. forces with impunity. This particular incident is of interest because the decision to send a foreign government a signal is normally political. In this case, the local naval commander sent the signal using the autonomy granted by the ROE.

MISSILE ATTACK ON THE SEA ISLE CITY

When the U.S.-registered tanker *Sea Isle City* was struck by an Iranian land-based missile while at anchor in Kuwaiti territorial waters on 16 October 1987, the pressure for reprisal became almost coercive.²⁶ Senator Sam Nunn declared, "[The Iranians] are subjecting themselves to possible and probable retaliation."²⁷ Three days after the

²⁴Turner, p. A23; and Aspin, "Mine Iranian Waters," p. A27. Representative Aspin declared, "Retaliation is the course we should follow."

²⁵John H. Cushman, Jr., "U.S. Says Copters Answering Shots," *The New York Times*, 9 October 1987, p. A1.

²⁶R. W. Apple, Jr., "A Dilemma For Reagan: Without a Reprisal, He Might Lose Face," *The New York Times*, 17 October 1987, p. A5.

²⁷John H. Cushman, Jr., "U.S. Weighs Response to Ship Attack in Gulf," *The New York Times*, 20 October 1987, p. A11.

missile attack, the United States shelled two offshore platforms in what Secretary Weinberger called "a measured and appropriate response."²⁸

When announcing the attack, President Reagan used the logic of reprisal but the justification of self-defense. His official statement declared, "It is a prudent yet restrained response to this unlawful use of force against the United States and to numerous violations of the rights of other nonbelligerents. It is a lawful exercise of the right of self-defense enshrined in Article 51 of the United Nations Charter and is being so notified to the president of the United Nations Security Council."²⁹

MILITARY ACTIONS MEANT AS SIGNALS

All administration and DoD officials stressed that the 19 October action was meant to send a *signal* to the Iranian government, although few officials expressed optimism that the message would get through.³⁰ With this response, the U.S. seemed to have expanded the signalling nature of reprisal. "Retaliatory acts are designed: (1) to enforce obedience to international law by discouraging further illegal conduct; (2) to compel a change in policy by the delinquent state; and (3) to force a settlement of a dispute with the delinquent state whose actions breached international law."³¹ Nobody could argue that the limited attacks the United States mounted could "enforce obedience," "compel a change," or "force a settlement." They were meant solely to convey a signal of intent. Administration officials repeatedly asserted that the matter was considered closed following the attack. The attempt was to avoid escalation by publicly acknowledging the engagement's limited nature and its purpose.

The response to the *Sea Isle City* incident confirmed a new Reagan-Shultz doctrine that I call *defensive reprisal*. The rules of engagement for carrying out this doctrine are unique since ROE must be contained entirely within the body of domestic and international law. Without question, normal peacetime self-defense ROE fall within international limitations on the use of force. Reprisal ROE, however, use concepts embodied in the law of armed conflict (see Figure 7). Wartime ROE are much smaller than peacetime ROE. This fact should be expected since war involves an almost unlimited use of force. Tenets of the law of armed conflict are not normally applicable

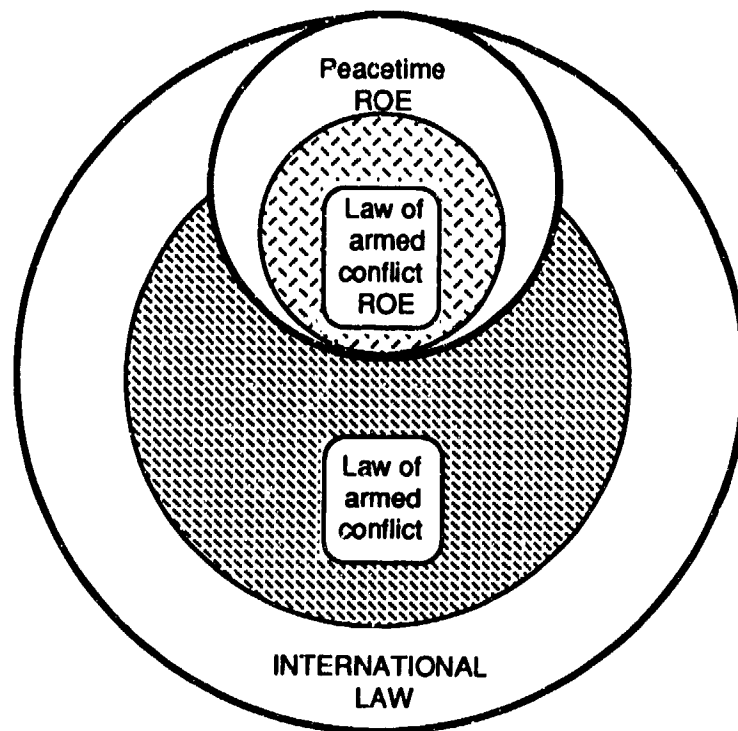
²⁸"Weinberger Statement on U.S. Attack in Gulf," *The New York Times*, 20 October 1987, p. A11.

²⁹"Text of Reagan Statement," *International Herald Tribune*, 20 October 1987, p. 7.

³⁰Steven B. Roberts, "U.S. Ships Shell Iran Installation In Gulf Reprisal," *The New York Times*, 20 October 1987, p. A10.

³¹Guy B. Roberts, p. 281.

during peacetime. Until defensive reprisal is an accepted legal action, rules governing its employment must be drafted with extreme care. The sole purpose for defensive reprisal is to prevent future illegal acts by signalling intent and resolution. And defensive reprisal must adhere to the following rules: The target state must have broken international law against the attacking state; the attacking state must have attempted to obtain redress, protection, or cessation of illegal acts through peaceful means; and, the attacking state must use proportionate force in reprisal.



NOTE: ROE = rules of engagement.

Fig. 7—Relationship between Law of Armed Conflict and ROE

The United States continued to seek international sanctions against Iran throughout the Iran-Iraq War. It also sought to gain international and public support for its policies. The U.S. position (stated clearly and often) was that it would not allow international shipping to be threatened. If Iranian attacks against shipping had halted, U.S. reprisals would not have been necessary. Evidence does not suggest that the United States was looking to provoke a conflict with Iran. The reason reprisals were not carried out against

Iraq after its attack on the *Stark* was the absence of an accumulation of events indicating that other such attacks had occurred; therefore, no future threat could be proved.

Many people believed that the 19 October attack would backfire and stimulate increased Iranian activity. To deter this eventuality, Secretary Weinberger suggested several days after the attack "that Navy warships might protect vessels in the Gulf other than the 11 re-registered Kuwaiti tankers they are already escorting."³² The other vessels were to include U.S.-owned but foreign-registered ships operating in the Gulf. Weinberger cited "historical" policy for ships of one nation helping ships of other nations in distress.

As a side note, signals do not always require force in order to be transmitted. In fact, methods short of force, like posturing and threatening, are much preferred. As mentioned in Section II, these forms of self-help are called retorsion. Retorsion consists of legal actions that nonetheless have retaliatory or coercive purposes. "Showing the flag" is a simple form of retorsion. When Ugandan dictator Idi Amin refused to allow U.S. citizens to leave his country in February 1977, the USS *Enterprise* was positioned off the East African coast. Amin placed his armed forces on 24-hour alert and stated, "The presence of American naval vessels . . . should be taken seriously." No other U.S. effort was required. Amin rescinded his order and allowed U.S. citizens to depart without further interference.³³

REPRISAL FOR THE USS SAMUEL B. ROBERTS MINE INCIDENT

After several months of relative calm in the Gulf, the USS *Samuel B. Roberts* struck a mine on 14 April 1988 while on patrol, severely damaging the ship.³⁴ Other mines were found in the area and evidence showed that they had been recently laid.³⁵ Four days later, the United States again attacked Iranian oil platforms and naval vessels in response.³⁶ This operation substantiated two important points: ROE can be effective in

³²"U.S. May Protect Others," *The New York Times*, 24 October 1987, p. A3.

³³Michael T. Kaufman, "Amin Prohibits Exit by 200 Americans; Bids Them Meet Him," *The New York Times*, 26 February 1977, p. A1; and "Uganda Invites U.S. to Send Observers for Amin's Meeting," *The New York Times*, 28 February 1977, p. A1. I was on board the *Enterprise* at the time.

³⁴John H. Cushman, Jr., "Blast Damages U.S. Frigate in Gulf," *The New York Times*, 15 April 1988, p. A3.

³⁵John H. Cushman, Jr., "U.S. Finds 2 Mines Where Ship Was Damaged," *The New York Times*, 16 April 1988, p. A32.

³⁶John H. Cushman, Jr., "U.S. Strikes 2 Iranian Oil Rigs and Hits 6 Warships in Battles Over Mining Sea Lanes in Gulf," *The New York Times*, 19 April 1988, p. A1.

controlling escalation, but to do so, reliable command and control systems must be in place.

This action in the Gulf has been described as the largest U.S. sea battle since World War II; the United States once again justified its actions on the grounds of self-defense. Although the United States felt compelled to make a stronger response (that is, to send a clearer signal of intent to Iran), it nonetheless hoped to contain Iranian reaction. The situation escalated more quickly than anticipated. Secretary Weinberger had earlier promised "stronger countermeasures" if the Iranians persisted in their actions. The inclusion of an attack on an Iranian frigate along with selected offshore platforms was meant to send that stronger signal. In line with the rules of engagement, all *offensive* actions (as opposed to defensive ones) had to be cleared by higher authority. In the case of the attack on the Iranian frigate, President Reagan personally approved the operation.³⁷

This episode demonstrated the absolute necessity of having reliable command and control arrangements if operations are to proceed effectively under restrictive rules of engagement during an extremely volatile crisis. As was reported in the press, navy pilots in the Gulf "sought permission" to attack Iranian naval forces that threatened "oil rigs and vessels" in the Gulf, some of which were believed to have U.S. citizens working on board. Their request was relayed from Commander, Joint Task Force Middle East (CJTTFME), who was afloat in the Gulf, to Commander, U.S. Central Command in Florida. COMUSCENTCOM relayed the request to the Joint Chiefs of Staff and the secretary of defense who, in turn, contacted the president's national security advisor. The national security advisor immediately received approval, which was then communicated back to the fleet via the same channels. "The President's approval, relayed back to the fleet and Navy pilots within minutes, was needed because the craft were *not* directly threatening American forces so that their destruction represented an expansion of military intervention."³⁸ The same lines of communication (see Figure 8) were used by Secretary of Defense Frank Carlucci to prevent naval forces from sinking a second Iranian frigate.³⁹ During the course of the day, this chain of command was used effectively to expand and restrict the ROE in order to control escalation.

³⁷John H. Cushman, Jr., "President Gave Permission For Attack on Iranian Ships," *The New York Times*, 22 April 1988, p. A8.

³⁸Cushman, "President Gave Permission," p. A8.

³⁹Cushman, "President Gave Permission," p. A8.

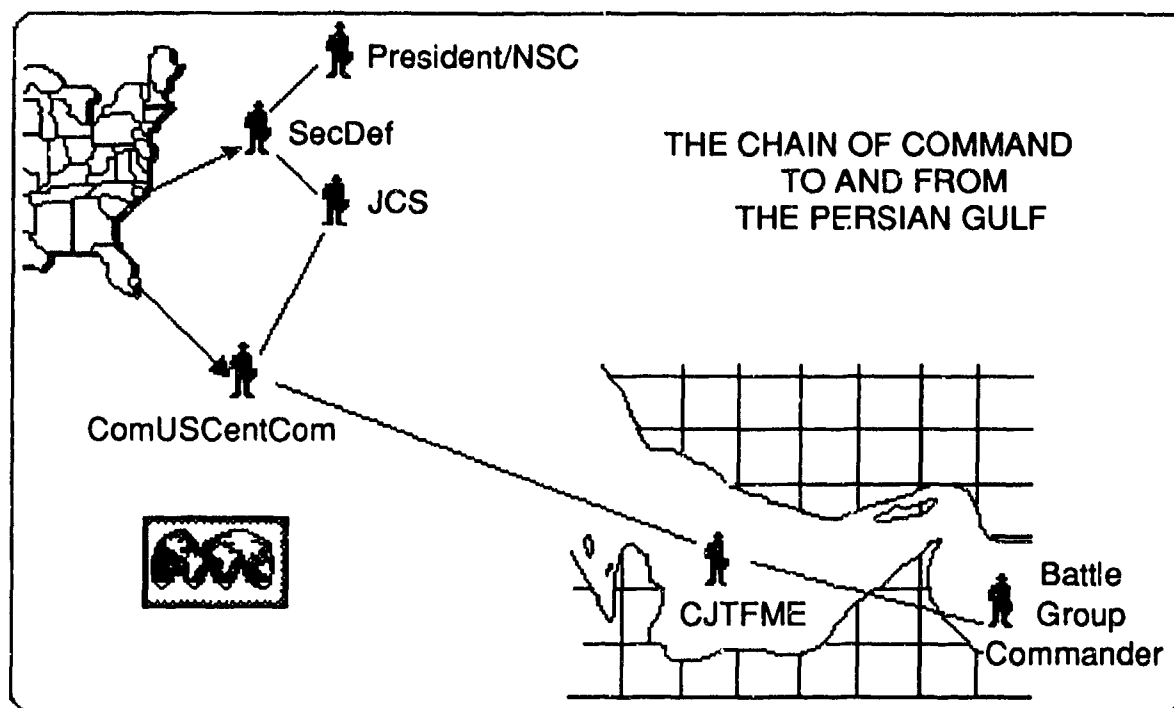


Fig. 8—Chain of command to and from the Persian Gulf

EXPANDED ROE INCREASED NAVY AUTONOMY

Four days after this limited conflict, the Reagan administration broadened the rules of engagement even further to allow naval commanders to decide when to come to the aid of neutral shipping. Although not publicly detailing the changes, "administration officials said the rules would permit United States warships to protect American-owned vessels sailing in the gulf under foreign flags. And they would allow American commanders to protect ships from friendly countries that do not now qualify for protection."⁴⁰

The reason for the change in the ROE, especially in light of the recent engagement, was explained by Representative Les Aspin: "Last year it became known that we would only protect American-flag shipping and do nothing to intervene to stop an attack on a foreign-flag vessel even if it were attacked right under our noses. When Iran

⁴⁰Robert Pear, "U.S. Will Increase Its Gulf Defense of Merchant Ships," *The New York Times*, 23 April 1988, p. A1 and 7.

learned that, it began attacking foreign-flag ships right under our noses."⁴¹ Perhaps the most important aspect of this policy decision was its widespread publicity. It was meant to telegraph firm intentions to the Iranians. Even though the ROE were not publicly detailed, their basic limitations were clearly understood by the press. Although ROE tend to be shrouded in secrecy, making public basic policy decisions that govern them has real benefit, on occasion.

According to Secretary Carlucci, the new rules of engagement applied to "friendly, innocent, neutral vessels, flying a nonbelligerent flag outside declared war exclusion zones, that are not carrying contraband or resisting legitimate visit and search by a Persian Gulf belligerent."⁴² One additional requirement necessary to obtaining U.S. assistance was that it had to be requested—naval commanders could not volunteer assistance.

USS VINCENNES' DOWNING OF IRANIAN AIRLINER

Four months after the U.S. response to the USS *Samuel B. Roberts* incident, the USS *Vincennes* shot down an Iranian airliner it believed to be an attacking Iranian F-14. All 290 people on board the airliner were killed. Blaming the "hair trigger" rules of engagement for this tragedy would be inaccurate, although they certainly played a role. The *Vincennes* entered the Gulf approximately a month after the *Roberts* struck a mine; thus, it operated under all the expanded rules of engagement that had been put in place since the *Stark* incident. Less than a year had passed since the *Stark* had been attacked and her captain relieved for inaction.

The differences between the two tragedies (inaction on the one hand and preemptive action on the other) bound the narrow range of action within which the rules of engagement must be employed. As we discussed earlier, these differences form a dilemma that must be kept in perspective by those drafting, issuing, and implementing ROE. To set the stage upon which this tragedy was acted out, a brief review of the *Vincennes'* operating environment might help.

To ensure that another *Stark* tragedy did not occur, the JCS had made the following changes: The rules of engagement were changed to encourage anticipatory self-defense; the definitions of *hostile intent* and *hostile act* were revised; all aircraft and ships were now considered potentially hostile; and all neutral and friendly shipping

⁴¹Pear, p. A1 and 7.

⁴²John H. Cushman, Jr., "U.S. Expands Protection in Gulf to Any Neutral Vessels Attacked," *The New York Times*, 30 April 1988, p. A3.

became eligible for U.S. assistance. Adding to the tense environment were the following factors: Over a half a dozen times during the previous year, U.S. military assets resorted to the use of force; Iranian attacks on shipping had not ceased; and Iranian F-14s had moved to Bandar Abbas, on the Gulf, for the first time in the recent past.

If these conditions were not an explosive enough mix, at the time the *Vincennes* shot down the airliner it was engaged in a firefight with well armed and extremely maneuverable Iranian patrol boats. To unmask its weapons systems, the *Vincennes* was executing high-speed, radical turns. The decision time available for the *Vincennes'* captain was approximately seven minutes. Unfortunately, he was given inaccurate information about the aircraft's flight profile precisely at the critical decision point. The investigating officer, Rear Admiral William Fogarty, determined that the captain acted prudently given the imbroglio with which he was faced.⁴³

In commenting on Admiral Fogarty's findings, Admiral Crowe noted:

As a result of the STARK incident, our commanders were given a revised set of ROEs which clarified their authority to take positive protective measures when hostile intent was manifested. It was emphasized that they do not have to be shot at before responding and that they have an unambiguous responsibility to protect their units and people. . . . Upon arrival in the region every unit, including VINCENNES, was briefed on our past experience, the current ROE, and most recent intelligence. . . . They have been impressed with their responsibility to defend themselves in a forehanded manner. Those thoughts are constantly on the minds of every commander and crew serving in the Gulf. . . . It is my view that, understanding the entire context, reasonable minds will conclude that the Commanding Officer did what his nation expected of him in the defense of his ship and crew.⁴⁴

The larger question concerning this incident is whether rules of engagement made the significant difference in the decision to use force to deal with the presumed threat. They probably did not; the hostile environment and the ongoing firefight played as significant a role in the decision as did the rules of engagement.

⁴³William M. Fogarty, letter dated 28 July 1988. "Formal Investigation into the Circumstances Surrounding the Downing of a Commercial Airliner by the USS Vincennes on 3 July 1988."

⁴⁴William J. Crowe, Jr., 18 August 1988, "Second Endorsement on Rear Admiral Fogarty's Formal Investigation into the Circumstances Surrounding the Downing of Iran Air Flight 655 on 3 July 1988," letter dated 18 August 1988, p. 1.

LESSONS LEARNED

Several lessons were learned during the Gulf crisis by both military and political leaders that deserve reiteration. First, policy drives ROE, not vice versa. A lack of policy or an unclear policy during a crisis almost guarantees disaster. Second, ROE can significantly raise or lower the threshold of violence. Third, ROE can effectively be tailored to a particular crisis given sufficient time. Fourth, effective and reliable command and control systems are a necessity if civilian control is to be maintained. Fifth, ROE don't supply all the answers about how to manage crisis. And, finally, for just legal officers or ROE custodians (those junior officers who have custody of the ROE manuals) to know the rules of engagement is not enough. Every commanding officer, executive officer, tactical action officer, and officer of the deck must have a working knowledge of them. Battle groups operating in the Persian Gulf held regular ROE training before, enroute, and while deployed there. The training regimen included frequent scenario testing of the ROE.

IV. CONCLUSIONS

In a world in which crises appear to be increasingly volatile, managing conflict will continue to be an important area of focus for national political leaders. Because the Navy will likely continue to be the service of choice in bringing to bear the might of the United States in these situations, leaders must understand the catalytic nature of naval presence. The actions of naval forces will either bring order or escalation. One tool available to the NCA for controlling the direction of naval actions during crisis is a concise set of rules of engagement.

MAKING IT ALL WORK

"The conduct of operations in tension situations," writes Professor O'Connell, "always involves a nice balance of threat and counter-threat on the part of both sides, and the main purpose of rules of engagement is to prevent that balance being disturbed by the thrusting of apparent necessity of self-defense too obviously upon one player rather than upon the other."¹ Any number of things outside the range of ROE control can change the balance. When the balance is disturbed, the purpose of ROE changes. Making the transition across the threshold from crisis to conflict is the most important period for political leaders to control. To help facilitate a controlled transition across the threshold, at least three requirements must be met. First, political objectives must be clearly defined. Second, ROE must be preplanned and well thought out. Finally, ROE must be exercised regularly.

The Importance of Policy

Rules of engagement attempt to maintain a balance between the competing requirements of policy and self-defense. ROE do not establish policy, nor do they dictate the exigencies of self-defense. During a crisis, policy often requires a force to position itself in areas that make it vulnerable to surprise attack. Political leaders must weigh the risks associated with the insertion of forces and determine whether the benefits outweigh the liabilities.

They must also weigh the consequences of defensive doctrine. Potentially fatal hazards are associated with a deliberately insensitive set of ROE that requires taking the first volley (for example, don't fire unless fired upon); equally risky consequences are

¹O'Connell, *Influence of Law*, p. 180.

associated with sensitive rules that allow preemptive attacks. The important point is that these are primarily political, not military, decisions. When policy direction is either lacking or unclear, as it was when the *Stark* was attacked, the responsibility for determining policy falls, by default, on the shoulders of the on-scene commander. The situation was even worse in Lebanon when political leaders attempted to establish policy by using ROE. ROE reflect policy; they do not establish it.

The Importance of Planning

Once policy has been established, all other difficulties associated with civilian control and military command are more easily handled. By establishing rules of engagement based on a clear policy, both the NCA and tactical commanders operate with a greater degree of confidence. As Professor O'Connell asserted, "The tactical commander who is confident about his rules and does not require to ponder over them in an emergency is likely to have the advantage over one who is not; and the naval staff which employs every intellectual resource to lay down the rules is the more likely to achieve the political goal."²

The more in-depth the planning, the better the resulting rules of engagement. Contingency planning is particularly important. Because crisis situations develop rapidly, preplanned rules of engagement, with graduated responses, must be in the hands of and understood by naval commanders *before* their insertion into a crisis.

Currently, rules of engagement stressing command by negation are most common. As crises escalate, the need increases for rules of engagement that stress positive command. For this arrangement to be effective, as it was during most of the prolonged Gulf crisis, three conditions must be met at the NCA level: The NCA must have at their disposal full data on existing and programmed rules of engagement; specialized officers (international law and tactical experts) must be available to help them identify appropriate modifications to the rules; and, timely and reliable communication links must be available between them and the on-scene commander. From a military perspective, "ROEs work best when based on information shared by those making them and those expected to obey them."³

²O'Connell, *Influence of Law*, p. 81.

³Crews, p. 121.

The Importance of Training

What may appear to be clear on paper may not be clear when put to the test in the heat of battle. Scenario-driven training enables leaders to realistically test both the ROE and the men who implement them. As Thomas Schelling noted,

Practice will generate familiarity with the kinds of issues that will dominate the event, the kinds of questions that will arise, and the kinds of constraints that must be anticipated. Practice can produce both experienced human beings and checklists and reminders. Practice will help to discover what kinds of decisions may have to be made ahead of time and what can be held till the last moment; practice can help to determine what decisions have to be delegated and what decisions should be held by the president. Practice will enhance everyone's appreciation of how military needs in the field must be synchronized, coordinated, and compromised with diplomatic necessity—especially U.S.-Soviet diplomacy—and domestic management.⁴

While navy personnel are deployed, this training can best be simulated by placing restrictions on response time to hypothetical scenarios generated by the battle group commander's staff. Ashore, this training can effectively be incorporated into war games and simulations.⁵ The need for such stress testing became evident during the *Vincennes'* firefight with the Iranians, which resulted in the tragic loss of a civilian airliner. Representative Les Aspin commented,

Despite all the training that the crew of the *Vincennes'* received, the reality of battle was something new and nerve-racking. . . . One officer who was prompted by the computer to 'select weapon system' as the countdown to the destruction of the Airbus began, hit the wrong buttons five times before he realized that he was supposed to select a weapon. And we also know that another member of the *Vincennes'* crew was so agitated that he got ahead of the firing sequence and pushed another button 23 times before it was an appropriate part of the procedure.

Commenting on the climate in the combat information center aboard the USS *Vincennes* during the crucial moments before it shot down the airliner, Representative Aspin declared, "The type of engagement faced by the *Vincennes* should not be viewed

⁴Thomas C. Schelling, "The Role of War Games and Exercises," in Ashton B. Carter, et al., *Managing Nuclear Operations* (Washington, D.C.: The Brookings Institution, 1987), p. 432.

⁵Les Aspin, "Navy Can't Afford to Stumble and Fumble Its Way Into Battle," *The Los Angeles Times*, 28 December 1988, p. II 7.

as atypical and exceptional. It may tell us a great deal of what we need to prepare for in future confrontations.⁶

ROE ARE NOT THE TOTAL ANSWER

In the final analysis, ROE are not the total answer to managing either crisis or conflict. Although precisely crafted rules can help eliminate unexpected consequences, merely having well-written rules does not guarantee the judicious use of force. ROE cannot be divorced from the environment in which they are to be used, nor from the biases of those who use them. As Schelling wrote:

- People have to interpret messages they did not write.
- People must look for patterns in a set of actions that they did not compose.
- People must infer the intent behind decisions to whose intent they have no access.
- People must predict what must be coming next, given what has come.
- People must read meanings in a set of actions that probably included meanings that were intended to be read.
- People must be alert to the significance of the messages they did not receive.

All this must be done in an environment in which messages may go astray or be garbled or be received in other than the intended order, in which there may be intent to deceive and to surprise as well as to clarify and reassure, in which actions will speak louder than words but some of the messages will be verbal, and in which the sender of the messages has a severely limited understanding of the "grammar" that the interpreter of the the signals will use to decode them.⁷

The critical personal, environmental, and systemic factors that generate the fog of crisis must be identified and understood. Combined, these areas provide the framework for crisis management that promises the best hope for avoiding or controlling conflict. ROE provide only a part of this picture. As Hays Parker concluded, "ROE are intended to assist the individual faced with a potential threat in deciding whether or not an armed response is necessary; no amount of rules can substitute for the judgment of that individual, and ROE are not intended to do so."⁸

⁶Les Aspin, "Statement of Chairman Les Aspin of the House Armed Services Committee on the Fogarty Report on the Shootdown of Iran Flight 655," 19 August 1988.

⁷Schelling, p. 435.

⁸Parker, "Righting the Rules," p. 93.

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