

USAWC STRATEGY RESEARCH PROJECT

**QUESTIONING THE RELEVANCY OF MILITARY
CORRECTIONS-SHOULD THE DEPARTMENT
OF DEFENSE BE IN THE PRISON BUSINESS?**

by

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This SRP is submitted in partial fulfillment of the requirements of the Master of Strategic Studies Degree. The views expressed in this student academic research paper are those of the author and do not reflect the official policy or position of the Department of the Army, Department of Defense, or the U.S. Government.

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ABSTRACT

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In the summer of 2003, the Honorable Thomas White, Secretary of the Army, made a decision to outsource long-term military corrections. Secretary White cited as a principal reason for his decision his belief that corrections is not an Army core competency nor is it an inherently governmental function. Currently, the Department of the Army is reexamining this decision, however, lack of agreement within the Army regarding identification of Army core competencies obstruct problem analysis. This paper examines the argument for and against outsourcing, and concludes that outsourcing military corrections is not in the government's best interest when examined through operational, economic, social, and cultural lenses.

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QUESTIONING THE RELEVANCY OF MILITARY CORRECTIONS-SHOULD THE DEPARTMENT OF DEFENSE BE IN THE PRISON BUSINESS?

In the summer of 2002, Secretary of the Army Thomas E. White determined that running military prisons was not a core competency of the United States Army. Immediately following this decision, the Army entered into negotiations with the Federal Bureau of Prisons to transfer this mission. This decision clearly supported Secretary White's agenda to compete, privatize, or eliminate products or services where it made sense, free up resources for the global war on terrorism and divert freed resources to support Army core competencies.¹ Following the decision, however, key members of the Army, Joint, and Service staffs voiced their opposition to the outsourcing plan. Some opponents believed that corrections is a core competency (or an essential capability), others believed that the initiative would result in higher costs, and still others were concerned that outsourcing corrections would adversely affect current and future operations. Currently, the Department of the Army is reexamining this decision, however, lack of agreement regarding the definition of the Army's core competencies obstruct problem analysis. This paper examines the argument for and against outsourcing corrections, and concludes that corrections is an essential capability of the Army derived from analysis of military police core competencies, and that outsourcing military corrections is not in the government's best interest when examined through operational, economic, and cultural lenses.

WHY OUTSOURCE?

Many political and defense department leaders believe that functions that are not inherently governmental should be outsourced to (1) free the military from tasks that could be performed by the private sector or other government agencies and (2) to promote market competition, thus ensuring high quality goods and services at the best possible price. This is not a new concept. In fact, in 1955 the Eisenhower administration published the Bureau of Budget Bulletin 55-4 which stated that, "the Federal government will not start or carry out any commercial activity to provide a service or product for its own use if such a product or service can be procured from private enterprise through ordinary business channels."² Since then, a common public policy theme has been if the private sector *could* do the job, then it *should* do the job. In 1966 under the Johnson administration, the Bureau of Budget (later the Office of Management and Budget) published OMB Circular A-76, which required federal agencies to transfer activities to the public sectors, when such transfer would save money. The last and current presidential administrations have also encouraged outsourcing as a means of eliminating unnecessary bureaucracy, and saving money. For example, the Clinton

administration created established a blueprint for adopting best business practices with the 1997 Defense Reform Initiative, and the Bush administration outlined the modernization of the Department of Defense along business lines in the 2001 Quadrennial Defense Report.³ And, in President Bush 's *President's Management Agenda* (PMA), he identified competitive sourcing as one of the five components of a necessary move towards a more entrepreneurial government. The goal of the PMA is to "simplify and improve the procedures for evaluating public and private sources, to better publicize the activities subject to competition, and to ensure senior level agency attention to the promotion of competition."⁴

On 4 October 2002, Secretary White directed Department of the Army principal officials to develop competition and privatization implementation plans. These plans were to outline how all non-core competencies, which he referred to as non-core functions, would be "competed" using a public-private completion process, using either the process outlined in OMB Circular A-76 or other methods permitted by law. This review was referred to as the "Third Wave," as it was the third such review of its type. He believed that competitive sourcing, transfer of responsibilities to other agencies, and divestiture would (1) to free up military manpower and resources for the global war on terrorism, (2) enable Army leaders to focus on the Army's core competencies by obtaining non-core products and services from the private sector to, and (3) support the PMA.⁵ Secretary White was not alone in his desire to outsource where appropriate. Secretary of Defense Donald Rumsfeld, a leading proponent for outsourcing stated in his remarks at the DOD Acquisition and Logistics Excellence Week Kickoff on September 10th, 2001, "Some [SIC] needs, especially where they may involve general practice or specialties unrelated to combat, might be more efficiently delivered by the private sector."⁶ Within the Army some senior leaders viewed outsourcing as a way to increase combat power while staying within congressionally mandated end-strength limits by freeing up spaces through outsourcing. For example, in providing planning guidance for the 2011 Total Army Analysis, former Army Chief of Staff General Eric Shinseki, established a Logistics Transformation Task Force (LTF) goal of outsourcing 60 percent of logistic support at echelons above Corps. The military spaces freed up by outsourcing these functions could then be applied to higher priority requirements.⁷

Why were both Secretary Rumsfeld and Secretary White such staunch supporters of outsourcing? A look at their biographies reveals a strong background in the private sector which has likely reinforced their desire to "move out smartly" toward adopting successful commercial practices. Secretary Rumsfeld served very successfully as Chief Executive Officer, President, and then Chairman of G.D. Searle & Co., Chairman and Chief Executive Officer of General Instrument Corporation, and Chairman of the Board of Gilead Sciences, Inc. Secretary

White, served as Chief Executive Officer for Enron Operations Corporation. What works in the private sector, however, may not adapt as well in the government sector. Critics point out that outsourcing government activities may compromise DOD's ability to protect its national security mission. One example of where the use of outsourcing has been questioned is the Navy's decision to privatize weapons handling at a half dozen military bases. Critics believe that (1) safety is being compromised, since private contractors cannot always subject their workers to the same level of education and training as federal workers; (2) the threat of strikes and work stoppages, prohibited by federal workers, could damage the military's operational capabilities; (3) federal workers take oaths to uphold the national interest, while private contractors do not; and (4) costs and efficiency will govern contractor business decisions, potentially replacing loyal, experienced, and higher paid federal workers with disloyal, inexperienced, and lesser-paid contract workers.⁸

These challenges aside, outsourcing *can and has* served the Department of Defense well in many cases, whether one considers the successful Military Housing Privatization Initiative which improved quality of housing for soldiers world-wide, or the rapid, off-the-shelf logistic support being provided by contractors for current operations in Iraq. Striking the proper balance between the public and private sector provision of services requires a thorough analysis of not only efficiencies to be gained, but operational and cultural impacts to the organization.

THE PROPOSAL TO OUTSOURCE CORRECTIONS

In March of 2002, Mr. John MacDonald, then Deputy Undersecretary of the Army directed a proposal to outsource corrections be submitted as an Army Business Initiative Council (ABIC) initiative (ABIC Initiative #MP-A-02-01). The initiative proposed that long term corrections be outsourced to the Department of Justice, Federal Bureau of Prisons. Information provided by the Army Business Transformation Office outlined a potential savings of 490 military spaces and 94 civilian spaces and up to 30 million dollars annually.⁹

The ABIC mission is to improve the effectiveness and efficiency of the Army's business operations by identifying, evaluating, and implementing business initiatives that streamline Department of the Army business operations and create savings. It was created to support the DOD Business Initiatives Council (BIC) and its goal of implementing business initiatives that create savings for reallocation to higher priority efforts. When a service implements a savings under the BIC program, it retains both the savings and the ability to reallocate that savings within the service, providing tremendous incentive for initiative development. Edward C. "Pete" Aldridge Jr., Undersecretary of Defense for Acquisition, Technology, and logistics at the time of

this proposal referred to those who participate in the BIC as “gladiators in the battle of bureaucracy.”¹⁰

Eight of the 11 Army BIC members recommended disapproval of the ABIC prison outsourcing recommendation, citing concerns that the initiative would not save money and would negatively impact on current military operations. Nevertheless, during a 15 August 2002 Senior Executive Council meeting, Secretary White briefed Secretary Rumsfeld and the other service secretaries that the Army did not believe long term incarceration of prisoners (defined as running maximum and medium security facilities) was a core competency and recommended divestiture. Secretary Rumsfeld agreed to proceed with the ABIC initiative. After being notified of the decision, both the Army Vice Chief of Staff and Chief of Staff asked Secretary White for permission to revisit the decision, citing the need for a more comprehensive Army staff analysis. At issue was the question of core competency, savings, operational requirements, and organizational culture. Key members of the Office of the Secretary of Defense’s Staff also disagreed with the decision, to include Mr. David Chu, the Undersecretary of Defense for Personnel and Readiness (USD-P&R), who wanted the action delayed until a true joint and other service review could be completed, believing the Army was operating in isolation, without benefit of full service component staff input. Mr. Chu also wanted it understood that only discharged prisoners could be transferred to a Federal prison, a decision which would have a significant impact on the initiative (about 75 percent of the inmates at the United States Disciplinary Barracks [USBD] are undergoing appeals and have not been discharged from the service).¹¹ In the summer of 2003, the Secretary of Defense, Donald Rumsfeld, weighed in, sending a memo entitled “core competencies” to the Chiefs of the military services. In it, he stated that running a prison system was clearly “not a core competency of the U.S. Military, and that there were dozens of examples of the services performing non-core functions.” He directed the services chiefs to “get about the task of transferring these things to the private sector.”¹² How did Secretary Rumsfeld and Secretary White decide that long term corrections was not a core competency—and were they right? This paper suggests that the decision to outsource corrections did not properly address all of these impacts and was flawed when viewed through economic, operational, and cultural lenses.

MILITARY CORE COMPETENCIES

in their seminal work , “The Core Competence of the Corporation (1990),” Prahalad and Hammel define core competencies as “ corporate wide technologies and production skills that empower individual businesses to adapt quickly to changing opportunities.” They argued that

competitive advantage “derives from the deeply rooted abilities which lie behind the products that a firm produces.”¹³ Core competencies should not be thought of as what an organization can DO, but rather what they ARE; the unique features it possesses. These unique features allow the organization to adapt to changing conditions; in the business world to changing markets or economies, and in the military to changing security environments or adversaries. Some have interpreted Prahalad and Hammel as suggesting that organizations should concentrate on their value adding competencies and contract with third parties (which have the required core competencies) to do everything else. With the Department of Defense trend towards adapting better business practices, concepts originally developed for the business sector, such as Prahalad and Hammel’s work, have been increasingly applied to the military by senior Department of Defense civilian leaders in their efforts to transform the military,

The *Report of the Commission on Roles and Missions* of 1995 used the phrase “core competencies” to refer to those tasks in which the services should maintain expertise. The report stated that “core competencies are the set of specific capabilities or activities fundamental to a Service or agency role.” It affirmed the role of the Military Services in developing concepts, doctrine, tactics, techniques, and procedures that derive from their core competencies. The report went on to say that core competencies “define the Service’s or agency’s essential contributions to the overall effectiveness of DOD and its Unified Command” and that they are “a prerequisite to improved joint military effectiveness.”¹⁴ The current National Military Strategy also addresses core competencies, stating that “our forces must be proficient in their core competencies.”¹⁵ The bottom line is that there is a clear mandate for each service to identify and nurture their core competencies, and to do this, each service must understand what it is that they bring to the team. But, what are the service core competencies? There is general agreement within the services that core competencies include the ability to accomplish Title 10 responsibilities for training, equipping, and organizing military forces. War-fighting core competencies which are generally defined by the services, however, are more difficult to identify. The question would be merely an academic curiosity were not the resourcing of the force tied to an understanding of what competencies and resultant capabilities must be retained and what functions not linked to these competencies could be eliminated or outsourced.

ARMY CORE COMPETENCIES

The Army defines core competencies as the “essential and enduring capabilities of the Army.”¹⁶ At the time Secretary White made his decision to outsource long term corrections, the Army used the core competencies outlined in Chapter 11 of The Army Plan, 2004-2019 (TAP). They are shown at figure 1.



FIGURE 1- ARMY CORE COMPETENCIES¹⁷

The new TAP defines that Army core competencies as: (1) train and equip soldiers and grow leaders; and (2) provide relevant and ready land power capability to the combatant commanders as part of the joint team. This new definition incorporates Title 10 responsibilities, but lacks specifics regarding Army warfighting core competencies. However, the old competencies have not been thrown out, rather, they have been redefined as “enduring capabilities” in the 2006-2023 version of the TAP.¹⁸ Leaders and managers can look to these capabilities to understand what the Army leadership considers unique organizational attributes that must be preserved.

MILITARY POLICE CORE COMPETENCIES

When Secretary White stated that running prisons was not an Army core competency, the United States Army Military Police School (USAMPS) was not prepared to refute this belief using a core competency framework. While each U.S. Army Training and Doctrine Command branch school establishes branch missions and functions, few have outlined core competencies. What are the Military police Corps core competencies? Clearly the Army’s military police have

something to offer combatant commanders, as they are increasingly called upon to serve in support of missions across the full range of military operations. In fact, as a result of the ever-increasing demand for military police, the Department of Defense is short an estimated 42 military police companies to meet current operational requirements and is currently in the process of "building" additional military police force structure. These new units include three internment/resettlement (corrections) companies¹⁹ But what is it that makes the MP Corps unique? What unique features have allowed it to adapt so well to changing security environments and diverse adversaries?

Military Police Corps Background

The need for military police has been evident to American military commanders since the struggle for national independence. Whenever the United States engaged in warfare, some form of police element emerged to assist its leaders in maintaining various aspects of discipline. Surfacing when necessity dictated, the Military Police Corps evolved through several phases, each meeting the needs of a particular period in American history. Assuming increased responsibilities, military police established their place as combat soldiers who have the professional knowledge and flexibility needed to perform a variety of missions in war and peace. During the early history of our nation, soldiers of the early Military Police Corps patrolled the camp and surrounding area, checking passes and papers in search of spies. They arrested and detained rioters, spies, drunkards, deserters, and stragglers, while ejecting merchants attempting to cheat the soldiers. When the Continental Army was on the move, Military Police patrolled the flanks and rear, watching for spies and stragglers and safeguarding the baggage and supplies. As the infantry and cavalry troops went into battle, the men of the Corps patrolled the roads to the rear and on the flanks, guarding against enemy encroachment while searching for stragglers and deserters. At times, they would move ahead of the Army to locate and protect a crossroad or a river crossing.²⁰ All of these missions are performed by military police today. The five contemporary Army military police missions are: maneuver and mobility support, area security, law and order operations, police intelligence operations, and Internment/resettlement operations (I/R).²¹ I/R includes military corrections.

Military Corrections Background

Six prisons support the United States corrections system: The USDB located at Fort Leavenworth, Kansas, which is the only maximum security prison in the Department of Defense; and five regional confinement facilities located at Fort Sill, Fort Lewis, Fort Knox, Mannheim, Germany, and Camp Humphreys, Korea. The Army is the Department of Defense executive

agent for long term incarceration (5+ years) of all services' inmates. The USDB is the corrections "flagship" as the oldest continually operated federal prison in the United States. It was commissioned by Congress in 1874 to standardize the treatment of soldier-prisoners, deter desertion, prepare soldiers for return to duty, and reduce commingling of hard core criminals with novices.²² As stated earlier, throughout the history of our Army, military police have detained, sustained, protected, and evacuated US military prisoners. A recent development in the last ten years has been the increasing need for corrections specialists to guard high-risk detainees who are not U.S. military prisoners. Guarding enemy prisoners of war (EPW) and U.S. military prisoners has always been a dangerous task, but the requirement to detain this new category of prisoners requires a blending of both military corrections skills and tactical base defense and force protection skills. The mission is complicated by a burgeoning body of international law governing rights of detainees, greater international belief in and scrutiny of human rights, to include the rights of those incarcerated, involvement of nongovernmental agencies, such as the International Red Cross, Humans Rights Watch, etc., and the ever-present media shining the spot-light on military operations.

Since 1872, the Army has outsourced corrections on five separate occasions²³, only to later determine that a military corrections system was necessary to meet unique service needs and global requirements. During the past 30 years, the issue of outsourcing military corrections surfaces about every three to five years as the Army attempts to save dollars and personnel. The Army has conducted ten studies of the corrections system since 1970 and all have concluded that corrections should not be outsourced; that it is a vital entity to the Army's institutional and operational force; it facilitates credible authority as a pillar of the Military Justice System; and enables military prisoners to return to either military duties or society through its unique rehabilitation programs."²⁴

Military Police Corps Capabilities

Core competencies taken either individually or in combination can result in a list of core capabilities or what Army military police can DO—capabilities that can be adjusted to adapt to changing security environments or adversaries.²⁵ Identifying MP Corps capabilities, to include those required for military corrections, is relatively simple, as a plethora of Army field manuals and force structure doctrine lists branch missions, functions and capabilities. For example, the table below, extracted from Field Manual 3-19.1, list some of the many specific capabilities of a division MP company:

Mission/Function	Capability
Maneuver/Mobility Support	360 km supply route
Refugees on control routes	150,000 per day
Area Security—USAF main operations base	1,000 sq km/USAF MOB
Area Security—pipeline security	400 km
Law & Order Operations—incident response	75,000 non-division troops
Internment/Resettlement—US prisoner detention	700
Internment/Resettlement —EPW holding/corps	2,000

TABLE 1- DIVISION MP COMPANY CABILITIES²⁶

Identifying the core competencies from which these capabilities flow, however, is much more difficult, due in large part because the term “core competency” is not a concept widely used below Department of Defense and service department level. When it is used, the term means different things to different people. What is it that makes Army military police unique?

Suggested Military Police Corps Core Competencies

An informal poll of military police officers attending the Army War College Class of 2004 characterized the essence of the Military Police Corps as an organization with a culture²⁷ of public service devoted to protecting soldiers and noncombatants and upholding the rule of law; the ability of military police at all ranks to apply sound judgment in the escalation of force, skill at working with both military and nonmilitary populations, and the ability to make critical life and death decisions while serving in an effective network of first responders.²⁸ This culture and these capabilities are the result of a very intensive training system coupled with the equally important experience gained by serving as police officers at installations throughout the Army. I would interpret the U.S. Army core capabilities as:

- Ability to implement and control a seamless C2 network of MP teams, serving as first responders and information collectors across the battlespace.
- Ability to develop military police leaders at all levels who are capable of exercising sound, independent judgment in the absence of orders.
- Ability to work with civilian populations, to include the ability to apply appropriate escalation of force and using only force necessary to accomplish the mission

- Knowledge of police skills, techniques, polices, and body of law necessary to enforce the law, conduct investigations, protect critical personnel and assets, detain offenders, and retrain offenders for return to duty.
- A culture of public service, dedicated to protecting fellow soldiers and noncombatants, insuring that all, to include adversaries, are afforded the protections of national/international law as appropriate. (This culture of public service give the military police a “political footprint” different than that of combat arms units, one that is often more politically acceptable in peacekeeping operations).²⁹

These core competencies taken either individually or in combination can result in a list of core capabilities that can be changed or adapted as required.³⁰ For example, it was the combination of the core competencies, “ability to work with civilian populations,” “technical knowledge required to safely secure prisoners in accordance with national and international law,” and the “culture of public service emphasizing the protection of all in military police care, to include adversaries” that made it possible for an organization with a core capability of *securing and rehabilitating U.S. prisoners in secure, fixed facilities*, to develop a highly related core capability of *securing and protecting high risk detainees in a military theater of operations*.

CORRECTIONS AS A MILITARY OPERATIONAL REQUIREMENT

Lieutenant General Dick Cody, the Army G3, stated, in a 12 March 2003 meeting with the Army Chief of Staff, that soldiers performing corrections duties provide a unique skill set contributing to required capabilities for three of the six core competencies: shape the security environment, sustained land dominance, and support to civil authorities. He believes at the military will continue to require an expeditionary capability to confine high risk detainees for long periods of time.³¹ In crafting an argument against outsourcing of military corrections, the Army G3 emphasized previous and current operational requirements drive the need for military corrections professionals to detain high risk prisoners. In the past 25 years, combatant commanders have consistently asked the Army for assistance in confinement operations. Operations such as the Mariel Boatlift detention mission, and detention operations in Grenada, Panama, Somalia, Haiti, Bosnia, Kosovo, Afghanistan, Iraq, and Guantanamo Bay, Cuba demonstrate for military correction professionals to conduct detention operations in support of nation building operations when civil authority has broken down.³² In fact, it is interesting to note that the only specified task in the NATO Kosovo Force operations order to the U.S. Multi-National Brigade East was to run a detention facility at Camp Bondsteel, Kosovo in support of

NATO operations. To meet this demand, the Army is creating three new active duty corrections companies, 18 reserve component corrections companies, and exploring the possibility of developing deployable corrections battalion headquarters structure.³³

While an argument can be made that contract agencies might be found to perform these duties, recent experiences with contractors in Iraq show the problems with rapidly building this expeditionary capability in a hostile fire zone. And, even should contractors be willing to conduct these operations, there are national and international legal issues associated with guarding detainees who are not operating under authority of a recognized government, such as detaining unlawful combatants at Guantanamo, Bay, Cuba. With conflicting legal opinion on these types of detention operations, will contractors be willing to accept this type of legal liability?

The place where commanders and soldiers develop these skills and where the Military Police Corps develops detention doctrine is at the USDB and at regional military correctional facilities. What the National Training Center (NTC) is to maneuver units, the USDB and regional corrections facilities are to corrections specialist, providing in the prisoners a world class adversary that cannot be replicated in a training environment.

WILL OUTSOURCING CORRECTIONS SAVE MANPOWER AND DOLLARS?

If the Army G-3 was right and is military corrections an essential capability supporting Army core competencies, what of the argument that outsourcing corrections will save manpower and dollars with no loss of service? Proponents of outsourcing believe that private contractors can operate prisons for less money than can the government, with no reduction in quality. Others believe that there is no evidence that prison outsourcing actually saves money. In any analysis, reliable and complete cost data is essential in assessing the overall performance of activities targeted for outsourcing. A GAO outsourcing study reported that widespread absence of reliable cost data has compromised effective public-private comparisons.³⁴

The Clinton Administration's 1996 and 1997 budget proposals reflected a commitment to increase the use of privatize correctional facilities in the Federal Bureau of Prisons.³⁵ In the end, the Justice Department elected not to use private contractors as outlined in these budget proposals because of the concern that the risk of strikes or walk-outs by contract employers was too great. In a recent study, the General Accounting Office identified five studies comparing operational costs and quality of service provided by private and public correctional facilities. They found that these studies did not offer substantial evidence that savings had occurred.³⁶

Earlier in the paper, I outlined the Army Business Transformation Office's claim that the outsourcing proposal had a potential savings of 490 military spaces and 94 civilian spaces and up to 30 million dollars annually. This savings, however, would only be realized if Army end strength were reduced, as 85 percent of the cost of military corrections is payroll. Studies by the Army Audit Agency (AAA) and the Army Program, Analysis, and Evaluations Directorate (PAE), in fact conclude that the initiative will cost money, unless of course, end strength is reduced.³⁷ Even with an end strength reduction, the AAA and PAE are reluctant to opine on potential savings or cost in the absence of key costing data from the Federal Bureau of Prisons.³⁸ And, given that some Defense Department leaders see the benefit of outsourcing as a way to increase combat power while staying within congressionally mandated end-strength limits, it is unlikely that these spaces will be eliminated—they will be moved to fill other requirements. Other economic impacts not considered in the analysis by the Army BIC include the loss of an estimated \$8.5 million in annual prisoner labor offsets, and a \$65 million dollar loss of capital infrastructure as the proposal calls for the Department of Defense to turn the USDB real property over to the Department of Justice. Finally, in considering outsourcing options, extra costs incurred by contracting for securing high risk detainees in Kosovo, Iraq, Afghanistan, and Guantanamo Bay, Cuba were not considered. Soldiers can be deployed to theaters of operation—U.S. Department of Justice employees cannot.

WHAT DOES OUTSOURCING MILITARY CORRECTIONS SYSTEM DO TO OUR CULTURE?

When considering potential impacts on culture, one must consider the potential impact on the military justice system. As discussed earlier, during periods of high intensity conflict, the number of soldiers prosecuted for "military-only" crimes such as treason, desertion, and Absent Without Leave (AWOL) increases. Soldiers who are court marshaled for these offenses cannot be transferred to the Federal Bureau of Prisons, requiring the military to confine them and attempt to restore them to military duty, or discharge them. This offers a poor choice because commanders will not want to be seen as rewarding soldiers who abandon their duties in time of war with a hasty discharge.

Another potential impact on culture involves choices a commander makes when determining punishment. If a commander knows that a first time offender will be sent to a federal penitentiary versus a regional correction facility, how will that affect his punishment decision? Conversely, if serious military offender, one who severely impacting on unit readiness and morale, is sent to a federal penitentiary only to be released much faster than he would be

had be been incarcerated in a military prison, what impact does that have on credible command authority and good order and discipline within the military?

If military corrections is outsourced, how would we rehabilitate soldiers and return them to duty when the need exists? Public Law 90-377, codified in Title 10 of the United States Code states that the Army must have a return to duty program that “provide[s] for the organization and equipping of offenders selected for training with a view to their honorable restoration to duty or possible reenlistment.”³⁹ During the last 100 years, the lack or surplus of manpower has dictated whether the purpose of military corrections was to return prisoners to duty or to prepare them for productive lives as citizens. When manpower was critically short, the military emphasized rehabilitation and restoration to duty. When manpower was plentiful, the military restored fewer prisoners to duty.⁴⁰ While rehabilitation has not been a priority during periods of relative peace, an historical analysis reveals that the requirement for military corrections increases dramatically during periods of prolonged conflict. During such periods, the requirement for manpower increases as does the desire on the part of military leaders to retain rather than separate military offenders with any potential for further military service. Also, during peacetime, commanders have chosen to expeditiously separate soldiers who commit offenses such as AWOL and desertion. Not so during full scale conflicts, such as Vietnam and Desert Storm when commanders wanted to send a strong message that these activities would not relieve service members of the responsibility to serve.⁴¹ It is important that any decision regarding core competencies include those tasks that we must be prepared to accomplish across the full range of military operations, to include large-scale war. While the ability to rehabilitate may not be critical today, if we throw out the “seed corn” (those soldiers, DA civilians, processes, and facilities that constitute the rehabilitation system), reestablishment of a rehabilitation system will be much more difficult.

Next, what are the implications for Department of Defense and Army accountability? Legal review has established that the government can contract for corrections services, however, court cases have established that the government retains ultimate responsibility for proper prison management and liability.⁴² Pontell points out that even though the government may outsource corrections, the government and taxpayers continue to bear the responsibility and cost of monitoring compliance.⁴³

And finally, will military prisoners receive the same level of support from a contracted Federal prison--and do we care? Do we have a responsibility for the welfare of our soldiers, sailors, marines, and airmen even after they have committed crimes or have they lost the right to our support? If we do retain some level of moral responsibility, can we risk sending our

largely “inexperienced,” first-time offenders to a federal prison system rife with violence and peopled with repeat offenders that is virtually guaranteed to send them out not as rehabilitated soldiers or as productive citizens, but vastly improved criminals? Charles Moskos in his *Institution-Occupation Thesis* posits that the military is not only an occupation, but an institution with its “implication that the organization will take care of its own.”⁴⁴ Acting Secretary of the Army Les Brownlee supported Moskos’ thesis in a recent interview where he was quoted as saying, “The Army does recognize its obligation to take care of all our soldiers from start to finish.”⁴⁵ This obligation to care for soldiers—cradle to grave—is a deeply held service cultural value and helps distinguish the military as a profession. Edgar Schein argues that this type of unconscious, taken-for-granted belief is the heart of organizational culture. Schein believes that cultures can and will change, based on the common experience of the group.⁴⁶ If service members come to believe that their leaders do *not* care for their welfare, this new common experience could alter our underlying assumptions about the obligations of leadership. Our trust in our leaders, a critical component to success on the battlefield—may begin to erode. In short, failure to attend to the welfare of subordinates would be recognized by any service member as a serious breach of promise and a leadership failure, and could undermine confidence in the military system and loyalty to it.

WHERE WE ARE TODAY

The decision to outsource—or not to outsource—has been deferred to the Headquarters/Support Activities Joint Cross Service Group, (HSAJCS, formerly referred to as the Base Realignment and Closure [BRAC] Working Group). HSAJCS has begun its process by sending its first round of questions to the field. Of the hundreds of questions sent, seven apply to correctional facilities capacity/physical plant status.⁴⁷ The second set of questions will deal with military values and is scheduled for staffing in May 2004. This group will again wrestle with the issue of military corrections outsourcing, and this time, discussions will benefit from a joint review and include Department of Defense economic, operational and cultural issues.

CONCLUSION

The former Secretary of the Army justified outsourcing corrections citing both savings and divestiture of a function he considered to be “non-core.” He made this decision based on assumptions regarding savings that were not born out by the Government Accounting Office (GAO), Army Program, Analysis, and Evaluations Directorate (PAE) PAE or the Army Audit Agency (AAA) analysis and without regard to operational and cultural impacts within the Department of Defense. Studies by GAO, PAE, and the AAA show no savings, and indicate

potential for increased costs. According to the Army G3, who has proponency for defining essential capabilities within the Army, military corrections is an essential capability supporting Army core competencies. Finally, no consideration of the cultural impacts of this decision was made by either the ABIC or the Senior Executive Council prior to their approval of the outsourcing recommendation.

Outsourcing and other commercial business practices have the potential to free the military from non core tasks to improve efficiency and effectiveness. The decision to outsource, however, must be carefully considered, weighing not only savings, but operational and cultural impacts. Today, an analysis of these factors does not seem to support a decision to outsource corrections. Who knows what tomorrow will hold? It is clear after this sixth attempt to outsource military corrections that many believe corrections to be a function that cries for public sector involvement—and equally clear from the continued return to military control of the corrections system that outsourcing may not be the answer. The only sure thing is that the case to outsource military corrections is not closed and will likely be opened again—and again—and—and again. As long as the decision to retain military functions is tied to an understanding of what competencies and resultant capabilities must be retained, the U.S. Army Military Police Corps will be well served by an in-depth analysis and approval of their core competencies.

WORD COUNT=5,850

ENDNOTES

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² Donald F. Kettl, *Sharing Power—Public Governance and Private Markets* (Washington, D.C.: The Brookings Institute, 1993), 41.

³ Department of Defense, *Report of the Quadrennial Defense Review*, (Washington, D.C.: U.S. Department of the Army, 30 September 2001), Chapter 6. See discussion regarding separation of core and non-core functions.

⁴ Office of Management and Budget, *The President's Management Agenda for FY 2002* (Washington, D.C.: U.S. Government Printing Office, 2001), 1.

⁵ John Anderson, Assistant Deputy Assistant Secretary of the Army, Manpower and Readiness, statement at the Third Wave Media Roundtable Discussion, 10 October 2002, Washington, D.C.; available from <<http://www.hq.usace.army.mil/cepa/compsource/latestnews.html>>; Internet; accessed 1 March 2004.

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⁷ David Pearsall, Total Army Analysis Project Leader, Office of the Army G3, telephone interview by author, 1 March 2004.

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¹⁴ Commission on Roles and Missions of the Armed Forces, *Directions for Defense: Report of the Commission on Roles and Missions of the Armed Forces* (Washington, D.C.: Government Printing Office, 1995), 2-4 and 2-20.

¹⁵ John M. Shalikasvili, *National Military Strategy* (Washington, D.C.: The Pentagon, September 1997), Sec. 12.

¹⁶ Department of the Army, *The Army*, Army Field Manual 1 (Washington, D.C.: U.S. Department of the Army, 14 June 2001), Chapter 3, 1.

¹⁷ Department of the Army, *The Army Plan 2004-2019* (Washington, D.C.: U.S. Department of the Army, undated), Chapter 11.

¹⁸ Department of the Army, *The Army Plan 2006-2023* (Washington, D.C.: U.S. Department of the Army, undated), Part 1, The Army Strategic Planning Guidance; 2.

¹⁹ Gretchen Cadwalader, MP Organization Integrator, Office of the Army G3, telephone interview by author, 24 January 2004.

²⁰ "History of the Military Police Corps," available from <<http://www.wood.army.mil/usamps/default.htm>>; Internet; accessed 1 March 2003.

²¹ U.S. Department of the Army, *Military Police Operations*. Army Field Manual 3-19.1 (Washington, D.C.: U.S. Department of the Army, 22 March 2001), Chapter 4, 1.

²² Katherine N. Miller, "How the Need for Military Manpower has Affected Restoration to Duty Programs." Student Paper/C610. (Fort Leavenworth, Kansas: U.S. Army Command and General Staff College, 6 March 1994), 1.

²³ Mark Inch, "Response to the BIC—The Army Prison System," briefing slides with scripted commentary, Washington, D.C., Department of the Army, June 2002, 10. Major outsourcing initiatives include transferring the USDB to the U.S. Department of Justice in 1895-1906 and 1929-1939.

²⁴ These studies include: 1970- Blue Ribbon Review, 1976- Cost Utilization and Analysis, 1987- Corrections 2000 Review, 1990- SECDEF Consolidation Report, 1993- AAA Audit, 1994- New Construction Decision, 1996- Army Military Police Functional Army Assessment Review, 2000- Army Corrections Bottoms-Up Review, and 2001- Army Corrections Transformation Study.

²⁵ Stephen B. Appleton, Instructor and International Fellow, U.S. Army War College, Carlisle, PA, interview by author, 4 February 2004.

²⁶ Department of the Army, *Military Police Operations*, Army Field Manual 3-19.1 (Washington, D.C.: U.S. Department of the Army, 22 March 2001), Figure C-1.

²⁷ For the purpose of this research project, group culture is defined as, "a pattern of shared basic assumptions that the group learned as it solved its problems of external adaptation and internal integration, that has worked well enough to be considered valid and, therefore, to be taught to new members as the correct way to perceive, think, and feel in relation to those problems (Edgar H Shein, "Organizational Culture and Leadership (Jefferson, San Francisco: Jossey-Bass Publishers, 1997) 12.

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³⁰ Appleton, Interview.

³¹ Richard Cody, "Operation of Army Prisons for the Chief of Staff of the Army," briefing slides with scripted commentary. Washington, D.C., Department of the Army, 12 March 2003.

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³³ Haasenritter, Interview.

³⁴ General Accounting Office, *Privatization and Competition, Comments on S.314, the Freedom From Government Competition Act: Statement of L. Nye Stevens, Director Federal Management and Workforce Issues, General Government Division* (Washington, D.C.: U.S. General Accounting Office, August 1996), 1.

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⁴⁰ Miller, 1.

⁴¹ Miller, 4.

⁴² Gary W. Bowman, Simon Kakim, and Paul Seidenstat, *Privatizing the United States Justice System* (Jefferson, North Carolina, and London: McFarland & Co., 1992), 263.

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