

MENTAL RESERVATION AND MILITARY TESTIMONY BEFORE CONGRESS

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USAWC STRATEGY RESEARCH PROJECT

**MENTAL RESERVATION AND
MILITARY TESTIMONY BEFORE CONGRESS**

by

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American civil-military relations appear to be approaching a boiling point. As a result the military is increasingly turning away from its traditional role as brokers of honesty and consequently the Congress sees the military as little more than peddlers of hope for the executive branch. This circumstance weakens the effectiveness of the civil-military relationship, curtails the ability of Congress to perform its constitutional role of oversight and all but eliminates the possibility of achieving a harmonious blend of ends, ways and means to support the national strategy. The cause for this apparent mental reservation on the part of military leaders can be found in their organizational bias and environmental influences, but the solution can be found in history. It is vital for the military to understand that a currency of truth is the most important contribution it can make to the civil-military relationship.

MENTAL RESERVATION AND MILITARY TESTIMONY BEFORE CONGRESS¹

On September 10th and 11th, 2007, civil-military relations in the United States were on full display in the United States Congress. The Commander of Multi-National Forces Iraq, General David Petraeus, and the United States Ambassador to Iraq, Ryan Crocker, had come to Washington D.C. to provide congressional leaders and the administration an update on Operation Iraqi Freedom.² Before and after their public testimony to the House of Representatives and the Senate, everyone from partisan politicians and pundits to scholars of the American political system had their say on the current state of civil-military relations. Some reported that they continued to detect Andrew Bacevich's and Richard Kohn's long standing complaint of a military that had become too political and too tied to the conservative party.³ Others reported the opposite. Many pointed to a highlighted moment that came after Senator Warner asked General Petraeus if the country was safer because of our military actions in Iraq. The General answered that he did not know if the country was safer, but the critical moment was not the answer as much as it was the prolonged silence immediately following the question.⁴ A prolonged silence during which everyone wondered: will this strategic military leader parrot the politically crafted sound-bite answer so commonly given at recent public hearings or will we hear the truth with the bark on? General Petraeus answered that he did not know if the country was safer because his focus was on the operational ways and means of achieving the strategic end of a safer country. He later clarified his answer by stating that the country was safer. But his answer was not what was important; it was the moment of silence and the perception of those listening that was important.

On the surface, civil-military relationship in the United States appears to be a narrow and self evident topic for discussion. The military works for, and is absolutely subordinate to, the elected and appointed representatives of the people. Search as one might, there is nothing in the Constitution of the United States that gives the military authority over anything. Nor are there Supreme Court decisions to be found giving the military authority over anything other than judicial authority over its' own members and non-resident enemies of the state pursuant to unique military requirements.⁵ For that reason, the reader should keep in mind the words of a contemporary advertising campaign by Staples Office Supply, "that was easy." In this paper I will discuss the historical, cultural, organizational, and environmental influences on civil-military relations in 2008, but in reality, we must remember that it is all actually very simple, at least on the surface. Thus, I start this paper with the simple concept that the military holds no authority within the civil-military relationship.

Equally important as foundation for this or any other study on civil-military relations is the fact that the only power the military has within the civil-military relationship is the power of knowledge and expertise on the subject of the use of the military element of power. The military is specifically banned from political activity, individually or collectively, and does not even have the basic right of judicial standing with an organizational grievance no matter how legitimate.⁶ For that reason, professional expertise is the key to the relationship. It should be understood then that the expertise that comes from the unique knowledge and experience held by the profession of arms serves as the credentials for receiving an invitation to sit at the proverbial table for the military. Expertise is the currency that pays the price of admission. But even expertise

does not guarantee a ticket to the show particularly in today's information age. Yet, there is one common element of the relationship that does guarantee the military a seat. That common element is the common concern that military and civilian leaders have with the use of a national power which has as its essence the blood of our nation's children.

The Essence of the Civil-Military Relationship

The essence of the civil-military relationship is the selfless service of soldiers not long past the nurture of "we the people." This essence makes the subject complicated even though it seems to be simple on the surface as stated above. Civil-military relations becomes, as a subject, difficult to fully comprehend and an even more difficult to discuss in full detail because of that essence. That is because the sum of civil-military relations is something that is more than its parts, particularly in times of war. The civil-military relationship that exists in the United States today is more than all the rules, formal and informal, that govern the intercourse between civil and military authorities and more than the cumulative history of the interactions between the two. Not understanding the essence of the soldier's selfless service on behalf of the nation as a starting point makes it easy to find error or malice in the actions and inactions of the parties within the relationship when there really was none.

Contemporary scholars on the subject of civil-military relations have been busy during this, the first part, of the 21st Century. They have noted strains in the relationship that seem unique from a historical perspective and a new partisanship that might jeopardize the functional future of that relationship. Strain is nothing new between civil and military authorities in the United States though. Partisanship in the military is

nothing new either, although it is arguable that we are seeing a more persistent level of it than we have before. Strain and partisanship are parts of every human relationship, but the essence of the whole must be understood to fairly comprehend and critique the current state of affairs.

The Silence of the Guns

Since the introduction of firearms to battlefields there has always come a point in every battle when the guns fall silent.⁷ Sometimes silence falls abruptly as if the fighting was brought to an end by an omnipotent force. Sometimes it comes slowly as if resisting inevitable defeat. When silence does come though, the surviving soldiers begin to regain their senses and see the sights of carnage to landscape and mankind and begin to feel a loss beyond what others can possibly understand as they glimpse at the first flash of a memory that will live with them and define them forever. You do not have to have been there to understand the scene. Nor do you have to have been there to understand the one question soldiers always ask. And, you do not have to have been there to join them in asking “why.” Soldiers do not go off to war alone; at least not in the United States. The nation goes with them.⁸

Former Army Chief of Staff General Edward “Shy” Myers seemed to have understood that it would not just be the soldiers who fought the battle, but the entire nation that should ask “why” when he said that “an army does not fight a war, nations do.”⁹ It is from perhaps an intuitive understanding of General Myers’, quote that one other thing always happens when the guns fall silent and that is that civilian and military leaders alike will take a step forward in an attempt to answer that question. Among the rules that govern the interaction of civil and military leaders, foremost should be that

civil-military relations are, above all, about soldiers dying in selfless service to their nation and it fully permeates the interaction.

fear that I have already taken too much literary license on the obvious here but the essence of the relationship cannot be over stated. Authors on the subject of civil-military relations mention the fact that the military takes an oath to the Constitution almost as if the military has a greater obligation to the people of the country compared to civil authorities. Indeed, the military is entrusted with the lives of our nation's most valuable treasure, which warrants a special obligation, but the military is not the only party to the relationship and not the only party in the relationship bound by oath. The President and all appointed officials also take an oath and the oath taken by members of Congress is identical to that taken by officers in the military.¹⁰ It is in the oath taken by military officers and Congress that the words "without any mental reservations" appears and in combination with the essence of the relationship gave cause for the title of this paper. The oath itself encumbers civil and military leaders to the soldiers and the people of the nation that they serve "without any mental reservation." The question is then: do they interact "without any mental reservation?"

Civil-Military relationship, like many social interactions, both official and otherwise, is bound by rules and norms. One important example of this is the absolute subordination of the military to civilian leaders. So controlling is the norm of military subordination that the most senior and respected military officer always greets even the most junior Representative with the formal Sir or Ma'am even though there is no regulation requiring such formality. But there are formal controls on the relationship and the most important one is the oath to the Constitution. The issue is not just that both

civilian officials and military officers take an oath. The issue is, what does "without any mental reservation" really mean?

Mental reservation, as a doctrine, was conceptually developed by theologians and philosophers as a method of deception without having to lie¹¹. There are many social obligations requiring something less than the truth without reasons to withhold it, but in which one is arguably entitled to keep a secret. An example of this would be equivocating to keep from unnecessarily hurting someone's feelings or to uphold a pledge of secrecy. In 1862, Congress presumably understood the doctrine of mental reservation and rejected it when they prohibited it in the oath. At the same time in 1862 President Lincoln was taking greater control of the war and Congress wanted to make sure military officers understood that they worked for both the legislative and executive branches per the Constitution. Thus it eliminated from the oath the words "obey the orders of the President" and added "without any mental reservation" in reference to military service to the whole nation.

Many recent writings on the subject of civil-military relationship has implied, or indicated malice or incompetence on the part of civilian or military leaders and sometimes both. But is that true versus simply judgments have not been wrong. Paul Yingling's article "A Failure in Generalship" is an example of such an indictment.¹² It is hard to argue against Yingling's well written essay. Contrary to what the article states though, military leaders have always required training, by doctrine, for dealing with insurgencies and civilians on the battlefield, but such training had not been emphasized because of "mental reservations" on the part of military leaders. Thus military leaders did not fail to foresee the need for the training; they simply did not prioritize it because of

mental reservation about being involved in such conflicts. Military leaders who did not advise Congress and the American people of the risks to Phase IV, i.e. post-conflict operations, in using a small force to invade Iraq did so because of mental reservations.¹³ Military leaders did not want to get involved in nation-building tasks, because that was, in their mind, not the job of the military and was not in the best interest of the nation. Those were clearly bad decisions, but it is too much to imply those were acts of malice or incompetence. That action or non-action was, however, a violation of the “without any mental reservation” clause of the social contract that is the oath of office. But, is a violation of the oath to be considered as grave as malice or incompetence? I would say that such conduct is even graver, because it violates not only the norms of the civil-military relationship in denying information critical to the policy oversight function of the Congress, but also the bond military leaders have with the essence of the relationship, which is the lives of the soldiers they lead in defense of the nation. There is certainly little precedence for such conduct that would have been considered unbecoming by our forefathers.

Historical Overview: Brokers of Honesty or Hope Peddlers¹⁴

The United States Army gave birth to the civil-military relationship that we study today. It is not because the Army won the Revolutionary War, but instead, it is due to the Army's acquiescence to civilian authority during and after the war. One wonders why George Washington did not declare emergency rule as Commander-in-Chief when the Continental Congress failed, by every measure, to provide the support required by the war. One also wonders why the officers of the Continental Army did not follow through with their threat to assume control of the government in 1783 when

congressional impotence continued long after the last shot of the war was fired. Regardless of what can only be seen today as their very justified claims against the confederation, the officers of the Continental Army cast the first vote by Americans for civilian rule when they voted to form the Society of Cincinnati¹⁵ at their encampment at Newburgh. In his speech to the disgruntled officers, General Washington, by words and deeds, became their Cincinnatus¹⁶ and thus rejected the dangers of Cromwellian liberty.¹⁷ It was by the acts of General Washington and his fellow officers that the seeds for today's civil-military relationship were sowed.

During the Revolutionary War George Washington chose to act only in the capacity of the Commander-in-Chief and not the Chief Executive even though he could have probably exercised both authorities had he wished. Washington instead chose to pay deference to Congress publically and privately as can be seen in his correspondence published by John Marshall.¹⁸ Repeatedly Washington expressed his understanding and empathy towards the difficult political tasks of Congress, always pledging his subordination despite his power as the chief military commander and as a man of great personal wealth.¹⁹ But his understanding of the difficulties faced by Congress did not cause him to tone down his requests. When the news was bad Washington reported it as such. When the needs of the Army exceeded what he knew the Continental Congress could provide and would only expose the weakness of the legislature, he nonetheless made the request. These actions were the source of Washington's second great legacy to the practice of modern civil-military relations and its culture, honesty. It was a virtue that he lived by during his tenure as the nation's first President. In his farewell message to "the People of the United States" in 1796 he

wrote “I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy.”²⁰ Later Washington’s maxim of “honesty as the best policy” would become mythically enshrined in the form of the tale of the cherry tree,²¹ but it would also become the cultural foundation for the military in their interface with civilian authorities.

Washington was not the only military officer known for his honesty. Ulysses Grant, John Pershing, Mathew Ridgeway and Creighton Abrams among many others were known as honest men by civil authorities. Yet the officer most associated with Washington for his ability to effectively and honestly work within the civil military relationship was General George Marshall during World War II. Marshall was meticulous in his deference to civil authorities even when their competence was lacking.²² He saw and counseled his military subordinates to see their expertise as opportunities to educate and inform civil decision makers rather than pathways to manipulate decisions. Washington’s and Marshall’s empathy towards, and their skill in working with, Congress has become legend. Their examples of strategic military leadership set the military’s cultural foundation of honesty making it just as important as political acumen. Both officers were skilled in the art of persuasion, but the strength of their persuasive power came from their reputations as brokers of honesty. Neither Washington nor Marshall split hairs giving selective facts in support of their institutional interests or the importance of their cause and they set the cultural foundation for civil-military relations in the United States. Both Marshall and Washington personified the ethic implied by the “without any mental reservation” clause. Yet the cultural foundation

of the military set by the leadership examples of Washington and others is not the only cultural foundation of the relationship.

It would be easy to assume that a nation born from the crucible of war would focus its attention on the military, but that assumption would be wrong in many ways. When Alexander Hamilton, John Jay and James Madison wrote their collective essays in support of the proposed Constitution of the United States, only nine of the 85 essays mentioned the military. These essays primarily pointed out that the fear some legislators had of the army was unwarranted.²³ Aside from the constraints and checks and balances contained in the Constitution, Congress only had to do what was one of its' first acts, which was to reduce the size of the Army to only 80 active duty men and a 700-man militia to secure the frontier.²⁴ Although the importance of the military diminished with peace for Congress and the President, the issue of security was quite clearly staked out by the civilian leadership. Eleven of the eighteen paragraphs in Section I of the Constitution, which covers the powers of Congress, concern security while Section II on the powers of the President makes him not just the Commander-in-Chief, but in charge of foreign policy as well.²⁵ The President and Congress did not consult the military when they cut the size of the army nor did they consult the army when they assigned to the military largely constabulary and engineering duties on the American frontier.

Military strategy was developed by the President and the Secretary of War. The declaration of war on England on the 3rd of June, 1812, the nation's first war since independence, was done without consulting the wisdom of such a decision with the military even though the military was completely unprepared.²⁶ When the strategy for

the War of 1812 proved lacking, two Secretaries of War were replaced rather than seeking the advice of the military for a better strategy.²⁷ This pattern, of decisions to declare war and the strategies to prosecute them being made only by civil authorities without military consultation, was not unique to the War of 1812.

Of the five Declarations of War²⁸ and 12 military engagements authorized by Congress²⁹ there is little historical evidence of military consultation prior to the mid-twentieth century, and even then it was consultation over ways and means rather than the ends. During the most contemporary decisions about the strategic use of the military element of national power, the military has not been a player. In the accounts written by Franks³⁰, Ricks³¹ and Woodward³² on the run up to Operation Iraqi Freedom, the military is clearly not consulted about the wisdom of using military action, but instead, only on the timing and size of the force. The point is that civil-military relationship is not a factor in the formulation and implementation of the National Security Strategy. Civil authorities largely alone develop national strategy. Civil-military relationship comes into play when the decision to use the military element of power has already been made and the military is not brought to the table to voice an opinion on the strategy, but rather to bring expertise on how to militarily operationalize the strategy. To maximize the effectiveness of the civil-military relationship the military must bring with it expertise that is above all honest and “without any mental reservation.” The resulting judgments made by civil authorities on everything from funding to force size depend on a military that gives information “without any mental reservation.”

Although military leaders have seldom been dishonest in the true sense of the word, dishonesty has been perceived at times. It seems that the current perception of

dishonesty comes from the military reporting only good news or information favorable to the military effort. The communication of only partial truth was highlighted during the October 12th, 2007 news conference held by LTG Ricardo Sanchez when he revealed his mental reservation about giving bad news while he was the senior commander in Iraq.³³ I do not, and would not, critique General Sanchez's actions as commander. His intent was clearly to serve well the country and the soldiers he led and that he considered his role to be that of a peddler of hope rather than entering the political debate³⁴. Yet the questions have to be asked: Does providing an honest professional assessment mean that one is entering the political debate? Does providing only positive information inherently mean that one has entered the political debate? Regardless, the lack of bipartisanship between Congress and the Administration that he complained of in his press conference is only exacerbated if both sides are not working from the common truth that the military must provide. H. R. McMaster points out this mistake of the military staying out of the debate throughout his book *Dereliction of Duty*.³⁵ Such behavior is far from in keeping with the cultural values of the military and hints at organizational causes for mental reservations on the part of both military and civil authorities.

The Organizational Culture of the Institutions

Until the Civil War a true civil-military relationship had not existed. Civil authorities determined all issues such as the size of the force and where and when to use the military element of power without consulting the military. The military accepted its subordination with little input to the national strategy. The military made some attempts to affect basic military issues such as pay, logistics and morale, but by-and-large, only

performed the duties assigned by the Commander-in-Chief that included both congressionally declared and authorized military engagements and military engagements sanctioned by the President alone.³⁶ The military accepted its role as the ways and means of national policy largely without complaint or input. Even during unpopular actions like the Indian engagements of the early 19th century, during which Andrew Jackson was accused of trying to become an American Napoleon,³⁷ and the administration of Mexico City³⁸ after the Mexican-American War, the military performed its duty as the ways and means of national policy quite well, but without a voice in the strategy debate.

During the early years of the republic, Congress and the President settled on their constitutional roles regarding national security and relationship with the military, but that changed during the Civil War. The scope of the military effort and the size of the forces and logistics involved after 1862 simply became too large for Congress to oversee in any realistic sense and they became completely dependent on the administration and the military for the information critical to funding and policy decisions. All but closed out from any meaningful debate about military strategy, Congress turned to the military as a trusted and reliable source of information about the progress of the war. Over the next century Congress began to define the rules of civil-military relations beginning with a change in the oath mentioned earlier. That oath was carefully crafted to mirror the Congressional oath and to remind military officers of their dual subordination to the President and Congress. Yet a change in the oath was not enough when wars became even larger and engaged beyond the proximity of our nation's borders.

In the 230 plus years since nationhood, Congress has changed very little. Although there has been a dramatic expansion of the number of members and the number of committees with staff,³⁹ in a fundamental sense Congress functions much the same today as it has throughout history. Clay, Calhoun and Webster would find the operational mechanics of the Congress today a familiar system. Although there are clear merits to such continuity, the processes used by Congress have fallen short in regards to its oversight responsibilities. The same is not true for the other partner of the civil-military relationship. The military, as a functional part of the executive branch, has developed staffs, policy and planning departments, procurement sections, internal education systems, and information controls that far exceed that of the legislative branch. As a result there is information dependence on the military and Congress has tried without success to reverse that dependence.⁴⁰

During World War II, just as during the Civil War, the war effort became too large for Congress to provide effective oversight. Becoming little more than a rubber stamp for military requests and executive branch policy, Congress used its legislative power to try and decrease its dependence on the military for information. Starting in 1947 Congress changed the flow of information and for the following 50 years it has increasingly demanded who would report to them, when they would report and what they would report.⁴¹ Yet Congress still remains dependent on the quality and honesty of the reported information and will remain so because of the existing environment of each institution.

The Institutional Environments

For the contemporary scholar of civil-military relations the environmental influences on the President, Congress and the military might appear to have changed dramatically over the course of history when in fact this is not the case except for the military. As they have always been, both the President and Congress depend on elections highlighted by politically charged and biased campaigns to maintain their powers. The functions of each branch are the same as set forth in our founding Constitution. Many of the sub-rules of their functions have changed particularly with regards to the military and war, an example being the War Powers Act,⁴² but the ultimate responsibility of the President and Congress remains the same. Influences from lobbyists and the “military-industrial complex” are perhaps more acute, but they are not entirely new. Most importantly, the President and members of Congress, if not before, upon election become part of and supported by the very elite of the nation’s educational, social and business institutions of the country. The military, on the other hand, has experienced a sea-change in the influence of its environment that had a dramatic impact on civil-military relations.

Starting as a militia based military the profession of arms in the United States has transitioned far beyond the imagination of our founding fathers. The United States military was once led by store clerks, teachers, tradesmen, and others appointed as part of a system of political patronage. Many officers were without prior military experience or education and were prepared for their duties with little beyond a borrowed or gifted manual of arms and a community donated horse from upon which they took charge. The founding fathers saw this open system of political appointments by state governors and ratification by Congress as virtuous and in keeping with the interests of the nation.⁴³

Members of the military, although celebrated for their patriotism and sacrifice, came from and remained a part of the lowest class, other than a few leaders, tasked with frontier duties that no other institution would invest in. The increased importance of the military element of national power changed all this.

Today, the uniformed military's strategic leader selection system is an entirely in-house process. No one is ever brought in from an outside organization and put in a position of authority. Dr. James Smith, in his article on service cultures, points out, "services recruit and indoctrinate --- around their core missions --- provide their own professional education --- and they promote these career personnel into decision and policymaking levels --- with only limited external veto and no real external competition."⁴⁴

We should keep in mind that other than for ten months at a senior service college, the first three quarters of a strategic level military leader's career is usually spent on education and experience only at the tactical and operational levels. There are, during the tactical and operational years, with few exceptions,⁴⁵ no contact with the larger community outside the officers' own service other than the very limited contact with the business community, sister services and foreign military. Thus, for those that find fault in the quality and honesty of the information provided by the military to an information dependent Congress, the cause for the fault is to be found in the military's institutional environment. Military leaders are not dishonest. They are simply telling the partial truth their restricted professional environment reveals.

Trained for 30 years to accept absolute subordination to the commander above them, there should be little wonder that senior military leaders are more responsive to

the executive branch than Congress. Combined with public affairs efforts, information operations, the need to maintain secret intelligence on a need to know basis,⁴⁶ and the use of propaganda tools during war, the military message seems to always accentuate the positive and/or leave out the negative. Mari Eder's study of strategic communications points out that the military "has evolved greatly" at the "acquisition of favorable coverage."⁴⁷ The crucial point is that the institutional need for public affairs and strategic communications leaks over into the interaction of civil and military authorities. Simultaneously, battling for the largest portion of the federal discretionary budget results in a natural tendency to direct the civil-military relationship towards one afflicted by mental reservations. However, historical traditions, institutional biases and environmental influences do not make something wrong right. Instead, these are nothing more than statements of mitigation for those who have violated their oath to serve the nation "without any mental reservation." These influences must be considered if enduring reform is to be feasible.

Conclusion

Marybeth Ulrich asked the question "Does a state of national emergency or war justify the suspension of deliberation and consultation inherent in the American political system's design."⁴⁸ The answer is no. The military must accept its role as brokers of honesty with regard to military matters to ensure that the constitutionally mandated system of checks and balances work especially during war. There are today many influences that affect the efficiency and effectiveness of civil-military relations in the United States, none more so than the mental reservations of both civilian and military leaders. History, culture, organization, and environment all clearly distract from the

efficiency and effectiveness of the relationship and thus naturally call for reform.

Congress in particular must reform, but no less than the military if the guiding principles of the nation are to be maintained and if both institutions are to keep faith with the soldiers that serve our country.

Congress must find the strength and will needed to fulfill its role to provide informed funding, make laws, provide policy advice and consent, and execute oversight. One suggestion would be to consider the placement of a cadre of military officers with each Congressional committee that deals with military issues. The military officers would work for and be rated by their congressional leaders and supervisors. It can be argued that there are already a vast number of military personnel working on legislative affairs in the military and defense departments, but there is a distinct difference in working from a position of advocacy and that of oversight. The advantages to Congress with regard to increased staff manpower and expertise in military matters is obvious, but the advantages to the military can be equally great. Exposure to the roles of the other players in the civil-military relationship would be as valuable as the current requirement for senior military leaders to serve in a joint environment prior to promotion to flag grade. The concept of assigning military officers to congressional committees should have one other caveat as well, that rank counts and thus these positions should be filled by senior and experienced officers.

A review of the questions asked by members of Congress during the Petraeus and Crocker hearing and other hearings clearly indicates a shortfall in even knowing what questions to ask on the part of Congress. The questions were often little more than perfunctory on the general conduct of the war and almost none were about the specific

plans for future resources, refugees or any other of the decisive issues in the Iraqi situation. No questions were asked about how the positive impact of a few Provincial Reconstruction Teams could significantly impact a nation of 25,000,000 or on the strategy to deal with the Iraqi Kurdish insurgent actions against Turkey. Given the lack of pertinent questions it is hard to tell if Congress even understands that they are a part of the current problem in civil-military relations with their inability to provide appropriate oversight. One problem that officers with rank could solve is that they know the right questions to ask.

The placement of officers on congressional staffs would, over time, develop a greater institutional understanding of the second boss that the military has, i.e. Congress, but it would take more than just that. Many authors have recommended more and better targeted officer education at top-tier civilian universities, assignment models for officers that include interagency and coalition placements, in-house educational curriculum changes that stress a greater enlightenment, and a host of other ideas worthy of immediate implementation to better prepare leaders for their role in the civil-military relationship. However, I would suggest that all of the suggestions combined will fall short of the military's reform goals. The institutional roar of tactics, plans, operations orders, acquisition, maintenance, retention, deployments, and the need to peddle hope are simply too loud for an issue like the importance of fully understanding the meaning of the oath of office to be heard. After all, mental reservation is not lying; it is simply avoiding telling the whole truth. What might be better in my mind would be the historical tug of the military's past.

On December 11th, 2007 an Order of Cincinnati Medal sold for over five million dollars at a New York auction house. Few members of the United States military today would even know what it was much less understand what gave it such a value.⁴⁹ At the same time a cadet entering the United States Military Academy will be continuously indoctrinated with the one rule more important to his four year education than any other by being required to say over and over again "I will not lie, steal, cheat or tolerate those that do".⁵⁰ Oddly, the day he leaves West Point will be the last day he will ever hear about that lesson from history.

Thus, I simply propose the addition of more history education throughout the career of every military member. The objective would be to educate soldiers and military leaders that the biggest contributions made by the military to our country's security frequently were not made at gun point. History taught by the military today focuses on individual valor and the successful application of tactical and operational military art. An example of this is that General Matthew Ridgway is often quoted in military texts and manuals about what he had to say about training and tactics, yet his most important statement to senior military leaders is not to be found. In a letter to the Secretary of Defense on the occasion of his forced retirement he wrote "---the military advisor should be neither expected nor required to give public endorsement to military courses of action against which he has previously recommended. His responsibility should be that of loyal vigorous execution of decisions by proper authority."⁵¹ Ridgway as a military leader understood his absolute subordination to civil authorities in the execution of his duties, but he would not publically either endorse or criticize a policy he believed was wrong⁵². If today's military leaders are guilty of mental reservation an

understanding of why Ridgway thought the responsibility of the military leader should be limited to execution while reserving the right to advocate or oppose policy might help us to fully understand the meaning of “without any mental reservation.”

Endnotes

¹ Although this paper is on the general subject of civil military relations the discussion presented is much narrower than that. Civil military studies normally focus on the interactions between the executive branch, legislative branch and the military. This paper focuses primarily on the interaction between Congress and the military. The purpose of this restriction is to highlight the institutional factors that are subject to change. The executive branch is also an institution but its role in the relationship is more subject to the individual differences of a very limited number of people and their leadership style compared to the other two and is therefore less subject to institutional change which is the purpose of this paper.

² The written portion of General Petraeus' testimony is available at; <http://www.defenselink.mil/pubs/pdfs/Petraeus-Testimony20070910.pdf>

³ Andrew J. Bacevich and Richard H. Kohn, “Grand Army of the Republicans”, *The New Republic*, Vol. 217, Iss. 23, (December 1997) 22-24.

⁴ Senator Warner's question was specifically, “Does that make America safer?” General Petraeus answer was, “Sir, I don't know, actually.” available from http://media.washingtonpost.com/wp-srv/politics/documents/armed_services_cmte_hearing_091107.html

⁵ Jonathan Lurie discusses the unique military justice system and Supreme Court decisions concerning due process and other elements of this unique military authority in Richard H. Kohn, ed, *The United States Military under the Constitution of the United States, 1789-1989*. (New York, NY: New York University Printing Press, 1991) 405-430.

⁶ Individual members of the military do have very restricted civil standing in federal courts but as an institution the military does not.

⁷ In a historical and metaphorical sense the point of this sentence and following paragraph also applies to the pre-firearms era and throughout the history of war.

⁸ I make this statement knowing that it is debatable. The lack of attention given by the public before, during and after wars and conflicts, particularly small ones, has at times been minimal at best. This gives the civil and military authorities a great deal of latitude in their actions. Yet, there is one segment of the population that does always go to war with the soldiers and they are the families of the soldiers.

⁹ Edward C. Myers, *Quotations For Today's Army*, (Washington D.C.: The Information Management Support Center, Pentagon, VA, 1995) 1.

¹⁰ This note provides some facts about the oath taken by the President, members of Congress and the military for those interested. For officers in the United States Army the required oath is per DA Form 71, 1 August 1959. This oath is the 4th revision of the oath of office for military officers and this version has remained the same since 1884. There were two different oaths passed by the Continental Congress in 1776 and 1778 during the American Revolution and which were quite specific about the circumstances of service in the war. In 1789 the first oath was passed by the United States Congress and then modified in 1830. Both of those oaths contained the words 'obey the orders of the President of the United States' which still remains a part of the enlisted service member's oath today. In 1862 the reference to the orders of the President was removed as a result of congressional frustration with their marginalization during the war. In 1884 a simplified version of the 1862 oath was passed. The oath of office for members of Congress mirrors that of military officers in current wording and history other than some additional oath requirements for legislative members from southern states after the civil war. The Presidents oath "I do solemnly swear (or affirm) that I will faithfully execute the Office of the President of the United States, and will to the best of my ability, preserve, protect, and defend the Constitution of the United States." comes from Article II, Section 1 of the United States Constitution.

¹¹ A full discussion on the Jesuit doctrine of mental reservation and later rejection of the concept by philosophers like Emanuel Kant can be found in an article by Perez Zagorin, "The Historical Significance of Lying and Dissimulation – Truth-Telling, Lying and Self Deception", *Social Research* 63 (Fall 1996), 818-834.

¹² Paul Yingling, "A Failure of Generalship", *Armed Forces Journal*, May 2007; available from <http://www.armedforcesjournal.com/2007/05/2635198>.

¹³ The exception to this was the former Army Chief of Staff, General Eric Shinseki.

¹⁴ I cannot find where I read it but I believe the concept that military leaders should serve as Peddlers of Hope comes from Napoleon and is the context in which I use the phrase.

¹⁵ The Society of Cincinnati was formed in May of 1783. The Society's motto reflects the citizen-soldier-statesman ethic of selfless service: 'Omania relinquit servare rempublicam – He relinquished everything to serve the Republic'. The society remains active today and can be further researched at their web-site at: www.thecincinnati.org/institution.htm.

¹⁶ Lucius Quinctius Cincinnatus was a Roman who left his farm despite fears of starvation for his family and became Roman Consul in early Rome and then served as Magister because of a war emergency. The parallels of Washington leaving his beloved Mount Vernon are obvious.

¹⁷ The officers of the Continental Army were of the educated class and would have been aware of the writing of David Hume and others which were quite critical of the dictatorial actions of Oliver Cromwell in mid 17th Century England. They would have probably also been aware of more contemporary thought about Cromwell as the father of English liberty as expressed by Thomas Carlyle in the late 18th Century.

¹⁸ John Marshall, *The Life of George Washington, Commander and Chief of the American Forces During the War which Established the Independence of his Country and First President of the United States*, (Philadelphia, Pa.: J Crissy, Publisher, 1804-1807) Vol 3 & 4.

¹⁹ All historians of the period recognize Washington as one of the most if not the wealthiest person in the United States at the time.

²⁰ Marshall, Vol 5, 233.

²¹ This myth was generated by a written proposal and latter publication of a book on Washington in 1801 by Mason Weems. Mason Weems, *The Life of George Washington*, (Philadelphia, Pa.: Mathew Carey, Publisher, 1810)

²² Forrest Pogue, *George C. Marshall, Ordeal and Hope, 1939-1943*, (New York, NY, Viking Press, 1963)

²³ Alexander Hamilton, John Jay and James Madison, *Federalist: A Collection of Essays, Written in Favor of the New Constitution*, (Philadelphia, Pa.: J and A McLean Publisher, No. 41 Hanover Square, 1788).

²⁴ Allen R. Millett and Peter Maslowski, eds., *For the Common Defense: A Military History of the United States of America*, (New York, NY: The Free Press, 1984) 89-92.

²⁵ *The Constitution of the United States of America*, Article I and II.

²⁶ *Message From the President of the United States Recommending An Immediate Declaration of War Against Great Britain* (Washington D.C.: Printed by Roger C. Weightman, 1812).

²⁷ William Eustis was replaced by John Armstrong as Secretary of War in 1813 because of the unpreparedness of the military and his lack of leadership. Armstrong was replaced by James Monroe in 1814 after the burning of Washington D.C. and the failed strategy for the war.

²⁸ There have actually been eight Declarations of War passed by Congress. One each for the War of 1812, the Mexican American War and the Spanish American War. There were two declarations passed for World War I and three for World War II.

²⁹ The 12 military engagement are: the Quasi War 1798, the First Barbary War 1801, the Second Barbary War 1815, the Slave Traffic Raid 1820, the Paraguay Navel Attack Retaliation 1859, the Russian Civil War Intervention 1918, the Lebanon Intervention 1958, the Vietnam War 1964, the Second Lebanon Intervention 1983, the Gulf War 1991, Operation Enduring Freedom in Afghanistan 2001 and Operation Iraqi Freedom in 2002.

³⁰ General Tommy Franks, *American Soldier*, (New York, NY: Harper-Collins Publishers, 2004) 382-477.

³¹ Thomas E. Ricks, *Fiasco*. (New York, NY: Penguin Press, 2006) 29-85.

³² Bob Woodward, *Plan of Attack*, (New York, NY: Simon and Schuster, 2004) 24-363.

³³ David S. Cloud, "Ex-Commander Says 'Iraq Effort Is a Nightmare,'" *The New York Times*, 13 October 2007, 1

³⁴ Part of the cause for military officers providing only positive information is because of strategic communication efforts that leaks over into the civil military relationship that I discuss later in the paper. It should also be noted that senior military leaders are always very concerned about the support of public and tend towards positive stories to maintain that support.

³⁵ H. R. McMaster, *Dereliction of Duty*, (New York, NY: Harper Collins, 1967)

³⁶ In total there have been over 120 military engagements conducted without congressional action. Among these would be the 46 year war with the Apache Nation from 1840 to 1886 which was the nation's longest.

³⁷ Congressman Henry Clay called Jackson 'An American Napoleon' for his military actions in Georgia and Florida during undeclared wars against the Seminole and Creek Nations. Jackson was acting under the orders of President Monroe but many of his actions were considered beyond his authority as a military officer such as invading Florida and executing two British citizens.

³⁸ Even though administering Mexico City after the heavily debated war was unpopular amongst the profession of arms the military completed the mission remarkably well and this effort should be studied by those with an interest in nation building/Phase IV as the United States' first effort at these critical means for the achievement of national policy.

³⁹ In 1900 there was less than 300 staff members hired by Congress. In 2008 there are over 30,000 total legislative branch employees. Very few of these (probably less than 500) work on anything related to the military. The exact number of staff that specializes in military matters is nearly impossible to figure out since budget, appropriations committees and member staffs specialize in military matters as well the Congressional Research Service which is part of the Library of Congress. Source: Michael J. Malbin, *Unelected Representatives: Congressional Staff and the Future of Representative Government* (New York: Basic Books, 1980).

⁴⁰ Perhaps the biggest information dependence that Congress has is on interpreted information. Although there are some polls and other information sources that Congress can go to for information, issues like soldier morale, family health and even readiness are subject to the interpretation of military expertise.

⁴¹ Because these reports are generated by the military the remaining dependence on the military should be obvious but combined with the work of the Congressional Research Service the reports have diminished some of the information dependence but not all. As an example the single source of Improvised Explosive Devices (IED's) information such as countermeasures and effects is that coming from the military.

⁴² Article I, Section 8, Clause 11 of the Constitution is commonly known as the War Powers Clause and gives Congress exclusive authority to declare war. In 1973 the Congress passed the War Powers Resolution (WPR) which gives the President 60 days after the start of a conflict to request a declaration of war or other authority to continue military operations. This resolution in effect gives the President temporary authority to commit military forces without congressional approval. The power of the President versus that of the Congress has been debated as regards the commitment of the military throughout our history. Every President since 1973 has declared the WPR unconstitutional.

⁴³ Federalists numbers 25, 26, and 29.

⁴⁴ James M. Smith, "Service Cultures, Interservice Rivalries and Jointness in the United States Military", (Carlisle, Pa: United States Army War College Monograph, 2005) 2.

⁴⁵ There are some exceptions like training with industry and military financed education at civilian universities.

⁴⁶ L. Brit Snider, "Sharing Secrets with Lawmakers: Congress as a User of Intelligence", Intelligence Monograph CSI97-10001, (Washington DC: Center for the Study of Intelligence, February, 1997).

⁴⁷ Mari K. Eder, "Toward Strategic Communications," *Military Review* 87, (Jul/Aug 2007), 61.

⁴⁸ Marybeth P. Ulrich, "National Security Powers: Are the Checks in Balance", Chapter 21 in; J. Boone Bartholomees, Jr. ed, *U.S. Army War College Guide to National Policy and Strategy*, (Carlisle Barracks, PA: U.S. Army War College, 2006) 287.

⁴⁹ This was a medal that was given first to George Washington and then by the Washington family to Marquis De Lafayette. The actual sale price was \$5,305,000.00. Sotheby Auction House, New York, NY, Sale Number N08407, 11 December 2007, Lot 1, available from <http://www.sotheby.com>

⁵⁰ When I first entered the Army in 1968 I heard my first company commander modify this saying by making the statement "I don't lie, steal, cheat or tolerate those that do and I don't vote". The context of him making that statement was in keeping with a General Marshall standard that a soldier can afford to be political because we serve whomever the people elect as Commander-in-Chief. 1968 was a year of great political turmoil for our country and a time when the statements of many in the military were considered inappropriate similar to the behavior and statements of the military during the Clinton and now Bush administrations. George Marshall among others of his generation willingly gave up his right to vote to avoid any appearance of political favor on his part. In contradiction to that standard the military today goes to great lengths to get as many soldiers as possible to vote.

⁵¹ Mathew Ridgway, "General Ridgway letter to the Secretary of Defense", letter annexed in Andrew J. Bacevich, "Generals versus the President: Eisenhower and the Army 1953-1955." In *Security in a Changing World*. Volker C. Franke, ed, (Westport, CT: Praeger, 2002) 347

⁵² General Mathew Ridgway as a strategic leader is worthy of full study by anyone interested in civil military relations. He replaced General Douglas MacArthur in Korea whom had himself publically and politically opposed the strategy of President Truman. Resisting calls from subordinate commanders and perhaps his own military instincts he maintained an operational strategy of defensive actions when offensive actions would not have been supported by the American and international communities. His opposition to President Eisenhower's policy of greater reliance on nuclear weapons was maintained by his replacement General Maxwell Taylor.

