

# AVOIDING THE WORST POSSIBLE OUTCOME

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Having just suffered the loss of a comrade to a violent improvised explosive device (IED), several of your subordinates stand over two detainees who were apprehended for running away after the explosion. The fingers of angry infantrymen rest tensely in the confines of trigger guards, and emotion is high. Will those men make the correct call? Did you spend training time on ethical decision-making outside of the mandatory one-hour, “higher-driven” auditorium sessions, or did you just *hope* your men would do the right thing in your absence? Hope is not an effective means of ensuring ethical combat decision-making.

During the three-plus years of the Global War on Terrorism (GWOT), the United States Army has toppled two tyrannical regimes, brought freedom to more than 50 million people, and provided the rest of the world with hope for a future without the fear of terror. American Soldiers are the best trained and best equipped in the world. We own the ability to finally win the war on terror; however, we also have the capability to direct our fate towards strategic victory for the terrorists. Violations of the Army Values and the Laws of Land Warfare by U.S. Soldiers are huge victories for the terrorists. It is when leaders lose mission focus that these transgressions can occur.

Soldiers, sergeants, and officers currently serving in the Army constantly show their professionalism every day in the conduct of their combat duties. The American Soldier and lower-level units have been entrusted with historically high levels of responsibility in the GWOT, yet mission accomplishment remains

as high as ever. The U.S. Army serviceman is the model for professional armies around the world with respect to values, competence, and effectiveness.

Unfortunately, several negative incidents have recently come to light, in addition to the Abu Ghraib abuses, which have focused attention away from the positive activities of our Soldiers overseas. In January 2004 near Samarra, a platoon of U.S. Soldiers allegedly forced two Iraqi noncombatants off a bridge, killing one of them. Misconduct during an April 2004 raid in Kosovo resulted in punishment for a U.S. Army Soldier found guilty of maltreatment of detainees. As many as 28 Soldiers face charges in connection with

the homicides of two prisoners in Afghanistan in December 2002. Multiple investigations into other alleged abuses await completion.

Commanders and first sergeants are the individuals responsible for “everything the company does or fails to do.” Could anything worse happen to their troops, those people they care about the most, than participation in a war crime? For leaders and Soldiers committed to the Army Values, these instances and others like them are decidedly un-American acts and cannot be tolerated. The commander must answer essentially three questions, and the first sergeant should help ensure that individual Soldiers and NCOs understand and internalize correct answers.

These questions are:

- 1) Why should we treat prisoners and noncombatants humanely?
- 2) Why do abuses occur?
- 3) How do we prevent abuse problems?

**WHY SHOULD WE TREAT  
PRISONERS AND  
NONCOMBATANTS HUMANELY?**

The bottom line is that violations of the Law of Land Warfare severely damage both the mission and the Soldiers, the two areas where a leader’s most sacred loyalty rests. It might seem readily apparent, but a knowledgeable understanding of the reasons why ethical misconduct cannot be a part of our Army is crucial for Army leaders, particularly junior leaders. Reinforcing the reasons why detainees must receive appropriate treatment can help the commander’s subordinates remain focused on professional conduct with



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*An 82nd Airborne Division Soldier escorts an Iraqi prisoner of war to a holding area in March 2003.*

prisoners and noncombatants.

**We follow lawful orders.** The order to treat noncombatants (those essentially “out of the fight”) appropriately is lawful, and therefore subordinates must obey. Obeying orders is tantamount to good order and discipline in a unit. The command to treat prisoners and noncombatants appropriately is one of the clearest orders in the U.S. armed forces. Prior to modern-day deployments, U.S. forces received only instruction on the rules of engagement (ROE) for the pending operations, but forces in the GWOT are also now issued ROE cards to carry in combat. These cards are the clear rules for conduct in the course of combat, to include treatment of prisoners and noncombatants. This ROE follows standards set in the Geneva Conventions, of which the United States is a signatory. It states that “prisoners of war must be humanely treated at all times,” and they “must be protected, particularly against violence.” Whether or not this is convenient for Soldiers and leaders on the ground in combat is immaterial. Those are lawful orders we receive and we must abide by them.

The orders for proper treatment of prisoners originate in the Geneva Conventions, and they are also reinforced (hence, reordered) frequently by our senior and national leaders. President Bush has constantly repeated the mandate for professional conduct, calling past Geneva Convention violations “disgraceful conduct” by people who “dishonored our country and disregarded our values.” As a good measure, Soldiers should consider whether their impending action would be something that their Commander-in-Chief would approve, and whether or not they would feel comfortable committing the act in his presence (in the best case scenario, Soldiers fear disgracing their first-line supervisors as well). Secretary of Defense Donald Rumsfeld referred to abuse of noncombatants as “inconsistent with the teachings of the military” and “fundamentally un-American.” Our national leaders have to answer questions for felonious combat acts committed even by the lowest ranking Soldiers. We must seek to obey the lawful orders prescribed by our leaders at the national and organizational levels.

**Terrorists win when we abuse.** U.S. Army Field Manual (FM) 7-98, *Operations in Low-Intensity Conflict*, describes one of the objectives of terrorists as forcing “reaction, overreaction, and repression leading to immediate public dissention.” The Abu Ghraib abuses showed us just how possible it is for a single incident or undisciplined unit to affect public views towards the entire Army and its mission. Recent courts-martial action for abuses by non-prison units threaten to paint an undeserving image of close combat personnel as well. Opponents of the GWOT now have what they perceive as evidence that the U.S. is malignant in its intentions and conduct. Lieutenant General Lance Smith, deputy commander of the U.S. Central Command, stated that “unprofessional and malicious conduct” by Soldiers has “facilitated the efforts of our enemy to malign our national intent and character, and gives weight to the charge of American hypocrisy.” The terrorists who watched the media coverage of the abuses were likely quite satisfied with the “overreaction and repression” of the American Soldiers and the “immediate public dissention” it created. The Soldiers’ illegal actions were the best recruitment tool the terrorists could have desired. By committing abuses, Soldiers threaten to destroy the positive effects of all the difficult victories against terrorism that their fellow Soldiers have fought so hard to win.

FM 7-98 also describes the two imperatives for defeating

terrorist insurgencies: “reduce the insurgent threat or activity and provide a favorable environment for the host country’s development program.” By helping the country develop, the armed forces help eliminate dissatisfaction that caused the insurgency to rise. When units have to focus time and effort on resolving possible war crimes issues, they have to redirect valuable resources away from destroying the terrorists and helping the civilians. Future reports will likely show that millions of dollars were spent on various legal proceedings related to U.S. abuses in the Global War on Terrorism, which otherwise could have been used to combat the enemy and support our Soldiers in combat.

**Abuse hurts your buddies.** Imagine a situation where someone in your neighborhood or family is unarmed but gets beaten by thugs or even the authorities. This would raise tensions to be sure, and could lead to violent action against the security threat. It would be difficult to reason that those were “good” individuals who rendered the abuse. Logically, the same response can be expected from the neighborhoods and families of individuals abused by U.S. servicemen. So instead of defeating or intimidating the enemy, a Soldier who abuses civilians or prisoners in fact simply creates more enemies. And more enemies mean more IEDs and ambushes to hurt or kill his fellow American comrades. Additionally, it prolongs the war, requiring the rotation of additional servicemen to hostile fire areas over a longer period of time. And history has taught us that Soldiers exposed to prisoner abuse are significantly more likely to develop psychological disorders later in life, particularly Post-Traumatic Stress Disorder (FM 22-51, *Leader’s Manual for Combat Stress*). Soldiers who feel less than obligated to their moral responsibilities in combat show that they care little as well for their fellow comrades.

The practical rationale for not abusing prisoners or noncombatants can be summed up in one sentence. Abuse absolutely fails our two greatest commitments: the mission and the Soldiers.

## WHY DO ABUSES OCCUR?

Leadership failure is the chief reason why abuses occur. How can Soldiers groomed under the Army Values possibly take part in such egregious offenses against humanity? Combat stress can sometimes be a contributing factor, but violations of the law of land warfare always have roots in leadership failure.

**Combat Stress.** Stress is the “body and mind’s process for dealing with uncertain change and danger.” Combat, of course, is rife with different kinds of stressors, from the very real danger of incoming rounds to excessive worry about family and friends at home. Stress can be a good thing. It drives Soldiers to push themselves to the furthest extent of their abilities, and it increases alertness in tense situations. Left unchecked and extended over a long period of time, though (i.e. months or yearlong deployments), stress can result in misconduct stress behaviors, the most extreme examples being violations of the Law of Land Warfare. The emergence of IEDs as a main enemy weapon requires that our Soldiers maintain an even greater and constant awareness while on patrol, to include long convoy movements. The unpredictability of enemy mortar fire can cause Soldiers heightened levels of anxiety during all hours of the day and night. It is understandable if the requirements of a combat-deployed Army cause stress for



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*First Lieutenant John Gibson of the 2nd Brigade Combat Team, 82nd Airborne Division, escorts an enemy prisoner of war in Iraq.*

Soldiers; it is unacceptable, though, if Soldiers in a stressful environment commit atrocities.

Torturing prisoners may be “erroneously justified as necessary” by stressed Soldiers in order to “gain information and save friendly lives or to intimidate the opposition,” particularly in conflicts against terrorists who blur the line between civilian and combatant (FM 22-51). Unfortunately criminals who trade their values and America’s dignity for a chance at illegally obtaining information don’t understand that it is a statistical improbability that subjects under torture will give accurate information. They will say anything to stop the pain, and just like many former American POWs subjected to torture, even the greatest physical pressure will not make a dedicated and trained subject reveal vital information.

Another manifestation of combat stress can be the tendency to “react with excessive

force and brutality to episodes of provocation.” The boundary between prudent responses to threats and excessive use of power can often be a very gray area in combat. If found guilty, the Soldiers accused of pushing two Iraqi men into the Tigris River (one man drowned) in Samarra last January for “violating curfew” certainly crossed that boundary in responding to threats. Additionally, the mistreatment of detained individuals immediately or shortly after surrender or disarming may be a misconduct behavior response to stress in intense combat situations. Since it cannot realistically be avoided, combat stress can be a contributing factor in violations of the Law of Land Warfare and the Geneva Conventions; however, the negative effects of combat stress can be

mitigated by continual and effective leadership.

**Weak Leaders.** Abuses in combat are a direct result of weak leaders. In virtually every instance of noncombatant abuse by U.S. forces, the primary (in effect, the sole) reason for illegal transgressions is leadership failure. Even misconduct resulting from combat stress in actuality finds its roots in poor leadership (“It is the primary responsibility of leaders to limit the effects of combat stress,” FM 22-51.). Leaders fail by not training their Soldiers properly and, ultimately, because of the leaders’ own leadership deficiencies.

Leaders fail by not training their Soldiers properly, even though the training required uses the most inexpensive and readily available tools in the Army. By simply talking to Soldiers and making clear the expectations when confronted with noncombatants, a leader has already achieved a great deal in terms of setting

the right conditions for ethical conduct in combat. He then listens to the questions and concerns of his Soldiers, constantly reasserting the unit’s inflexible commitment to ethical conduct. FM 7-1, *Battle Focused Training*, identifies the Army Training and Leader Development Model, which focuses the “how” of mission accomplishment on an absolute dedication to ethics, values, warrior ethos, standards, and principles and imperatives. The leader must train his Soldiers for the inevitability of difficult combat decisions by giving them the tools for ethical decision-making.

Ultimately though, illegal combat activity is a result of weak leaders. In combat, Soldiers rarely go anywhere without a leader. The team leader level is the lowest division of forces we separate ourselves to, and even then a squad leader should be no more than a vocal shout or Motorola call away. In every professional development course, to include basic training but in particular all officer and NCO courses, instruction always highlights the requirement for U.S. Army members to adhere to the standards of conduct contained in the Army Values. Leaders know the standards, yet recent unethical combat conduct shows that a disappointing few fail to truly inculcate those values. Weak leaders choose to violate Army standards of conduct when difficulties arise. Weak leaders “break” in the face of adversity, choosing the “easier wrong” instead of the “harder right.” Rather than attempting to solve problems using creativity, professionalism, and long-term vision, weak leaders react to situations seeking immediate results with disregard for the ethical requirements of the “how” and without concern for second and third-order effects. FM 22-100, *Army Leadership*, notes that leadership involves making decisions with due respect to the consequences of those decisions. In recent incidents of illegal Soldier conduct, ethically trained leaders were involved and failed in their moral obligation to professional conduct. Leaders committing illegal acts may consider themselves simply “aggressive” or “mission-focused,” but there is nothing heroic or tactically and strategically profitable about abusing noncombatants or embarrassing one’s country and fellow servicemen.

## How do we prevent abuse problems?

No commander or leader would ever want something as tragic as a war crime to occur in his unit. To ensure proper treatment of noncombatants, the leader must take action before, during, and after combat.

**Before combat.** Prior to combat, leaders must ensure that ethical training receives equal emphasis as improving tactical and technical skills or physical attributes. FM 22-100 notes that leader attributes (such as self-discipline and judgment) are “learned and can be changed.” It is essential today that commanders emphasize during training the importance of adhering firmly to standards of conduct during combat. In the 173rd Airborne Brigade’s recent rotation to the Combined Maneuver Training Center (CMTC) in Hohenfels, Germany, Soldiers were issued and required to maintain a pocket-sized reference card. This reference card contained a replica of the ROE card for the Combined Joint Task Force 76 (CJTF-76) area of responsibility in Afghanistan, where the brigade will deploy in March 2005. It also defined the CJTF-76 Rules for Treatment of Persons Under Control (PUC). The most instructive part of the card was a series of training scenarios that tasked the reader with determining the correct ethical decision in a variety of situations involving enemy, civilians, and noncombatants. The training scenarios on the card facilitated “hip-pocket” training during deployment downtime, and they allowed Soldiers to hear ethical reinforcement from their most immediate leaders. The unit’s leaders placed significant emphasis on ethical combat conduct by producing and then promoting the ethical reference cards in the training environment.

Based on the recent incidents of leader misconduct in combat, we have to prepare our Soldiers for the possibility that a leader would try to direct them towards unethical conduct. In no uncertain terms we must teach our Soldiers to say no when confronted with violations of the Army Values. We know that we will fight in combat exactly how we trained in garrison; based on that knowledge, I recently conducted focused ethical training with my platoon. Each one of my Soldiers had the opportunity to respond to fictional directives to violate combat ROE, with commands coming from different members of the platoon’s internal leadership. I have confidence that none of my platoon’s leadership will give unlawful orders in combat, but if my Soldiers move to another unit, (or if I receive new untested leaders while downrange), I want to ensure that the Soldiers have had practice in doing the right thing: refusing unethical orders. We must train our Soldiers and leaders before war so that they can make the right decisions in combat.

**During Combat.** In the midst of combat operations, leaders have the important responsibility to ensure that ethical violations do not occur. Leaders are responsible for everything their men do or fail to do, and this extends to ethical conduct. Misconduct stress behaviors resulting in violations of the ROE are the responsibility of commanders. FM 22-51 lists several strategies for reducing misconduct in combat, such as constantly explaining the ethical, legal, practical, and tactical reasons to obey the rules. For example, “Provoking us to commit atrocities is exactly what

the enemy is trying to do to achieve his objectives, not ours.” Additionally, develop a sense of “family” that makes illegal behavior repugnant and morally unacceptable, as well as punishable. And, of course, the commander and leaders must always set the example in their own moral conduct in combat.

Moreover, when dealing with PUC situations, it is important that the PUC be brought to the rear and out of the hands of the front-line troops as soon as possible. This has to be done for several reasons. First, the detaining unit must ensure that the trained military interrogators (typically located at battalion or brigade-level) receive the prisoners before sensitive information is lost to time or circumstances. Secondly, it helps protect the front-line troops from unfounded claims of abuse by detainees. Finally, it keeps the front-line troops focused on their mission of closing with and destroying the enemy, while the battalion and brigade elements provide support via their battlefield operating systems (in this case, intelligence). Recent (yet isolated) disgraces with respect to U.S. control of PUCs require that higher headquarters maintain a greater level of oversight in detainee operations.

**After Combat.** Once they complete their combat tours, commanders and leaders have a responsibility to discuss with their peers in other units the difficulties they experienced in combat. For example, the Center for Army Lessons Learned (CALL) operates a website where leaders can interact and relate firsthand stories and participate in discussions on ethical considerations and improvement strategies in combat. It is absolutely imperative that we pass along the hard-won lessons to other Soldiers and leaders as they replace us in the different deployed areas of operations. These lessons include insights into the moral obligations inherent in combat while serving under the American flag.

Units composed of professional Soldiers and ROE-supporting leaders will be more effective because individual members will have no reason to fear or over-monitor others for possible ROE violations or unethical conduct. Some skeptics might be tempted to caution that we could hurt the aggressiveness of the Soldier by putting too much of an emphasis on ethical conduct. On the contrary, confident, cohesive units are much more lethal than those composed of weak leaders and individuals willing to compromise national objectives, their small-unit mission, and the safety of their fellow Soldiers. Violations of the ROE are failures to follow orders, they help the terrorists to win, and they hurt our buddies; ultimately, abusing noncombatants fails the mission and the Soldiers. Weak leaders allow these unethical transgressions to occur. Current combat operations require leaders who take responsibility for the ethical development and decision-making of their Soldiers and units before, during, and after combat. Our mission as an army in the Global War on Terrorism makes violations of the ROE and the Laws of Land Warfare absolutely unacceptable.

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