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# Civil-Military Relations in the United States: What Senior Leaders Need to Know (And Usually Don't)

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## Abstract

Most flag and general military officers participate in civil-military relations (CMR) daily whether or not they realize it. Yet while these leaders recognize and support the principle of civilian control, they have thought little over time about how it works or the difficulties involved, much less the larger framework of civil-military relations. Likewise, civilian leaders in the national security establishment, whether career civil servants or political appointees, contribute—for good or for ill—to American civil-military relations. They seem to think about CMR even less. This article analyzes the two broad categories of interaction that compose CMR using several discrete topics within each area. The article highlights the paradox in CMR and the best practices that previous generations of leaders experienced and learned in navigating CMR issues successfully.

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Upon commissioning into the US armed forces, every military officer swears to preserve, protect, and defend the Constitution of the United States. Upon promotion, all officers repeat that oath, again committing their loyalty and, if necessary, their lives to a system of government that at its foundation is based on civilian control of the military. While those words do not appear in the Constitution, the structure of the government, the powers assigned to each branch, the limitations on those powers, and the many individual provisions, authorities, and responsibilities put the military—active duty and reserves—under the control of civilian officials atop the chain of command. Those civilian authorities are defined by laws duly passed under constitutional procedures. Thus, civilian control is the defining principle of the relationship but not the sum total of civil-military relations, as senior leaders quickly discover.

Civil-military relations is a broad subject encompassing diverse issues and innumerable topics. It includes the legal foundations for the use of force and the psychological processes that turn ordinary citizens into fighters. It also encompasses ethical conundrums regarding professional obligations in a hierarchy that asks individuals to risk their lives and how press statements by senior military officers affect public opinion.<sup>1</sup> Military leaders must understand the fundamentals of the civil-military relationship in order to fulfill their duty as custodians of the nation's defense and the military profession. They can develop a stronger understanding of this relationship by appreciating two broad sets of dealings. The first is civil-military interactions in making policy and executing strategy at the senior-most levels of government. The second is civil-military interactions across societies, from the individual and group to military and civilian institutions. Each of these sets of interactions contains discrete topics that all senior military leaders can expect to confront at some point in their professional careers. And each has a paradox that frames relations between the civilian and military spheres in the United States today.

### **Civil-Military Relations for Setting Policy and Strategy**

Since the founding of the republic under the Constitution, the United States has enjoyed an enviable and unbroken record of civilian control of the military. When measured by the traditional extreme of civil-military relations—a coup-d'état—there has never been a successful coup or even a serious coup attempt in the US. Academics and pundits may debate whether the violence at the Capitol on 6 January 2021 met a definition of “attempted coup.” However, in the terms that most concerned the Framers of the Constitution and that have dominated American civil-military relations ever since, those attacks—horrible as they were—in no way fit the definition of a coup. That is, military leaders were not using military units under their command to attempt to seize political power. There is much to criticize about whether the military prepared adequately or adapted quickly to the unfolding events. Certainly, a few veterans and reservists took part in the violence, much to their shame and dishonor. But it was not an attempted seizure of political power by the military. America's record of unbroken civilian control stands if measured by the absence of coups.

Nonetheless, since the United States has become a global superpower, almost every secretary of defense from James Forrestal to today (with the possible exception of President Trump's defense secretaries, as discussed below) has come into power with concerns that civil-military relations under his predecessor got out of balance, with the military gaining too

much influence. Hence, the paradox is this: the unbroken record of civilian control and the nearly unbroken record of worry about civilian control.

There are many reasons for this paradox, beginning with the simple fact that the military establishment in the superpower era has enjoyed remarkable power—in fiscal, political, and prestige terms—far in excess of what the Framers of the Constitution would have thought was proper or safe for the preservation of a free republic.<sup>2</sup> Such power may be necessary to meet the constellation of threats but poses a latent threat of its own. Political leaders naturally and rightly fret about this concern in an “ounce of prevention is worth a pound of cure” sort of way.<sup>3</sup> It is also true that the regular turnover of administrations, sometimes involving a change in the party in control, brings with it doubt about the reliability of current senior civil and uniformed officials.

We think the root of the paradox lies in the differing worlds, experiences, and priorities exacerbated by the contradictory expectations civilian and military leaders bring to the relationship. Since the participants from the two realms do not share expectations, each ends up disappointing and disturbing the other. Leaders are a bit like a newlywed couple, each spouse having some idea of what his or her own—and their partner’s—role in the relationship would be. Unfortunately, if the spouses do not share the same role expectations, each is surprised to discover that the other keeps getting it “wrong” by behaving in unexpected ways.<sup>4</sup>

American military officers enter the relationship with a view of “proper” civil-military relations derived from the classic argument laid out by Samuel P. Huntington in the mid-1950s. His *Soldier and the State* proposes a relatively clean division of responsibility. Civilians should properly determine policy and grand strategy matters with advice from the military. The military should decide on issues largely centering on weapons, operations, and tactics according to the dictates of war, experience, and professional expertise.<sup>5</sup> In Huntington’s view, the military voluntarily subordinates itself to civilian direction in exchange for civilians respecting this division of responsibility. Civilians decide the weighty matter of who to fight and when, how much military budgets will be, what weapons will be purchased, and what policies will govern the military. They then give the military autonomy on the implementation of how to fight and how to execute civilian decisions. As one experienced journalist explained to us, “Civilians tell us where they want to go but leave the driving to us.” Huntington’s real genius was in describing an approach that already aligned with a traditional military point of view. His argument is still taught in professional military educa-

tion as the “normal” theory of civil-military relations, leaving attentive officers to assume that this is the approved model.<sup>6</sup>

Nevertheless, few civilian leaders—including those assigned to senior national security posts—have spent much time, if any, thinking through civil-military relations either in theory or practice. Even those who have thought about it generally act in a way that aligns with a very different model. The rest simply act according to a logic internally consistent with the dictates of civilian politics.<sup>7</sup> Civilians know that there is no fixed division between what is “civilian” and what is “military.” The dividing line is where civilian leaders say it is at any given time, and where they draw it can change. This line may fluctuate with the president’s personal interests, the threat and political stakes, changes in technology, larger national security considerations, and even with what is going viral in social media that day. Frequently, the dividing line between a decision that civilians believe is theirs to make on strategy and operations can fall far into the domain that the military believes is best insulated from civilian encroachment. In such cases, the recurring lament of American military leaders is that civilians misunderstand or are misplaying their role. They especially call out those civilians involved in the national security policy process who are not in the formal chain of command as are the president and secretary of defense. Faced with civilian oversight from anyone other than the narrow chain of command, the military may think or say, “I believe in civilian control, but you are the wrong civilian.” Or if the president or secretary of defense is in the scenario, the military may counter, “You are violating best practice by micromanaging us.”<sup>8</sup> Of course, it is the president and secretary of defense’s prerogative to micromanage if they deem it necessary. Moreover, while it would be inappropriate for any civilian other than those two to issue an actual order to the military, it is not inappropriate for other civilians to request information for and visibility into military matters if the president or secretary of defense has tasked them to oversee military affairs. The point stands: service members and civilians in the policy-making process often believe they are acting properly while the other is falling short in some way, and those beliefs derive from different standards and expectations of how relations ought to go in the ideal.

Likewise, civilian policy makers attempt to make decisions as late as possible in the interest of flexibility to preserve the president’s political options. The priority for the military is to seek clarity and secure a decision as soon as possible to maximize the time for, and effectiveness of, the plans or strategy that follows. The priority for civilians, particularly those closest to the president, is not to tie the hands of the president by committing to

a course of action that cannot be adjusted, walked back, or abandoned if circumstances warrant. In response to adverse geopolitical surprises, civilians seek options while the military leans strongly toward one clearly defined choice. The military's failure or delay in providing alternative looks like foot-dragging. Civilians' failure to provide clear objectives looks like purposeful delay that could compromise strategy and operations, perhaps undermining the objectives, and lead to the unnecessary waste of lives and treasure. It can be a dialogue of the deaf, sometimes made even more frustrating by each side speaking in jargon, acronyms, and code incomprehensible to the other.

Such competing expectations make for a rocky relationship until civilian and military leaders understand one another. This helps explain why American civil-military relations in practice has so many episodes of friction and mistrust even when both sides strive for outcomes important to both, and even when the specter of allowing the military to dominate in some way is nowhere in view. What undermines compromise and cooperation—even the integrity of the process and the possibility of success—is distrust, perhaps fear, on both sides of being dragged by conditions or circumstances into a decision neither wanted and to a purpose incommensurate with the costs.

There is one crucial way the marriage analogy breaks down, for this is a decidedly unequal relationship not based on love and often unchosen by either partner. Democratic theory and historical practice recognize that military members are professionals with distinctive expertise that gives them an indispensable voice worth respecting in discussions of strategy. But they are the agents, not the principals. Military subordination to civilian authority is a defining feature of most governments, particularly republican ones, and democracy cannot survive for long without it. Civilian authority derives not from some superior wisdom but from the fact that civilian politicians are chosen and unchosen by the ultimate principal: the electorate. Civilians oversee national security decisions not because they are right but because the Constitution and laws give them the right, the authority, and the responsibility. And it is their right, even when they are wrong in the choices they make. They have a right to be wrong.<sup>9</sup>

Against this backdrop, as military and civilian learn to understand and relate to one another, they must work together to overcome numerous obstacles. We highlight three that have arisen in every post-1945 administration and a fourth that reflects the unusual tenure of President Donald Trump.

### ***What is “Best Military Advice”?***

Recent chairmen of the Joint Chiefs of Staff, when pressed to describe their roles, have often responded that one was “to provide best military advice.”<sup>10</sup> Viewed in the most positive way, the leaders are trying to indicate that their assignment is to give advice in the policy-making process that conveys their professional judgment about the military dimensions of the problem and that reflects good staff work. It is decidedly not “telling the boss what he or she wants to hear based on political calculations and irrespective of hard military realities.” But “best military advice” rarely works in an optimal way. It is misleading as a mantra and, most problematically, often poorly received by civilian superiors when framed that way.<sup>11</sup>

To civilian ears, “best military advice” can sound like a threat. Civilians do not trust the benign connotation, for when do professionals ever render less than their best opinion or judgment? Instead, it comes across as a thinly veiled attempt to box in the decision makers because “best” implies a singularity. Pick it or else. Or else? Sometimes the “else” is explicit and sometimes just implicit. For instance, the consequences might be militarily dangerous or the domestic political costs significant, but the phrase can in any case feel uncomfortably like a threat. If this single recommendation is rejected and it leaks, that advice becomes the basis for criticism of the decision maker. Perhaps there are occasions when professional military opinion embraces only one alternative, but in practice senior civilian leaders quickly learn, as did Abraham Lincoln, that their challenge is not deciding *whether* to listen to the generals but deciding *which* generals to listen to.<sup>12</sup> When in 2006 President George W. Bush had some distinguished military professionals advising in favor of the surge and others advising against it, which was the “best military advice?”<sup>13</sup>

Civilian leaders need their military advisors to inject technical military considerations and military judgment into decision making to offer perspectives that they, as civilians, may lack. Is it a good idea to station a carrier battle group off the coast indefinitely to shape the environment for effective diplomacy as a civilian might recommend? The president should not have to rule on that question until hearing the logistical challenges and second- and third-order effects for future naval operations that such an indefinite show of force might entail. Or perhaps he or she needs to be briefed on the historical experience of similar decisions in that place or under similar circumstances.

Military expertise is indispensable. But fully considered military advice in the form of plans and options can only be developed with an awareness of the larger political context in which the president is operating. The



military has the right and the responsibility to present options, even politically unpalatable ones and even when it knows that such advice will be unwelcome in the Pentagon, Congress, or the Oval Office. Correspondingly, civilian decision makers have a right to review alternatives that better reflect their larger purposes, if only to see clearly why one or another course of action is inappropriate. This is true regardless of whether the military is sure a particular course of action is a bad idea. Inherent in the “right to be wrong” is the right to hear viable options that align with what the president thinks is preferable—if only to see how difficult and problematic that course might be.

Military advisors who try to short-circuit the process by hiding or omitting certain options or information undermine best practices in civil-military policy making. Worse yet, attempting to substitute their preferences for those of their civilian superiors—and slapping the label “best military advice” on such efforts—will not spin that inconvenient truth away. Worst of all, appearing to box in their bosses will forfeit the trust on which effective relations depends when they inevitably seek other military counsel in search of more options. Properly done, military advice entails speaking up, not speaking out. Speaking up is telling the bosses what they need to hear, not what they want to hear. If senior military leaders have a contrary opinion, it is their professional obligation to ensure civilian leaders know before a decision is cast in stone. But speaking up in private within the chain of command is very different from speaking out, which involves going to the press or to influential people with such access. The latter would surely be interpreted as pressuring a president to accede to military preferences. Seasoned military leaders learn to work with their civilian counterparts in an iterative process that is responsive, candid, and flexible, eventually yielding assessments that might differ markedly from where either side in the dialogue began.<sup>14</sup>

At the end of the process, best practice yields a decision followed by full and faithful execution. This may be a decision not to decide, to await events, or to otherwise maintain maximum flexibility for the deciding official. Or the decision may involve a course of action riskier than the military thinks wise. Provided the military was consulted, that decision will have been made with full awareness of its perspective. Even if not, provided that the decision is legal, only one outcome is acceptable: obedience.

### ***Why No Norm of Resignation?***

Every American military leader we have engaged on this subject—and we have engaged thousands—understands that the military must resist,

even disobey, illegal orders. Likewise, it must obey legal orders, even those it dislikes. Every military leader is trained in how to use the extensive institutional apparatus of military, DOD, and Department of Justice lawyers and other advisers to determine what to do when the legality of an order is questionable. What produces a rich and often contentious discussion is how military leaders should respond to legal orders they judge to be profoundly unethical, immoral, or unwise. In such a situation, can a military leader ask for reassignment or retirement—done either silently or with public protest—rather than obey?

The first step toward an answer requires dispelling a myth. Too many senior officers—to include several chairmen of the Joint Chiefs of Staff—have said or written that the duty to disobey illegal orders extends to immoral and unethical orders. As retired Air Force deputy judge advocate general Maj Gen Charles Dunlap carefully explained, the Uniform Code of Military Justice makes no allowance for disobeying “immoral” or “unethical” orders; the choice is legal versus illegal.<sup>15</sup> Military professionalism unequivocally requires everyone in uniform to behave in both a legal and ethical fashion. Still, this dictum does not permit senior officers to resist legal orders based on their own personal standard or definition of what is moral and ethical since that is highly subjective and varies by individual. The only criterion that allows for disobedience is illegality. The matter is simply put. Military members who resist following an illegal order will be protected and exonerated. Alternatively, service members who resist following a legal order that somehow offends a subjective ethical or moral standard can be punished and condemned. It is the job of the voters to punish and remove elected leaders for unwise behavior.

At this point, thoughtful senior military leaders usually object that they are not mere automatons who reflexively translate orders into actions. Are there not more options beyond the simple obey/disobey binary? Yes, but the details matter. For starters, it is essential that the military has first exhaustively fulfilled its obligations in advance of a decision. The advisory process is a time for raising awkward questions, offering sensible objections, and clarifying what makes a course of action unwise (or possibly unethical and immoral). The imperative of military obedience does not require the immediate execution of the slightest whim expressed by any responsible civilian.

The policy-making process is a dialogue—though an unequal one—not a monologue. Officers who think they have options to consider after an order has been given must first demonstrate that they have not shirked the responsibility to advise in full candor. It takes a certain kind of courage to

speak up forcefully even within the confidential policy-making process when the president or secretary of defense has signaled the direction. Yet best practices in civil-military relations require that courage. Best practices also require that the military understands when it has adequately made its case and thus the point where the obligation to advise has been fulfilled—and the point beyond which further pressing of the matter impedes civil-military relations. Many subordinates expect their uniformed superiors to press military perspectives on the civilians, believing in a norm that the military should go beyond “advising” to “advocating” and even “insisting” on certain courses of action.<sup>16</sup> In some cases, they misread H. R. McMaster’s influential book *Dereliction of Duty*, assuming that the Vietnam failure at its root was the unwillingness of the Joint Chiefs to stand up to the civilians and, indeed, to resign in the face of civilians who ignored military advice on strategy in the conflict.<sup>17</sup>

The Joint Chiefs obviously did not resign in the Vietnam War, and such resignations at the topmost military ranks are essentially nonexistent. Many senior officers retire before reaching the topmost position for various reasons. Those in the most sensitive assignments, however, know that a sudden or unexplained departure would be interpreted as some sort of dispute with civilian policy, decisions, or leadership that likely heightened civil-military conflict. Some senior military officers submit their retirement papers when they are fed up with the direction the service or a policy appears to be heading. But this is not resignation. Some submit their retirement papers, usually misidentified as resignation papers, as a substitute for getting fired. Neither is that resignation. Submitting retirement papers gives agency to the superior, who can reject them and insist the officer continue to serve. Resignation removes that agency and thereby subverts the superior’s authority.<sup>18</sup>

The closest example of a possible resignation as a protest in the last three decades is Air Force chief of staff Ron Fogleman’s departure before completing his four-year term. In reality, treating this as resignation stems from a fundamental misunderstanding of what happened and why. Fogleman requested an early retirement when he believed that the senior Pentagon civilian leadership had lost confidence in his judgment. He also went silently in the hopes of preventing his leaving being interpreted as a clash with the secretary of defense over blocking the promotion of the general in charge in Saudi Arabia during the lethal Khobar Towers terrorist attack. Nonetheless, Fogleman’s effort backfired. His silence led many to believe his was a “resignation in protest,” a misinterpretation that persists today.<sup>19</sup>

In the American system, there is no norm of resignation because it undermines civilian control.<sup>20</sup> For the top two dozen or so flag officers—the service chiefs, combatant commanders, and commanders of forces in active combat—resignation either in silence or with protest would be a huge news story and trigger a political crisis for the president or secretary of defense. Even the threat of resignation would constitute an attempt to impose military preferences on civilian authorities. Going beyond the role of advising and executing a decision properly ordered by civilian authority directly contradicts civilian control, and the consequences for civil-military relations would reverberate far into the future. Civilians would choose the most senior officers based on their pliability rather than on experience, expertise, ability, character, and other criteria necessary for high command and responsibility. Political leaders already have some incentive to vet appointments for compatibility with administration priorities or policies—in effect, politicizing the high command. There is some tantalizing evidence suggesting this might happen on the margins.<sup>21</sup> Nevertheless, the motivations for this sort of corruption in senior officer selection would be far greater if a norm of resignation in protest took hold. Fearing the political consequences of resignation, presidents, secretaries of defense, and service secretaries would trust senior officers less, weakening the candor necessary for intense discussions of critical matters. To forestall the possibility of resignation, consultation with senior officers could become perfunctory window dressing to prevent criticism or political attacks. The threat of resignation could also cause civilian leaders to bend to the will of the military to forestall a politically costly resignation. Either way, resignation with protest as a common practice would soil the advisory process and diminish healthy civil-military relations. As long as the military retains its high standing with the public and high partisanship continues to characterize American politics, the precedent would weaken and perhaps poison civil-military relations to the detriment of effective candor, cooperation, policy, and decision-making. Indeed, there is a strong norm *against* resignation for good reason, but there is growing evidence that attitudes are changing about whether resignation is appropriate.<sup>22</sup> Senior military leaders need to internalize the norm against resignation and reflect on how it shapes and constrains their role in the policy-making process.

### ***Congress and the Challenge of Civil-Military Relations***

Even without resignation as an option, the military is not entirely without recourse when faced with clearly dysfunctional policies or deficient orders from civilian superiors. Thanks to a key design feature of the Ameri-

can system embedded in the Constitution, Congress is also the “civilian” in civilian control. The legislative branch has constitutional powers as direct as deciding the design of military policies and forces and as indirect as having the power of the purse and the authority to approve military promotions and assignments. In practice, the president’s commander-in-chief powers and executive functions are vast, particularly during wartime. Clearly, the executive branch enjoys primacy in civilian control of the military. It has the responsibility of command and large staffs for planning and managing strategy and complicated joint and combined operations. But the military is also subordinate to the legislative branch, and woe befalls senior military leaders who fail to appreciate this fact.

To be sure, this division and power sharing often put military officers in contentious situations. In theory, the president and Congress work together to authorize, appropriate, and execute military policy. In practice, in the absence of a clearly existential war or military crisis, the president and Congress debate all sorts of military questions, sometimes making the armed services innocent victims of larger partisan struggles. Politically deft military agents have learned over several generations how to balance the president against Congress and vice versa, thus confusing and often warping healthy civil-military relations. Ultimately, these tactics produce less effective military policies and decisions.

Because of Congress’s constitutional role in making defense policy, it has a legitimate call on military advice and opinion and has levers it can pull to compel a reluctant military to provide advice. Congress must vote to confirm every military officer’s rank, and at the topmost levels that vote is on a by-name, by-assignment basis. Before confirmation, congressional committees require top officers to promise, under oath, that they will give Congress their personal, professional opinion on national security matters if asked during the legislative process. Because of the constitutional separation of powers, Congress cannot force senior military officers to reveal what they told the president during the confidential advisory process. Still, Congress can compel officers to reveal their personal, professional opinions on the matter.

This is the constitutionally mandated path of “resistance” for a military officer to register legitimate concerns about a policy or decision. However, it is a delicate situation that can ruin civil-military relations inside the executive branch if done without careful thought and wording. One caveat is that such candor is rarely applauded by the White House, DOD, or armed services, which are more likely to view it as insubordination. In fact, resistance can be tantamount to insubordination if marshalled to cham-

pion military perspectives over decisions already made or under consideration. Achieving the right balance is a tightrope the military must walk. Staying balanced means that senior leaders honor their obligation to obey and implement legal orders from the commander in chief, even if they deem them unwise. In parallel, they must meet their constitutional duty to apprise Congress of their personal reservations if directly asked. Throughout the process, senior military leaders must do so without undermining the morale of their forces, which will bear the brunt of any policy decision. The more senior the military officer and the more significant the responsibilities, the more likely that officer will face the tightrope dilemma—perhaps multiple times in a career.

Another difficulty in dealing with Congress is parochialism. It is the belief that the military pursues the national interest and that Congress is concerned with only personal or narrowly partisan matters. A military officer looks at a member of Congress and is tempted to think, “All he or she cares about is getting reelected, keeping bases and jobs in their states or districts, and championing the military for political advantage. We are the ones thinking about national security, and they are thinking about the next election.” This is a sentiment we have heard countless times from senior military leaders. Such attitudes can be self-defeating, for the officer who displays that mindset in a congressional hearing or other interaction may experience unhappy repercussions. Those holding this view are also somewhat lacking in self-awareness. Military officers can harbor parochial views, sometimes unwittingly, that lie rooted in service culture, their current assignment, or limited career experience. Thus, national security necessitates consideration of many factors, precisely the sort that will be on the minds of the voters and of those who answer to the voters. Senior military officers do not have to answer directly to the electorate and can indulge parochial concerns, wrapping them in the patina of “the national interest,” viewing (and believing sincerely) that what is good for their service, command, or function is good for the country. That said, precisely because many members of Congress lack the experience and perhaps even the wherewithal to truly grasp national security affairs in all their variety and complexity, it is important that they be well staffed and well supported in wielding their power. A capable member of Congress can do much good, but a misinformed member can do extraordinary harm. Successful civil-military relations require the military to work closely, cooperatively, and transparently with congressional authorities every bit as carefully as they do in the executive branch.

Military officers who have spent most of their professional lives rising in their service or in joint duties naturally focus on civil-military relations in the top-down hierarchy of the executive branch. Most military facilities feature a pyramid that depicts photos of the chain of command beginning with the commander in chief. Accurate civil-military relations require one more photograph alongside the president: the US Capitol dome.

### ***The Distinctive Features of Trumpian Civil-Military Relations***

The foregoing discussion reflects timeless concerns that can be traced through every administration in the era of American superpower status and many to a much earlier time. Every administration experiences civil-military friction; what distinguishes success from failure is not *avoiding* friction but learning how to manage it. Nevertheless, President Trump's single term in office added distinctive twists that made relations especially difficult. Two deserve special, if brief, mention.

First, Trump relied to an unusual degree on recently retired or not-yet-retired military officers to fill positions customarily reserved for civilian political appointees. Every administration has made this type of selection, and it is possible to find a precedent for every individual appointment. Nevertheless, the collective and cumulative effect was quite unusual—particularly in the combination of offices so staffed. At one point, President Trump had a recently retired four-star Marine as secretary of defense (one who required a congressional waiver to hold that post), an active-duty three-star Army general as national security advisor, and another recently retired four-star Marine as White House chief of staff—the most politically sensitive and powerful nonelected post in the White House. The secretary of defense position was especially crucial since that post is supposed to embody the key “civilian” below the president in civilian control. While the president is the commander in chief, the presidency has vast functions and responsibilities. The president is thinking about many things all the time while the secretary of defense is the chief civilian thinking about national security. All three of these top offices were also staffed by many deputies and advisors who were themselves current or recently retired military officers. Everyone's first name was “General,” and President Trump regularly referred to each as such. As a result, it was a near certainty that the *primary* military advisor to the president—whom the president looked to for a trusted military opinion—was not the person legally identified as the *principal* military advisor, the chairman of the Joint Chiefs of Staff.

If the military voice was likely too prominent during early stages of the Trump presidency, there were concerns that the military voice lost too

much of its access in the later stages as Trump tired of “his generals” and they left the administration one by one. In his last weeks in office, Trump did away with regular order altogether, firing his secretary of defense and running military affairs from the White House through a chain of command and policy process populated almost entirely by “acting” and “acting in the capacity of” loyalists, some senior retired military and most unconfirmable in their positions. Trump ended with possibly the weakest civilian team ever to serve as the “civilian” in contemporary civil-military relations. After beginning his administration with boasts about how much the military loved him and he loved the military, Trump ended his term with some of the most fractious relations in recent decades.<sup>23</sup>

Second, Trump’s unusual governing style made a mockery of “best practices” in the military advisory role. Two, largely separate, policy-making processes developed during his tenure. One operated on issues that did not interest the president and on which he never engaged. That process was routine and, on occasion, produced almost textbook examples of how the policy-making process should proceed. For instance, the Trump administration produced a serious *National Security Strategy* (NSS) in record time. The NSS was closely integrated with the *2018 National Defense Strategy*, which largely drove lower-level budgetary decisions. Yet there is little evidence that Trump himself took the NSS seriously or believed in its “allies are important” core message. The NSS proved to be a decent guide to issues the president himself did not personally engage on and to be utterly irrelevant to matters the president cared about, followed, intervened in, and rendered an opinion on.

This brings us to the other parallel policy-making process: the twitterverse where the president weighed in, often as a commentator and critic of his own administration. Repeatedly, national security policy would be developed according to a regular interagency process only to be undone by a contradictory and often shocking presidential tweet. “A tweet is not an order” never had to be said before the Trump era but had to be said repeatedly during it. While a tweet was not an order, it was an unprecedented window into the commander in chief’s “intent,” and so the policy process was repeatedly whipsawed to align with a new eruption. More likely than not, those posts could be traced to some punditry on Fox TV, a longtime Trump hobbyhorse, a comment by or recommendation of a friend, or some political maneuver versus a problem of sufficient importance to warrant an intervention from the top.

The military learned to adjust to these twists without a full-blown crisis, but civil-military relations at the policy-making level were strained close to



the breaking point on numerous occasions. President Joseph Biden's promise to return to normalcy—which in civil-military terms meant a return to a normal process with all its friction—was nowhere more welcome than in the Pentagon. Even there, Biden began with norm-breaking of his own. He chose as his secretary of defense former Army general Lloyd Austin, who required a special vote from Congress to waive the legal prohibition on appointing a recently retired professional officer sooner than seven years past retirement. This had been done only twice before in the 69 years the office existed—to confirm Gen George C. Marshall to the position in 1950 and Gen James Mattis in 2017. In both cases, the move was something of a vote of no confidence in the civilian team, to include most notably the presidents themselves. This time, it was likely that Austin's successful confirmation reflected more the crisis of concern about political divisions in the republic after the 6 January attacks on the Capitol by supporters of President Trump than any doubts about Biden's role as civilian commander in chief. But it is undeniable that Austin went to considerable lengths to pledge his commitment to civilian control. He laid out specific steps he would take to shore up the role of civilians in the making of policy precisely to address the types of concerns we outlined above.<sup>24</sup>

### **Civil-Military Interaction across Society**

The other category of issues in American civil-military relations that senior leaders must understand involves interactions with civilian society more broadly, from the individual to entire institutions and from the episodic to the continual. Here again there is a paradox. On the one hand, the US public expresses high levels of trust and confidence in the military. Indeed, the military is the major governmental institution enjoying the highest level of public support, and this has been true since the late 1980s. On the other hand, the public has shown historically low levels of social connection with the military, most notably a low propensity to volunteer to serve in uniform. Thus, while the public highly regards the military, it is distanced from it, as if saying “thanks for your service, but we are glad we don't have to join you.” In recent years this large set of intersections and interactions has been labeled a “civil-military gap” or in popular parlance the “1 percent and 99 percent,” referring to the tiny portion of the public that serves in uniform either in the active or reserve forces. There are three hardy perennials in this category that every recent administration has encountered at some point, but also some distinctive features peculiar to the Trump era.

## ***Seeds of Alienation***

The largest concern is a fear that civilian society and the military will become so alienated from each other the result will be a military incapable or unwilling to serve society. Though they had different diagnoses and prescriptions, this was the common concern animating the two great founders of American civil-military relations scholarship, Huntington and Morris Janowitz.<sup>25</sup> Huntington saw civilian society and the military as distant from each other, especially at the level of norms and values, and urged civilian society to embrace more of the military's thinking, norms, values, and worldview. Janowitz saw the same disconnect and advised the military to develop a new conception of its role and its professionalism to better align with civilian society. Both saw a natural gap as a problem because they doubted that two groups, so dependent on each other but so antithetical in perspectives, could maintain sufficient respect to sustain effective national security policies.

Concerns about the gap escalated with the end of the draft in the early 1970s and have remained high as the all-volunteer force reached maturity in the post-Cold War era. There were brief rally-round-the-flag moments during the invasion of Kuwait in 1991 and in the aftermath of the 9/11 attacks, but those quickly gave way to doubts about public connections to the military when "the 1 percent went to war and 99 percent went to the mall," a common aphorism heard in the national security community.<sup>26</sup> The extensive polling data over the past several decades support several basic conclusions.<sup>27</sup> The public holds the military in high regard but seems to be happily unknowing about most military policies and activities. Military officers are not so divorced in attitudes and opinions from the general public, but there often is a wide gulf of opinion and values between the officer corps and civilian national security elites and elected officials. Both tend to caricature the other and not always in positive terms. Public ignorance about the military extends to the norms of civil-military relations, which have only the most tenuous support from the general public and, in some cases, the military as well.

At the same time, the public expresses high confidence in the military but expects it to adjust to shifting civilian values. These include such areas as the role of women in combat, the policing of sexual harassment and assault, or opening the ranks fully to gay, lesbian, and now transgender personnel. This is reminiscent of how the military adjusted to racial integration and legal rights for members more congruent with civilian judicial procedures. The military fully accepts the principle of civilian control but also worries about societal dysfunctions. It notes that only a quarter of the

civilian populace at best could even meet the minimum physical, moral, and mental qualifications for admission to the ranks. Increasingly, the military seems to be drawing its recruits from the ever-dwindling pool of families that have prior service connections. Mutual admiration could give way to mutual alienation. As one retired JCS chairman told us, what happens to a force that has been told for decades it represents the best of America? Will it not at some point reach the conclusion that it is indeed better than the rest of America? And from that point, how big of a leap is it to conclude that the inferior civilian society should conform to the superior military values? As one of us has written, “the role of the military is to defend society, not to define it.”<sup>28</sup>

When fewer and fewer Americans have a personal connection to the military, the burden of representing the military to civilian society—and bridging the gap—increasingly falls upon the prominent senior general and flag officers and the men and women they lead. Society cannot rely on the media or Hollywood to portray either side accurately or explain one to the other. Senior leaders need to understand that for the rest of their professional lives, and well into retirement, they are bridging—or widening—that gap, intentionally or unintentionally.

### ***Politics and Politicization***

Over the past several decades, concerns about the civil-military gap have focused on one worry: a growing partisan politicization of the military. This politicization takes several forms. One is the military taking on something of a partisan identity, with disproportionate numbers openly espousing partisan views and much of the body politic viewing the military as “captured” by one of the parties. Another is dragging in, or merely welcoming in, military voices to play a partisan role during political campaigns. A third is the retired military voice growing in prominence in public policy debates, including those that range far from the traditional bailiwick of foreign and defense policy questions.

The military has always been considered a conservative institution, one that aligned more easily with traditional values than with progressive liberalism. This view shaped the Founders’ approach to building military institutions in the new republic, and it was the starting point for the major theoretical works on American civil-military relations.<sup>29</sup> When the professional military was small and on the periphery of American political life—or when it was large but populated by a draft that pulled from nearly all sectors of American society—the ideological profile of the military was of secondary concern. In the era of the all-volunteer force, those concerns

grew. Here was a large—in fungible fiscal terms, a dominating spending institution—almost entirely composed of people who chose to be in the institution, recruited others to follow them, and selected their own leadership except at the very top. In the process, the military started to shed its long-standing image as apolitical—an institution outside of party politics—and increasingly looked partisan. As political polarization intensified in the body politic, the military increasingly looked like a Republican institution.<sup>30</sup> Experts debated the extent of the Republican identity, noting it was less pronounced in the enlisted ranks with more diversity in ethnicity, race, gender, and geographic location of origin—but not the direction of the skew.<sup>31</sup> Perhaps inevitably, as partisan polarization has increasingly characterized political life, so too does it seem to shape public perception of the armed forces. Some experts suggest that Republicans and possibly Democrats view the military through a tribal lens—Republicans as an “us” and Democrats as a “them”—that distorted perceptions accordingly.<sup>32</sup> The drift has been gradual and may be driven as much by division in the larger civilian society as by changes in the makeup or behavior of the military itself. Regardless of the cause, it poses a challenge for healthy civil-military relations during an era when the military consumes a large fraction of the discretionary federal budget and is so visible in civic life.

Notwithstanding a new partisan appearance, the military remains one of the few institutions held in high regard across the political spectrum. Consequently, politicians have increasingly used the military to further partisan political ends. Thus, every four years, we have the unseemly spectacle of political candidates—especially those seeking the presidency—recruiting endorsements from senior retired military officers to persuade Americans to vote accordingly. Regulations forbid the active duty military to express an open preference, so candidates look for the next best thing: retired senior officers whose first names remain “General” or “Admiral” after they stop wearing the uniform. The higher the rank, the more recently retired, and the more famous, the better.<sup>33</sup> Every chairman of the Joint Chiefs of Staff in the past 20 years has expressed dismay in private or public about this practice because it falsely implies a preference for the active duty military, making the job of serving the commander in chief and working with Congress, regardless of party, more difficult. But the practice continues and in 2016 reached a new, tawdry level with senior retired officers going well beyond anodyne endorsements. At the national party nominating conventions, their rhetoric crossed over into the most vitriolic of ad hominem attacks of the sort considered inappropriate for the candidates themselves to level.<sup>34</sup> Campaigns cannot be expected to exercise self-restraint in this area.

Hence, the military will escape the political muck only if retired officers resist the temptation to trade on their institutions' reputation for lack of partisanship to commit a brazenly political act. If they wish to join the political fray, they should do so openly as political candidates themselves and not pretend to speak as apolitical observers.<sup>35</sup>

Senior officers on active duty also worry about another form of politicization: the prominent role given retired military veterans as pundits in ongoing policy debates, usually as talking heads on television or purveyors of "gotcha" quotes in news stories. This occurrence has a long pedigree in American civil-military relations. President Dwight Eisenhower worried aloud in his farewell address about a "military-industrial complex" that distorted policy debates by throwing the power of mutual interests behind a certain course of action.<sup>36</sup> These concerns have increased in an age when the news cycle never ends and "everything became war and the military became everything."<sup>37</sup> In our view, this form of politicization is less worrisome if only because the military perspective on policy *is* a legitimate concern and in practice, every veteran voice on one side of a policy issue is usually counterbalanced by an equal and opposite veteran voice on the other. If anything, this dynamic only reinforces the fundamental civilian challenge in policy making: not *whether* to heed military advice but *which* military opinion to heed. Yet the public second-guessing by former senior officers who may have lost situational awareness of the full picture is especially grating to the current military advisors. Senior military leaders need to think in advance how they want to wield their remaining influence once they join the ranks of the retired.

### ***Budgets and the Myth of a "Civil-Military Contract"***

The gap gives rise to an enduring myth of American civil-military relations that American society has an implicit contract with the military: a promise to adequately resource and support these men and women in exchange for the risk of their lives on behalf of the nation. Generations of military leaders have mentioned such a contract in countless speeches, but the sad truth is that American society did not act as if there was one—at least not regarding the professional armed forces—for almost all of American history. There is hardly anything more "American" than underfunding the military in peacetime. The prevailing pattern in American military history up through the Korean War was to shirk readiness in peacetime, discover the full extent of this deficiency just before or during the early stages of an armed conflict, and repair the damage by ramping up the military capacity to achieve a victory only to hastily demobilize and return

to peacetime levels of readiness—then repeat the cycle. Indeed, for most of its history up until the Cold War, the United States practiced a national security policy of relatively small peacetime professional forces and mobilization/demobilization for wars.

To the extent there was any societal contract with the military, it was a narrowly drawn one with its citizen soldiers, especially its draftees, symbolized by its system of pensions after the War for Independence and the Civil War, the Veterans Administration after World War I, and the GI Bill after World War II. Over the course of the Cold War, when the military was peopled by draftees and volunteers, and since the onset of the all-volunteer force in the early 1970s, the contract became more robust as the distinction between temporary citizen soldiers and the professional military waned. Even then, some of the promises for health care and other benefits did not seem to fit the idea of “the contract” as expressed by military leaders.

Today, the notion of a societal contract with the military may face a new test. In the five decades since the introduction of the all-volunteer armed forces, thanks to a dramatic expansion in defense spending along with increased pay and benefits, two generations of officers have come of age without personal experience with the previous norm of a chronically underfunded military. Now, all the signs seem to augur a new era of major budget challenges. Intensifying great power conflict and competition imply a new, expensive arms race just as the consequences of previous budget choices create grave fiscal pressure for cutbacks. These cannot be waived away with a glib reference to a societal contract with those who promise to defend us. The current generation of service members may see a leveling or decline in defense spending—while personnel costs for both active duty and veterans strain both budgets—and an unwillingness to sustain a military establishment that competes with expanding domestic spending and continues to add to a swollen national debt.

### ***The Distinctive Features of Trumpian Civil-Military Relations***

None of the foregoing would surprise the generation that founded the United States. Yet the Trump tenure put its own stamp on these problems. Trump enthusiastically embraced and indeed encouraged the politicization of the military, accentuating and exaggerating it at almost every opportunity.<sup>38</sup> Whereas previous presidents at least paid lip service to the idea of an apolitical military, Trump talked openly about the military as part of his political base. At the outset, he openly referred to military leaders as “my generals,” only to turn on them and publicly castigate them when their advice contradicted his desires or they left his employ.<sup>39</sup>

In response to critiques from prominent retired senior military officers, Trump openly denounced the senior ranks as war-hungry careerists eager to increase weapon sales while insisting that the lower ranks remained personally loyal to him.<sup>40</sup>

Likewise, Trump repeatedly sought to use the military in settings that crossed the boundary into the nakedly political. During his first few weeks in office, he surprised the Defense Department by turning a standard meet-and-greet visit to the Pentagon into a signing ceremony for his controversial ban on refugees from Muslim majority countries.<sup>41</sup> He repeatedly sought to get the military to provide him a flashy parade through Washington, DC, large enough to rival the Bastille Day parade President Emanuel Macron hosted for Trump in France, despite no American precedent for such parades on American national holidays.<sup>42</sup> In the run-up to the 2018 midterm elections when he could not get Congress to fund the building of a wall along the border with Mexico, he declared a national emergency, shifted military appropriations to the wall, and directed military personnel to patrol the border.<sup>43</sup> In each of these instances, the military dragged its feet but, acceding to civilian control, mostly went along with the controversial actions. The breaking point came in the wake of the killing of George Floyd by a Minneapolis police officer in spring 2020. As localities struggled with protests, a few including violence and some even in the vicinity of the White House, President Trump ordered the National Guard to patrol the streets of Washington. He flirted with mobilizing active duty units for a more dramatic show of force, subsequently arranging for the JCS chairman and defense secretary to join him on a photo-op walk across Lafayette Park after peaceful protestors there had been forcibly dispersed. The photo op, clearly political, crossed an ethical line, causing JCS chairman Gen Mark Milley and Defense Secretary Mark Esper (a West Point graduate and retired Army Reserve officer) to apologize publicly for appearing in a political event—probably the first-ever public apology from a chairman for something so obviously partisan.<sup>44</sup> Esper paid for his public disagreement with Trump by being summarily fired after Trump lost the presidential election.<sup>45</sup>

After this rupture came the extraordinary events of 6 January. A mob inflamed by President Trump's false claims that he was a victim of massive electoral fraud battled the police, broke into the Capitol building, and tried to thwart the process of confirming Biden's electoral college victory. Some mob participants may even have sought to kill political leaders they thought stood in the way of a second Trump term. Security forces may have been slow to respond to the unfolding chaos out of fear that they

would get caught once again in a political cross fire, but after a delay they sided decisively with the constitutional order and ensured that the transfer of presidential power could occur without further interruption. Nevertheless, the prominence of some veterans among the most violent of would-be insurrectionists raised concerns about the presence of extremists in the military—and renewed calls for the military to recommit to the traditional apolitical norm.<sup>46</sup> The Biden administration team has made it clear that it will prioritize restoring old norms and redlines on politicization, but undoing the damage to the perception of the military as an apolitical institution may take years of scrupulous behavior by civilian and military alike.

### **Conclusion: What Can Be Done**

Every senior military and civilian leader will face at least a few of the challenges addressed above, and most will encounter them all at some point in a career or in retirement. Each challenge is made more manageable if civilian and military leaders develop relationships characterized by trust and candor. Trust is the universal solvent in civil-military relations. It is the benefit of the doubt earned over patterns of responsible conduct where each party speaks fully and straightforwardly with the other, genuinely seeks mutual understanding, and partners in cooperation for shared objectives.

Trust is intentionally built through deliberate action. Because of the two paradoxes of American civil-military relations, it cannot merely be assumed. Trust is developed step by step through frequent interactions and conversations, formal and informal, in the workplace and at social events. It constitutes a reservoir that must be filled in advance, only to be drawn down in a crisis and quickly replenished. When trust is most needed, it is too late to build it.

Although the military is clearly the subordinate in this relationship, it must be the initiator and not wait for superiors to take the first step. In our experience, senior military leaders spend remarkably little time—and senior civilian leaders even less—reflecting on the dynamics that shape American civil-military relations.

As with other professional occupations (e.g., lawyers, doctors, teachers, and the clergy), it is up to the experts, not their bosses or clients, to mold the relationship and influence the interactions as much as they can to provide the most functional and effective outcomes. It is up to the professionals to think through the ethical guidelines; learn, rehearse, and promote best practices; and apply them in an ongoing fashion even from a subordinate position. All military officers lead their subordinates but must also help their superiors to be successful commanders and leaders. Sometimes it



falls to the subordinate to prepare the superior to lead with maximum effectiveness. This might be thought of as “leading from the middle”—a challenging, daunting assignment but hardly impossible. Generations of senior military leaders, stretching back to George Washington, figured out how to do it well with civilians of disparate abilities. It would be productive if civilian leaders joined enthusiastically in studying civil-military relations. More importantly, however, military leaders must commit to taking on the responsibility to know and study civil-military relations. They must prepare their peers and subordinates to assume stewardship of healthy civil-military relations for the good of our future. **SSOJ**

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**Notes**

1. Broad treatments of CMR and civilian control can be found in Risa A. Brooks, “Integrating the Civil-Military Relations Subfield,” *Annual Review of Political Science* 22, no. 1 (2019): 379–98, <https://doi.org/10.1146/annurev-polisci-060518-025407>; Peter D. Feaver, “Civil-Military Relations,” *Annual Review of Political Science* 2, no. 1 (June 1999): 211–41, <https://doi.org/10.1146/annurev.polisci.2.1.211>; Richard H. Kohn, “Civil-Military Relations: Civilian Control of the Military,” in *The Oxford Companion to American Military History*, eds. John Whiteclay Chambers II and Fred Anderson (New York: Oxford University Press, 1999), 122–25; and updated version for Richard H. Kohn, ed., *Civil-Military Relations in the United States* (London: Routledge, forthcoming).

2. Richard H. Kohn, *Eagle and Sword: The Federalists and the Creation of the Military Establishment in America, 1783–1802* (New York: The Free Press, 1975); and Richard H. Kohn, “The Constitution and National Security: The Intent of the Framers,” in *The United States Military under the Constitution of the United States, 1789–1989*, ed. Richard H. Kohn (New York: New York University Press, 1991), 61–94.

3. Peter D. Feaver, “The Civil-Military Problematique: Huntington, Janowitz, and the Question of Civilian Control,” *Armed Forces and Society* 23, no. 2 (January 1996): 149–78, <https://doi.org/https://doi.org/10.1177/0095327X9602300203>.

4. To be sure, there are many ways in which relations between the military and civilians in the policy-making area do *not* resemble a newly married couple, beginning with the issue of military subordination to the civilian, as explained later in the text. In addition, there are rarely honeymoons and may be little in the way of deep admiration, let

alone love, expressed across the divides. But the analogy works to convey the crucial insights regarding the potential for miscommunication and disappointment arising out of differing perspectives that themselves derive from very different expectations of how the relations should go.

5. Samuel P. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations* (New York: Vintage Books, 1957).

6. Don M. Snider, Suzanne C. Nielsen, and Williamson Murray, "Professionalism and Professional Military Education in the Twenty-First Century," in *American Civil-Military Relations: The Soldier and the State in a New Era*, eds. Suzanne C. Nielsen and Don M. Snider (Baltimore, MD: Johns Hopkins University Press, 2009). For weaknesses in Huntington's theory and analysis, see Richard H. Kohn, "Building Trust: Civil-Military Behaviors for Effective National Security," in Nielsen and Snider, *The Soldier and the State*, 265–67.

7. Eliot A. Cohen, *Supreme Command: Soldiers, Statesmen, and Leadership in Wartime* (New York: Free Press, 2002); and Peter D. Feaver, *Armed Servants: Agency, Oversight, and Civil-Military Relations* (Cambridge, MA: Harvard University Press, 2005).

8. Rosa Brooks introduced this quip as an exchange between civilian staff, one at the White House and one in the Department of Defense, but in the years since we have heard numerous senior military officers invoke some version of this to explain why they oppose civilian meddling in the particular while also endorsing civilian control in the abstract. See Rosa Brooks, "Thought Cloud: The Real Problem with the Civilian-Military Gap," *Foreign Policy*, 2 August 2012, <https://foreignpolicy.com/>.

9. Feaver, *Armed Servants*.

10. "Gen. Dunford's Remarks and Q&A at the Center for Strategic and International Studies," Joint Chiefs of Staff, 29 March 2016, <https://www.jcs.mil/>; Helene Cooper, "How Mark Milley, a General Who Mixes Bluntness and Banter, Became Trump's Top Military Adviser," *New York Times*, 29 September 2019, updated 9 July 2020, <https://www.nytimes.com/>; and "Gen. Dempsey's Remarks at the Center for a New American Security," Joint Chiefs of Staff, 21 November 2014, <https://www.jcs.mil/>.

11. James Golby and Mara Karlin, "Why 'Best Military Advice' Is Bad for the Military – and Worse for Civilians," *Orbis* 62, no. 1 (January 2018): 137–53, <https://doi.org/10.1016/j.orbis.2017.11.010>.

12. Harry T. Williams, *Lincoln and His Generals* (New York: Vintage Books, 1952); and James M. McPherson, *Tried by War: Abraham Lincoln as Commander in Chief* (New York: Penguin Books, 2009).

13. Peter D. Feaver, "The Right to Be Right: Civil-Military Relations and the Iraq Surge Decision," *International Security* 35, no. 4 (Spring 2011): 87–125.

14. Cohen, *Supreme Command*; and Janine Davidson, "The Contemporary Presidency: Civil-Military Friction and Presidential Decision Making: Explaining the Broken Dialogue," *Presidential Studies Quarterly* 43, no. 1 (March 2013): 129–45, <https://doi.org/10.1111/psq.12006>.

15. Charlie Dunlap, "Why the 'Orders Project' Is Troubling," *Lawfire*, 28 October 2020, <https://sites.duke.edu/>.

16. Peter D. Feaver and Richard H. Kohn, "The Unequal Dialogue: The Theory and Reality of Civil-Military Relations and the Use of Force," in *Soldiers and Civilians: The Civil-Military Gap and American National Security*, eds. Peter D. Feaver and Richard H. Kohn (Cambridge, MA: MIT Press, 2001), 429–49; Heidi A. Urben, "Civil-Military

Relations in a Time of War: Party, Politics, and the Profession of Arms” (PhD diss., Georgetown University, 2010); Peter D. Feaver, Jim Golby, and Lindsay P. Cohn, “Thanks for Your Service: Civilian and Veteran Attitudes after Fifteen Years of War,” in *Warriors and Citizens: American Views of Our Military*, eds. Kori Schake and Jim Mattis (Stanford, CA: Hoover Institution Press, Stanford University, 2016), 97–142.

17. Feaver, “The Right to Be Right”; and H. R. McMaster, *Dereliction of Duty: Lyndon Johnson, Robert McNamara, the Joint Chiefs of Staff and the Lies That Led to Vietnam* (New York: Harper Perennial, 1998).

18. Attorney General Smith Troy, “Resignation by Officers of the National Guard,” Resignation by Officers of the National Guard | Washington State, January 1, 1950, <https://www.atg.wa.gov/>.

19. Richard H. Kohn, ed., “The Early Retirement of Gen Ronald R. Fogleman, Chief of Staff, United States Air Force,” *Aerospace Power Journal* 15, no. 1 (Spring 2001): 6–23, <https://www.airuniversity.af.edu/>. The “Editorial Abstract” reads, “Air Force chief of staff Gen Ronald Fogleman’s early retirement in 1997 has caused great speculation. Was this a ‘resignation in protest’? Here for the first time, in an interview with former Air Force historian Richard H. Kohn, General Fogleman explains his thinking and his reasons for choosing this unprecedented course of action.” Kohn, 6.

20. Peter D. Feaver, “Resign in Protest? A Cure Worse Than Most Diseases,” *Armed Forces and Society* 43, no. 1 (January 2017): 29–40, <https://doi.org/10.1177/0095327X16657321>; and Richard H. Kohn, “On Resignation,” *Armed Forces and Society* 43, no. 1 (January 2017): 41–52, <https://doi.org/10.1177/0095327X16657323>. For an opposing view, see Don M. Snider, “Dissent, Resignation, and the Moral Agency of Senior Military Professionals,” *Armed Forces and Society* 43, no. 1 (January 2017): 5–16, <https://doi.org/10.1177/0095327X16657322>.

21. James Golby et al., “Duty, Honor . . . Party? Ideology, Institutions, and the Use of Military Force” (PhD diss., Stanford University, 2011).

22. Golby, Cohn, and Feaver, “Thanks for Your Service.”

23. Phil Stewart, Idrees Ali, and Steve Holland, “How Trump Fell Out of Love with His Generals, and Why the Feeling Is Mutual,” Reuters, 23 September 2020, <https://www.reuters.com/>.

24. See Lloyd Austin’s testimony at his confirmation hearings to be secretary of defense before the Senate Armed Services Committee on 19 January 2021 at <https://www.armed-services.senate.gov/>.

25. Feaver, “The Civil-Military Problematique.”

26. The origin of the aphorism, which has been commonplace in our discussions with senior military leaders about civil-military relations for years, is unknown. One author sources it to an anonymous Marine. Phil Klay, “The Warrior at the Mall,” *New York Times*, 14 April 2018, <https://www.nytimes.com/>.

27. Feaver and Kohn, “The Unequal Dialogue,” 429–49; Kori N. Schake and James N. Mattis, eds., *Warriors & Citizens: American Views of Our Military* (Stanford, CA: Hoover Institution Press, Stanford University, 2016); Jason K. Dempsey, *Our Army: Soldiers, Politics, and American Civil-Military Relations* (Princeton, NJ: Princeton University Press, 2010); Urban, “Civil-Military Relations”; Golby, “Duty, Honor . . . Party?”; and Ronald Krebs, Robert Ralston, and Aaron Rapport, “No Right To Be Wrong: What Americans Think about Civil-Military Relations,” *Perspectives on Politics*, 11 March 2021, <https://doi.org/10.1017/S1537592721000013>.

28. Richard H. Kohn, "How Democracies Control the Military," *Journal of Democracy* 8, no. 4 (October 1997): 142.

29. Kohn, *The Constitution and National Security*; and Feaver, "The Civil-Military Problematique."

30. Ole R. Holsti, "Politicization of the United States Military: Crisis or Tempest in a Teapot?," *International Journal* 57, no. 1 (March 2002): 1–18, <https://doi.org/10.1177/002070200205700101>; Ole R. Holsti, "A Widening Gap between the U.S. Military and Civilian Society?: Some Evidence, 1976–96," *International Security* 23, no. 3 (Winter 1998–1999): 5–42; Peter D. Feaver, Richard H. Kohn, and Ole R. Holsti, "Of Chasms and Convergences: Attitudes and Beliefs of Civilians and Military Elites at the Start of a New Millennium," in *Soldiers and Civilians: The Civil-Military Gap and American National Security* (Cambridge, MA: MIT Press, 2001), 15–100.

31. Golby, "Duty, Honor . . . Party?"; Michael A. Robinson, "Danger Close: Military Politicization and Elite Credibility" (PhD diss., Stanford University, 2018); Urban, "Civil-Military Relations"; and Dempsey, *Our Army*.

32. Robinson, "Danger Close."

33. James Golby, Kyle Dropp, and Peter Feaver, *Military Campaigns: Veterans' Endorsements and Elections*, report (Washington, DC: Center for a New American Security, 2012).

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## Civil-Military Behaviors that Build Trust

Richard H. Kohn\*

### **For Senior Military:**

1. Do everything possible to **gain trust with the civilians**: no games, no leaking, no attempts at manipulation, no denying information, no slow rolling, no end runs to Congress or up the chain, but total openness. Many, and probably most, civilians come into office without necessarily trusting the military, knowing that they have personal views, ideologies, ambitions, institutional loyalties, and institutional perspectives and agendas. There has been so much controversy, friction, and politicization in the last decades that they'd have to be Rip Van Winkles to think otherwise. Some, perhaps many, both fear and are jealous of senior military leaders: for their accomplishments, achievements, bravery, rank, status, and legitimacy in American society.
2. Insist on the right to give the military perspective, without varnish. But do not be purposefully frightening so as to manipulate outcomes—but straight, thoughtful professional advice. At the same time, do not speak out: that is, **speak up but not out**. Keep it confidential and don't let subordinates or staffs leak the advice or let it become public unless it arises appropriately in testimony before Congress. If the civilians want your advice known, let them make it known.
3. **Do what's right from a moral and professional perspective, and don't let the civilians force anything otherwise**. Help them. If they are making mistakes, warn them but then leave it at that. They have the right and the authority to make mistakes, and if they insist, then the military leadership should not prevent it by behaviors that undermine civilian control, which is foundational in American government. Military leaders have neither the experience, perspective, or functional responsibility to judge fully implications and outcomes. The integrity of our system of government overrides any conceivable national security problem short of the survival of the Republic—again, a judgment beyond the military profession.
4. **Anticipate the civilians in military policy** in terms of changing, reforming, adjusting, and thinking through national security problems, innovation, alternative thinking, etc. Evolution, transformation—however labeled—is ongoing and managing it is a chief professional duty. The standard is what's best for national defense, best for the country, broadly conceived—not necessarily what benefits one's service, or command, or the military in general. If some change or policy is in one's best professional judgment deleterious, say so when appropriate but leave it at that.
5. **Resist pressures**. Five come to mind but indeed there may be more.

A. First, **Careerism**. The pressure to conform, to stay silent, to go along, to do what'll advance one's career, while universal, is one of the most deadly behaviors for effective civil-

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National Security,” chapter 13 in Suzanne Nielsen and Don Snider, eds., *American Civil-Military Relations: The Soldier and the State in a New Era* (Baltimore: Johns Hopkins University Press, 2009), 264-289.

military relations. Do not remain silent. Do not suppress open discussion and debate in one's unit, command, or service in order to avoid angering civilian superiors. National defense requires that the military communicate honestly inside its institutions the proper courses of action, in the studying of warfare and current and past operations, in projections about the need for weapons, in doctrine and strategy and tactics, and in a large variety of professional issues and concerns. One cannot keep faith with subordinates or the American people by avoiding proper professional behavior. The military profession respects most, and requires, physical courage. All professions require and respect moral courage.

B. Second, what could be called **Institutionalism**: doing what's best for one's service, command, unit, etc. when the larger national interest suggests otherwise. Few things arouse more suspicion and engender more distrust from civilian leaders, Congress, and the American people. This lowers the reputation and credibility of the military.

C. **Politicization**. Don't be driven by personal ideology or belief about what are the best policy outcomes in offering advice or any other behavior. An officer's political leanings or affiliation should never come up or become known. To function as the neutral servant of the state, the military must be seen to be not non-partisan, but un-partisan—simply above and beyond partisan politics. George C. Marshall wrote: “I have never voted, my father was a democrat, my mother was a republican, and I am an Episcopalian.” Any discussion of partisan politics is out of bounds because it politicizes. If you vote, keep it private as a personal matter. There is a reason that in the old Navy, three subjects were out of bounds for discussion in the wardroom: sex, religion, and politics. All of them can cause dissension or can erode the neutrality and objectivity of an officer and the military as an institution. A distinguished senior general was once called by the White House personnel office, considering him for a job requiring Senate confirmation, to inquire of his party affiliation. The General told his aide, “tell them it's none of their business.” Ten days later they called again; same response. Actually, the General should have told them, “as an officer in the American armed forces, I have no party affiliation.”

D. **Manipulation**. Do not carry the water for the civilians on political as opposed to professional issues. Defending the necessity of a war, promoting a particular policy or decision, explaining how the war is going from anything other than a strictly military viewpoint is not the military's role, but merely politicizes the military, and if the issues are at all contested, reduces the military's credibility as the neutral servant of the state and its legitimacy in national life, both with the public and opposition political leaders, with attendant harm to civil military respect and trust. A recent Chairman of the Joint Chiefs on more than one occasion told public audiences that terrorism was the most dangerous threat the country faced since the Civil War. Not only did this lack believability as a historical interpretation, but it politicized the Chairman and injected him into partisan political debate.



E. **Resignation.** Personal and professional honor do not require request for reassignment or retirement when one's service, command, unit, department, or government pursues something with which you disagree. The military's role is to advise and then execute lawful orders. One individual's definition of what is morally or professionally ethical is not necessarily the same as another's, or society's. Even those officers at the top of the chain of command—much less those below—are in virtually all cases unaware of all the larger national and international considerations involved, which is the realm of the politicians, elected and appointed. If officers at various levels measure all policies, decisions, orders, and operations in which they are involved by their own moral and ethical systems, and act thereon, the military would be in chaos. Resignation—the act, the threat, even the hint—is a threat to the civilians to use the prestige and moral legitimacy and standing of the military in American society to oppose a policy or decision. It inherently violates civilian control. Nothing except lying does more to undermine civil-military trust. A senior officer whom the President permits to retire or reassigns can abandon their troops and the country if he or she feels the absolute necessity, in a most extraordinary situation. If so, however, the leaving must be done in silence in order to keep faith with the oath to the Constitution, that is, to preserve, defend, and protect it—because pervasive in that document is civilian control.

6. Finally, there are **professional obligations that extend into retirement** for the most senior military officers that connect directly to civil-military relations. The most important dictates against using one's status as a respected military leader to summon the reputation of the American military for disinterested patriotism, impartial service, and political neutrality, to commit political acts that in fact undermine civil-military relations and contribute to the politicization of their profession. Officers do not hang up their profession norms and values with their uniform, any more than lawyers or doctors do when they retire, or for that matter any other professional. When college professors retire, they do not suddenly promote or condone plagiarism. To endorse presidential candidates or to attack an administration in which they served at a senior level when it is still in office violates an old, and well-established professional tradition; it uses the legitimacy of the military and its reputation for impartiality for what is or inevitably becomes a partisan purpose. It tells officers still on active duty that it's OK to be partisan; it suggests to the American people that the military is just another interest group with its own agenda, rather than the neutral servant of the state; it warns politicians not to trust officers, and to choose the senior military leadership more for political and ideological loyalty and compatibility than for professional accomplishment, experience, candor, strength and steadfastness of character, courage, and capacity for highest responsibility. And it suggests that senior military officers cannot be trusted in the civil-military dialogue to keep confidences, not to abuse candid interchange, or not to undermine their bosses politically—in other words, it corrupts the civil-military relationship for those who still must work with civilians in the most intimate circumstances of policy and decision-making to defend the country.

## **For Senior Civilians:**

1. **Get to know the military:** the people, the profession, the institutions, the culture and its needs, assumptions, perspectives, and behaviors in order to permit proper and informed decisions on the myriad of issues that decide peace and war. Read, travel, interact, and listen. Delegate but do not make the mistake of thinking that military issues, weapons, processes, behaviors, systems, strategies, operations, or even tactics are so esoteric or technical that they cannot be understood, and that civilian authority must be surrendered to uniformed personnel. Responsibility in the end will not be delegated with the authority. Ask many questions, continually, until there are answers that can be understood, and that make sense.
2. **Treat military people and their institutions with genuine respect,** and if that proves personally difficult or is insincere, serve elsewhere in government, or not at all. See to the needs of the troops insofar as at all possible, for it is one of the prime norms of military service that leaders take care of their people--their physical and emotional needs--before they take care of their own, down to the lowest enlisted ranks and most recent recruits.
3. **Support and defend the military** against unwarranted and unfair criticism and attacks, represent their needs and viewpoints elsewhere in government even if you are pursuing policies, or making or executing decisions that they do not like, such as cuts in forces or resources. Throwing them under the bus strains their loyalty and candor in spite of their professional obligations. It is not the job of civilians in the executive branch to criticize the military personally or institutionally. Political leadership includes political cover; if you want the military to stay out of politics, then you have to assume the responsibility.
4. At the same time, **work to de-politicize national defense:** don't use it for partisan advantage just as one attempts to avoid others from using it for partisan purposes against the Administration. Partner with the Congress in every way possible to avoid the *menage a trois*.
5. **Hold the military accountable** for its actions, within the normal, legitimate processes of the services and the Department of Defense. Do not be afraid to relieve or replace officers who do not perform their duties satisfactorily, as long as this is accomplished after due consideration, and in a fair and appropriate manner. Officers who need to be relieved do not need to be dishonored or disgraced, after a lifetime of service that qualified them and earned them high rank, for mistakes or malfeasance. The firing is enough of a penalty.
6. Likewise **do not hide behind the military** for your own, or your colleagues, mistakes or when bad things happen. Be personally accountable and responsible; one gains enormous credibility and respect for taking the political heat, and for protecting the military and not trying to shift the blame to them and leave them exposed because of civilian decisions or unexpected developments that they were not necessarily responsible for anticipating. If civilian control means civilians have the ultimate authority, they also have the ultimate responsibility and accountability.

7. **Exercise authority gracefully and forcefully** but not abusively, or peremptorily, or at the expense of anyone's personal or professional dignity. Military people want and respect forceful leadership. They want decisions, guidance, instructions, goals (in as explicit and comprehensive form as possible), and above all, in a timely fashion so that time, money, and most importantly lives are not wasted because of indecision or uncertainty. If they cannot have that, be certain to explain exactly why not. The military wants and needs as ordered and as predictable a world as possible in order to deal with the chaos and unpredictability of war; make every effort to meet deadlines and keep to schedules so that they do not succumb to the feeling that dealing with you is . . . war.

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## At the Top: Cooperation, Friction, Misunderstanding, Conflict

In September 2022, nearly every living former Secretary of Defense and Chairman of the Joint Chiefs of Staff issued a comprehensive statement about principles, and the proper norms and behaviors in the civil-military relationship at the top of the U.S. government. Such a document had never been promulgated before by such high-level officials on the civilian and military side. Why do you think these seasoned leaders believed it necessary to issue such a statement, and at this moment in time? Whom do you think was the audience intended? Do any of the principles surprise you? Disclosure: Professor Feaver worked with the group on the contents and language of the manifesto.

Former Secretaries of Defense and Former Chairmen of the Joint Chiefs of Staff, “To Support and Defend: Principles and Best Practices of Civil-Military Relations: Open Letter,” September 6, 2022, *War on the Rocks*, <https://warontherocks.com/2022/09/to-support-and-defend-principles-of-civilian-control-and-best-practices-of-civil-military-relations/>



# TO SUPPORT AND DEFEND: PRINCIPLES OF CIVILIAN CONTROL AND BEST PRACTICES OF CIVIL-MILITARY RELATIONS

OPEN LETTER

SEPTEMBER 6, 2022

COMMENTARY



We are in an exceptionally challenging civil-military environment. Many of the factors that shape civil-military relations have undergone extreme strain in recent years. Geopolitically, the winding down of the wars in Iraq and Afghanistan and the ramping up of great power conflict mean the U.S. military must simultaneously come to terms with wars that ended without all the goals satisfactorily accomplished while preparing for more daunting competition with near-peer rivals. Socially, the pandemic and the economic dislocations have disrupted societal patterns and put enormous strain on individuals and families. Politically, military professionals confront an extremely adverse environment characterized by the divisiveness of affective polarization that culminated in the first election in over a century when the peaceful transfer of political power was disrupted and in doubt. Looking ahead, all of these factors could well get worse before they get better. In such an environment, it is helpful to review the core principles and best practices by which civilian and military professionals have conducted healthy American civil-military relations in the past — and can continue to do so, if vigilant and mindful.

1. Civilian control of the military is part of the bedrock foundation of American democracy. The democratic project is not threatened by the existence of a powerful standing military so long as civilian and military leaders — and the rank-and-file they lead — embrace and implement effective civilian control.
2. Civilian control operates within a constitutional framework under the rule of law. Military officers swear an oath to support and defend the Constitution, not an oath of fealty to an individual or to an office. All civilians, whether they swear an oath or not, are likewise obligated to support and defend the Constitution as their highest duty.
3. Under the U.S. Constitution, civilian control of the military is shared across all three branches of government. Ultimately, civilian control is wielded by the will of the American people as expressed through elections.
4. Civilian control is exercised within the executive branch for operational orders by the chain of command, which runs from the president to the civilian secretary of defense to the combatant commanders. Civilian control is also exercised within the executive branch for policy development and implementation by the interagency process, which empowers civilian political appointees who serve at the pleasure of the president and career officials in the civil service to shape the development of plans and options, with the advice of the military, for decision by the president. The chairman of the Joint Chiefs of Staff is not in the formal chain of command, but best practice has the chairman in the chain of communication for orders and policy development.
5. Civilian control is exercised within the legislative branch through the extensive powers enumerated in Article I of the Constitution, beginning with the power to declare war, to raise and support armies, and to provide and maintain a navy. Congress determines the authorization and appropriation of funds without which military activity is impossible. The Senate advises and consents on the promotion of officers to the pay grade of O-4 and above. The Senate is also charged with advising and consenting to

certain senior-level civilian political appointees. Congress conducts oversight of military activity and can compel testimony from military or civilian officials, subject to narrow exceptions such as executive privilege. Members of Congress empower personal and committee staff to shape the development of policies for decision by the committees and Congress as a whole and thereby play an important role in civilian oversight of policy.

6. In certain cases or controversies, civilian control is exercised within the judicial branch through judicial review of policies, orders, and actions involving the military. In practice, the power to declare a policy/order/action illegal or unconstitutional is decisive because the military is obligated (by law and by professional ethics) to refuse to carry out an illegal or unconstitutional policy/order/action.

7. Civilian control is enhanced by effective civil-military relations. Civil-military relations are comprised of a dynamic and iterative process that adjusts to suit the styles of civilian leaders. Under best practices, civil-military relations follow the regular order of the development of policy and laws, which protects both the military and civilian control. Under regular order, proposed law, policies, and orders are reviewed extensively by multiple offices to ensure their legality, appropriateness, and likely effectiveness. However, regardless of the process, it is the responsibility of senior military and civilian leaders to ensure that any order they receive from the president is legal.

8. The military has an obligation to assist civilian leaders in both the executive and legislative branches in the development of wise and ethical directives but must implement them *provided that the directives are legal*. It is the responsibility of senior military and civilian leaders to provide the president with their views and advice that includes the implications of an order.

9. While the civil-military system (as described above) can respond quickly to defend the nation in times of crisis, it is designed to be deliberative to ensure that the destructive and coercive power wielded by the U.S. armed forces is not misused.

10. Elected (and appointed) civilians have the right to be wrong, meaning they have the right to insist on a policy or direction that proves, in hindsight, to have been a mistake. This right obtains even if other voices warn in advance that the proposed action is a mistake.

11. Military officials are required to carry out legal orders the wisdom of which they doubt. Civilian officials should provide the military ample opportunity to express their doubts in appropriate venues. Civilian and military officials should also take care to properly characterize military advice in public. Civilian leaders must take responsibility for the consequences of the actions they direct.

12. The military reinforces effective civilian control when it seeks clarification, raises questions about second- and third-order effects, and proposes alternatives that may not have been considered.

13. Mutual trust — trust upward that civilian leaders will rigorously explore alternatives that are best for the country regardless of the implications for partisan politics and trust downward that the military will faithfully implement directives that run counter to their professional military preference — helps overcome the friction built into this process. Civil-military teams build up that reservoir of trust in their day-to-day interactions and draw upon it during times of crisis.

14. The military — active-duty, reserve, and National Guard — have carefully delimited roles in law enforcement. Those roles must be taken only insofar as they are consistent with the Constitution and relevant statutes. The military has an obligation to advise on the wisdom of proposed action and civilians should create the opportunity for such deliberation. The military is required ultimately to carry out legal directives that result. In most cases, the military should play a supporting rather than a leading role to law enforcement.

15. There are significant limits on the public role of military personnel in partisan politics, as outlined in longstanding Defense Department policy and regulations. Members of the military accept limits on the public expression of their private views — limits that would be unconstitutional if imposed on other citizens. Military and civilian leaders must be diligent about keeping the military separate from partisan political activity.

16. During presidential elections, the military has a dual obligation. First, because the Constitution provides for only one commander-in-chief at a time, the military must assist the current commander-in-chief in the exercise of his or her constitutional duty to preserve, protect, and defend the Constitution of the United States. Second, because the voters (not the military) decide who will be commander-in-chief, they must prepare for whomever the voters pick — whether a reelected incumbent or someone new. This dual obligation reinforces the importance of the principles and best practices described above.

*Signatories:*

**Former Secretaries of Defense**

Dr. Ashton Baldwin Carter

William Sebastian Cohen

Dr. Mark Thomas Esper

Dr. Robert Michael Gates

Charles Timothy Hagel

James Norman Mattis

Leon Edward Panetta

Dr. William James Perry

**Former Chairmen of the Joint Chiefs of Staff**

Gen. (ret.) Martin Edward Dempsey

Gen. (ret.) Joseph Francis Dunford Jr.

Adm. (ret.) Michael Glenn Mullen

Gen. (ret.) Richard Bowman Myers

Gen. (ret.) Peter Pace



## **Damned Either Way: An Existential Threat to the Military Professionalism?**

*This stunning piece of reporting, published in mid-August 2022, and drawn from Atlantic editor Susan B. Glasser's and New York Times chief White House correspondent Peter Baker's forthcoming book, **The Divider: Trump in the White House, 2017-2021**, provides an inside view of the relationship between President Trump and his top military advisers. Clearly there was deep disagreement and mistrust, even disrespect, on both sides. How do the actions of the military officers (active duty and retired) in this story square with civilian control of the military? Or building trust with their civilian bosses? How did these officers succeed in their assignments? What downsides were there to their tenure? What alternatives do officers have in serving civilian superiors whom they do not trust? What would you have done in these situations?*

<https://www.newyorker.com/magazine/2022/08/15/inside-the-war-between-trump-and-his-generals>



*As the President's behavior grew increasingly erratic, General Mark Milley told his staff, "I will fight from the inside."* Photo illustration by Klawe Rzeczy; Source photographs from Getty; National Archives / Newsmakers

LETTER FROM WASHINGTON      AUGUST 15, 2022 ISSUE

Inside the War Between Trump and His Generals

### ***How Mark Milley and others in the Pentagon handled the national-security threat posed by their own Commander-in-Chief.***

By Susan B. Glasser and Peter Baker

August 8, 2022

In the summer of 2017, after just half a year in the White House, Donald Trump flew to Paris for Bastille Day celebrations thrown by Emmanuel Macron, the new French President. Macron staged a spectacular martial display to commemorate the hundredth anniversary of the American entrance into the First World War. Vintage tanks rolled down the Champs-Élysées as fighter jets roared overhead. The event seemed to be calculated to appeal to Trump—his sense of showmanship and grandiosity—and he was visibly delighted. The French general in charge of the parade turned to one of his American counterparts and said, “You are going to be doing this next year.”

Sure enough, Trump returned to Washington determined to have his generals throw him the biggest, grandest military parade ever for the Fourth of July. The generals, to his bewilderment, reacted with disgust. “I’d rather swallow acid,” his Defense Secretary, James Mattis, said. Struggling to dissuade

Trump, officials pointed out that the parade would cost millions of dollars and tear up the streets of the capital.

But the gulf between Trump and the generals was not really about money or practicalities, just as their endless policy battles were not only about clashing views on whether to withdraw from Afghanistan or how to combat the nuclear threat posed by North Korea and Iran. The divide was also a matter of values, of how they viewed the United States itself. That was never clearer than when Trump told his new chief of staff, John Kelly—like Mattis, a retired Marine Corps general—about his vision for Independence Day. “Look, I don’t want any wounded guys in the parade,” Trump said. “This doesn’t look good for me.” He explained with distaste that at the Bastille Day parade there had been several formations of injured veterans, including wheelchair-bound soldiers who had lost limbs in battle.

Kelly could not believe what he was hearing. “Those are the heroes,” he told Trump. “In our society, there’s only one group of people who are more heroic than they are—and they are buried over in Arlington.” Kelly did not mention that his own son Robert, a lieutenant killed in action in Afghanistan, was among the dead interred there.

“I don’t want them,” Trump repeated. “It doesn’t look good for me.”

The subject came up again during an Oval Office briefing that included Trump, Kelly, and Paul Selva, an Air Force general and the vice-chairman of the Joint Chiefs of Staff. Kelly joked in his deadpan way about the parade. “Well, you know, General Selva is going to be in charge of organizing the Fourth of July parade,” he told the President. Trump did not understand that Kelly was being sarcastic. “So, what do you think of the parade?” Trump asked Selva. Instead of telling Trump what he wanted to hear, Selva was forthright.

“I didn’t grow up in the United States, I actually grew up in Portugal,” Selva said. “Portugal was a dictatorship—and parades were about showing the people who had the guns. And in this country, we don’t do that.” He added, “It’s not who we are.”

Even after this impassioned speech, Trump still did not get it. “So, you don’t like the idea?” he said, incredulous.

“No,” Selva said. “It’s what dictators do.”

The four years of the Trump Presidency were characterized by a fantastical degree of instability: fits of rage, late-night Twitter storms, abrupt dismissals. At first, Trump, who had dodged the draft by claiming to have bone spurs, seemed enamored with being Commander-in-Chief and with the national-security officials he’d either appointed or inherited. But Trump’s love affair with “my generals” was brief, and in a statement for this article the former President confirmed how much he had soured on them over time. “These were very untalented people and once I realized it, I did not rely on them, I relied on the real generals and admirals within the system,” he said.

It turned out that the generals had rules, standards, and expertise, not blind loyalty. The President's loud complaint to John Kelly one day was typical: "You fucking generals, why can't you be like the German generals?"

"Which generals?" Kelly asked.

"The German generals in World War II," Trump responded.

"You do know that they tried to kill Hitler three times and almost pulled it off?" Kelly said.

But, of course, Trump did not know that. "No, no, no, they were totally loyal to him," the President replied. In his version of history, the generals of the Third Reich had been completely subservient to Hitler; this was the model he wanted for his military. Kelly told Trump that there were no such American generals, but the President was determined to test the proposition.

By late 2018, Trump wanted his own handpicked chairman of the Joint Chiefs of Staff. He had tired of Joseph Dunford, a Marine general who had been appointed chairman by Barack Obama, and who worked closely with Mattis as they resisted some of Trump's more outlandish ideas. Never mind that Dunford still had most of a year to go in his term. For months, David Urban, a lobbyist who ran the winning 2016 Trump campaign in Pennsylvania, had been urging the President and his inner circle to replace Dunford with a more like-minded chairman, someone less aligned with Mattis, who had commanded both Dunford and Kelly in the Marines.

Mattis's candidate to succeed Dunford was David Goldfein, an Air Force general and a former F-16 fighter pilot who had been shot down in the Balkans and successfully evaded capture. No one could remember a President selecting a chairman over the objections of his Defense Secretary, but word came back to the Pentagon that there was no way Trump would accept just one recommendation. Two obvious contenders from the Army, however, declined to be considered: General Curtis Scaparrotti, the NATO Supreme Allied Commander in Europe, told fellow-officers that there was "no gas left in my tank" to deal with being Trump's chairman. General Joseph Votel, the Central Command chief, also begged off, telling a colleague he was not a good fit to work so closely with Mattis.

Urban, who had attended West Point with Trump's Secretary of State, Mike Pompeo, and remained an Army man at heart, backed Mark Milley, the chief of staff of the Army. Milley, who was then sixty, was the son of a Navy corpsman who had served with the 4th Marine Division, in Iwo Jima. He grew up outside Boston and played hockey at Princeton. As an Army officer, Milley commanded troops in Afghanistan and Iraq, led the 10th Mountain Division, and oversaw the Army Forces Command. A student of history who often carried a pile of the latest books on the Second World War with him, Milley was decidedly not a member of the close-knit Marine fraternity that had dominated national-security policy for Trump's first two years. Urban told the President that he would connect better with Milley, who was loquacious and blunt to the point of being rude, and who had the Ivy League pedigree that always impressed Trump.

Milley had already demonstrated those qualities in meetings with Trump as the Army chief of staff. “Milley would go right at why it’s important for the President to know this about the Army and why the Army is the service that wins all the nation’s wars. He had all those sort of elevator-speech punch lines,” a senior defense official recalled. “He would have that big bellowing voice and be right in his face with all the one-liners, and then he would take a breath and he would say, ‘Mr. President, our Army is here to serve you. Because you’re the Commander-in-Chief.’ It was a very different approach, and Trump liked that.” And, like Trump, Milley was not a subscriber to the legend of Mad Dog Mattis, whom he considered a “complete control freak.”

Mattis, for his part, seemed to believe that Milley was inappropriately campaigning for the job, and Milley recalled to others that Mattis confronted him at a reception that fall, saying, “Hey, you shouldn’t run for office. You shouldn’t run to be the chairman.” Milley later told people that he had replied sharply to Mattis, “I’m not lobbying for any fucking thing. I don’t do that.” Milley eventually raised the issue with Dunford. “Hey, Mattis has got this in his head,” Milley told him. “I’m telling you it ain’t me.” Milley even claimed that he had begged Urban to cease promoting his candidacy.

In November, 2018, the day before Milley was scheduled for an interview with Trump, he and Mattis had another barbed encounter at the Pentagon. In Milley’s recounting of the episode later to others, Mattis urged him to tell Trump that he wanted to be the next Supreme Allied Commander in Europe, rather than the chairman of the Joint Chiefs. Milley said he would not do that but would instead wait to hear what the President wanted him to do. This would end whatever relationship the two generals had.

When Milley arrived at the White House the next day, he was received by Kelly, who seemed to him unusually distraught. Before they headed into the Oval Office to meet with Trump, Milley asked Kelly what he thought.

“You should go to Europe and just get the fuck out of D.C.,” Kelly said. The White House was a cesspool: “Just get as far away as you can.”

In the Oval Office, Trump said right from the start that he was considering Milley for chairman of the Joint Chiefs. When Trump offered him the job, Milley replied, “Mr. President, I’ll do whatever you ask me to do.”

For the next hour, they talked about the state of the world. Immediately, there were points of profound disagreement. On Afghanistan, Milley said he believed that a complete withdrawal of American troops, as Trump wanted, would cause a serious new set of problems. And Milley had already spoken out publicly against the banning of transgender troops, which Trump was insisting on.

“Mattis tells me you are weak on transgender,” Trump said.

“No, I am not weak on transgender,” Milley replied. “I just don’t care who sleeps with who.”

There were other differences as well, but in the end Milley assured him, “Mr. President, you’re going to be making the decisions. All I can guarantee from me is I’m going to give you an honest answer, and I’m

not going to talk about it on the front page of the *Washington Post*. I'll give you an honest answer on everything I can. And you're going to make the decisions, and as long as they're legal I'll support it."

*As long as they're legal.* It was not clear how much that caveat even registered with Trump. The decision to name Milley was a rare chance, as Trump saw it, to get back at Mattis. Trump would confirm this years later, after falling out with both men, saying that he had picked Milley only because Mattis "could not stand him, had no respect for him, and would not recommend him."

Late on the evening of December 7th, Trump announced that he would reveal a big personnel decision having to do with the Joint Chiefs the next day, in Philadelphia, at the hundred-and-nineteenth annual Army-Navy football game. This was all the notice Dunford had that he was about to be publicly humiliated. The next morning, Dunford was standing with Milley at the game waiting for the President to arrive when Urban, the lobbyist, showed up. Urban hugged Milley. "We did it!" Urban said. "We did it!"

But Milley's appointment was not even the day's biggest news. As Trump walked to his helicopter to fly to the game, he dropped another surprise. "John Kelly will be leaving toward the end of the year," he told reporters. Kelly had lasted seventeen months in what he called "the worst fucking job in the world."

For Trump, the decision was a turning point. Instead of installing another strong-willed White House chief of staff who might have told him no, the President gravitated toward one who would basically go along with whatever he wanted. A week later, Kelly made an unsuccessful last-ditch effort to persuade Trump not to replace him with Mick Mulvaney, a former congressman from South Carolina who was serving as Trump's budget director. "You don't want to hire someone who's going to be a yes-man," Kelly told the President. "I don't give a shit anymore," Trump replied. "I want a yes-man!"

A little more than a week after that, Mattis was out, too, having quit in protest over Trump's order that the U.S. abruptly withdraw its forces from Syria right after Mattis had met with American allies fighting alongside the U.S. It was the first time in nearly four decades that a major Cabinet secretary had resigned over a national-security dispute with the President.

The so-called "axis of adults" was over. None of them had done nearly as much to restrain Trump as the President's critics thought they should have. But all of them—Kelly, Mattis, Dunford, plus H. R. McMaster, the national-security adviser, and Rex Tillerson, Trump's first Secretary of State—had served as guardrails in one way or another. Trump hoped to replace them with more malleable figures. As Mattis would put it, Trump was so out of his depth that he had decided to drain the pool.

On January 2, 2019, Kelly sent a farewell e-mail to the White House staff. He said that these were the people he would miss: "The selfless ones, who work for the American people so hard and never lowered themselves to wrestle in the mud with the pigs. The ones who stayed above the drama, put personal ambition and politics aside, and simply worked for our great country. The ones who were ethical, moral and always told their boss what he or she NEEDED to hear, as opposed to what they might have wanted to hear."

That same morning, Mulvaney showed up at the White House for his first official day as acting chief of staff. He called an all-hands meeting and made an announcement: O.K., we're going to do things differently. John Kelly's gone, and we're going to let the President be the President.

In the fall of 2019, nearly a year after Trump named him the next chairman of the Joint Chiefs, Milley finally took over the position from Dunford. Two weeks into the job, Milley sat at Trump's side in a meeting at the White House with congressional leaders to discuss a brewing crisis in the Middle East. Trump had again ordered the withdrawal of U.S. forces from Syria, imperilling America's Kurdish allies and effectively handing control of the territory over to the Syrian government and Russian military forces. The House—amid impeachment proceedings against the President for holding up nearly four hundred million dollars in security assistance to Ukraine as leverage to demand an investigation of his Democratic opponent—passed a nonbinding resolution rebuking Trump for the pullout. Even two-thirds of the House Republicans voted for it.

At the meeting, the Speaker of the House, Nancy Pelosi, pointed out the vote against the President. "Congratulations," Trump snapped sarcastically. He grew even angrier when the Senate Democratic leader, Chuck Schumer, read out a warning from Mattis that leaving Syria could result in the resurgence of the Islamic State. In response, Trump derided his former Defense Secretary as "the world's most overrated general. You know why I fired him? I fired him because he wasn't tough enough."

Eventually, Pelosi, in her frustration, stood and pointed at the President. "All roads with you lead to Putin," she said. "You gave Russia Ukraine and Syria."

"You're just a politician, a third-rate politician!" Trump shot back.

Finally, Steny Hoyer, the House Majority Leader and Pelosi's No. 2, had had enough. "This is not useful," he said, and stood up to leave with the Speaker.

"We'll see you at the polls," Trump shouted as they walked out.

When she exited the White House, Pelosi told reporters that she left because Trump was having a "meltdown." A few hours later, Trump tweeted a White House photograph of Pelosi standing over him, apparently thinking it would prove that she was the one having a meltdown. Instead, the image went viral as an example of Pelosi confronting Trump.

Milley could also be seen in the photograph, his hands clenched together, his head bowed low, looking as though he wanted to sink into the floor. To Pelosi, this was a sign of inexplicable weakness, and she would later say that she never understood why Milley had not been willing to stand up to Trump at that meeting. After all, she would point out, he was the nonpartisan leader of the military, not one of Trump's toadies. "Milley, you would have thought, would have had more independence," she told us, "but he just had his head down."

In fact, Milley was already quite wary of Trump. That night, he called Representative Adam Smith, a Washington Democrat and the chairman of the House Armed Services Committee, who had also been present. "Is that the way these things normally go?" Milley asked. As Smith later put it, "That was the

moment when Milley realized that the boss might have a screw or two loose.” There had been no honeymoon. “From pretty much his first day on the job as chairman of the Joint Chiefs,” Smith said, “he was very much aware of the fact that there was a challenge here that was not your normal challenge with a Commander-in-Chief.”

Early on the evening of June 1, 2020, Milley failed what he came to realize was the biggest test of his career: a short walk from the White House across Lafayette Square, minutes after it had been violently cleared of Black Lives Matter protesters. Dressed in combat fatigues, Milley marched behind Trump with a phalanx of the President’s advisers in a photo op, the most infamous of the Trump Presidency, that was meant to project a forceful response to the protests that had raged outside the White House and across the country since the killing, the week before, of George Floyd. Most of the demonstrations had been peaceful, but there were also eruptions of looting, street violence, and arson, including a small fire in St. John’s Church, across from the White House.

In the morning before the Lafayette Square photo op, Trump had clashed with Milley, Attorney General William Barr, and the Defense Secretary, Mark Esper, over his demands for a militarized show of force. “We look weak,” Trump told them. The President wanted to invoke the Insurrection Act of 1807 and use active-duty military to quell the protests. He wanted ten thousand troops in the streets and the 82nd Airborne called up. He demanded that Milley take personal charge. When Milley and the others resisted and said that the National Guard would be sufficient, Trump shouted, “You are all losers! You are all fucking losers!” Turning to Milley, Trump said, “Can’t you just shoot them? Just shoot them in the legs or something?”

Eventually, Trump was persuaded not to send in the military against American citizens. Barr, as the civilian head of law enforcement, was given the lead role in the protest response, and the National Guard was deployed to assist police. Hours later, Milley, Esper, and other officials were abruptly summoned back to the White House and sent marching across Lafayette Square. As they walked, with the scent of tear gas still in the air, Milley realized that he should not be there and made his exit, quietly peeling off to his waiting black Chevy Suburban. But the damage was done. No one would care or even remember that he was not present when Trump held up a Bible in front of the damaged church; people had already seen him striding with the President on live television in his battle dress, an image that seemed to signal that the United States under Trump was, finally, a nation at war with itself. Milley knew this was a misjudgment that would haunt him forever, a “road-to-Damascus moment,” as he would later put it. What would he do about it?

In the days after the Lafayette Square incident, Milley sat in his office at the Pentagon, writing and rewriting drafts of a letter of resignation. There were short versions of the letter; there were long versions. His preferred version was the one that read in its entirety:

I regret to inform you that I intend to resign as your Chairman of the Joint Chiefs of Staff. Thank you for the honor of appointing me as senior ranking officer. The events of the last couple weeks have caused me to do deep soul-searching, and I can no longer faithfully support and execute your orders as Chairman of the Joint Chiefs of Staff. It is my belief that you were doing great and irreparable harm to my country. I believe that you have made a concerted effort over time to politicize the United States military. I thought

that I could change that. I've come to the realization that I cannot, and I need to step aside and let someone else try to do that.

Second, you are using the military to create fear in the minds of the people—and we are trying to protect the American people. I cannot stand idly by and participate in that attack, verbally or otherwise, on the American people. The American people trust their military and they trust us to protect them against all enemies, foreign and domestic, and our military will do just that. We will not turn our back on the American people.

Third, I swore an oath to the Constitution of the United States and embodied within that Constitution is the idea that says that all men and women are created equal. All men and women are created equal, no matter who you are, whether you are white or Black, Asian, Indian, no matter the color of your skin, no matter if you're gay, straight or something in between. It doesn't matter if you're Catholic, Protestant, Muslim, Jew, or choose not to believe. None of that matters. It doesn't matter what country you came from, what your last name is—what matters is we're Americans. We're all Americans. That under these colors of red, white, and blue—the colors that my parents fought for in World War II—means something around the world. It's obvious to me that you don't think of those colors the same way I do. It's obvious to me that you don't hold those values dear and the cause that I serve.

And lastly it is my deeply held belief that you're ruining the international order, and causing significant damage to our country overseas, that was fought for so hard by the Greatest Generation that they instituted in 1945. Between 1914 and 1945, 150 million people were slaughtered in the conduct of war. They were slaughtered because of tyrannies and dictatorships. That generation, like every generation, has fought against that, has fought against fascism, has fought against Nazism, has fought against extremism. It's now obvious to me that you don't understand that world order. You don't understand what the war was all about. In fact, you subscribe to many of the principles that we fought against. And I cannot be a party to that. It is with deep regret that I hereby submit my letter of resignation.

The letter was dated June 8th, a full week after Lafayette Square, but Milley still was not sure if he should give it to Trump. He was sending up flares, seeking advice from a wide circle. He reached out to Dunford, and to mentors such as the retired Army general James Dubik, an expert on military ethics. He called political contacts as well, including members of Congress and former officials from the Bush and Obama Administrations. Most told him what Robert Gates, a former Secretary of Defense and C.I.A. chief, did: “Make them fire you. Don't resign.”

“My sense is Mark had a pretty accurate measure of the man pretty quickly,” Gates recalled later. “He would tell me over time, well before June 1st, some of the absolutely crazy notions that were put forward in the Oval Office, crazy ideas from the President, things about using or not using military force, the immediate withdrawal from Afghanistan, pulling out of South Korea. It just went on and on.”

Milley was not the only senior official to seek Gates's counsel. Several members of Trump's national-security team had made the pilgrimage out to his home in Washington State during the previous two years. Gates would pour them a drink, grill them some salmon, and help them wrestle with the latest Trump conundrum. “The problem with resignation is you can only fire that gun once,” he told them. All



the conversations were variations on a theme: “ ‘How do I walk us back from the ledge?’ ‘How do I keep this from happening, because it would be a terrible thing for the country?’ ”

After Lafayette Square, Gates told both Milley and Esper that, given Trump’s increasingly erratic and dangerous behavior, they needed to stay in the Pentagon as long as they could. “If you resign, it’s a one-day story,” Gates told them. “If you’re fired, it makes it clear you were standing up for the right thing.” Gates advised Milley that he had another important card and urged him to play it: “Keep the chiefs on board with you and make it clear to the White House that if you go they all go, so that the White House knows this isn’t just about firing Mark Milley. This is about the entire Joint Chiefs of Staff quitting in response.”

Publicly, Lafayette Square looked like a debacle for Milley. Several retired generals had condemned his participation, pointing out that the leader of a racially diverse military, with more than two hundred thousand active-duty Black troops, could not be seen opposing a movement for racial justice. Even Mattis, who had refrained from openly criticizing Trump, issued a statement about the “bizarre photo op.” The Washington *Post* reported that Mattis had been motivated to do so by his anger at the image of Milley parading through the square in his fatigues.

Whatever their personal differences, Mattis and Milley both knew that there was a tragic inevitability to the moment. Throughout his Presidency, Trump had sought to redefine the role of the military in American public life. In his 2016 campaign, he had spoken out in support of the use of torture and other practices that the military considered war crimes. Just before the 2018 midterms, he ordered thousands of troops to the southern border to combat a fake “invasion” by a caravan of migrants. In 2019, in a move that undermined military justice and the chain of command, he gave clemency to a Navy SEAL found guilty of posing with the dead body of a captive in Iraq.

Many considered Trump’s 2018 decision to use the military in his preelection border stunt to be “the predicate—or the harbinger—of 2020,” in the words of Peter Feaver, a Duke University expert on civil-military relations, who taught the subject to generals at command school. When Milley, who had been among Feaver’s students, called for advice after Lafayette Square, Feaver agreed that Milley should apologize but encouraged him not to resign. “It would have been a mistake,” Feaver said. “We have no tradition of resignation in protest amongst the military.”

Milley decided to apologize in a commencement address at the National Defense University that he was scheduled to deliver the week after the photo op. Feaver’s counsel was to own up to the error and make it clear that the mistake was his and not Trump’s. Presidents, after all, “are allowed to do political stunts,” Feaver said. “That’s part of being President.”

Milley’s apology was unequivocal. “I should not have been there,” he said in the address. He did not mention Trump. “My presence in that moment, and in that environment, created a perception of the military involved in domestic politics.” It was, he added, “a mistake that I have learned from.”

At the same time, Milley had finally come to a decision. He would not quit. “Fuck that shit,” he told his staff. “I’ll just fight him.” The challenge, as he saw it, was to stop Trump from doing any more damage,

while also acting in a way that was consistent with his obligation to carry out the orders of his Commander-in-Chief. Yet the Constitution offered no practical guide for a general faced with a rogue President. Never before since the position had been created, in 1949—or at least since Richard Nixon’s final days, in 1974—had a chairman of the Joint Chiefs encountered such a situation. “If they want to court-martial me, or put me in prison, have at it,” Milley told his staff. “But I will fight from the inside.”

Milley’s apology tour was private as well as public. With the upcoming election fuelling Trump’s sense of frenetic urgency, the chairman sought to get the message to Democrats that he would not go along with any further efforts by the President to deploy the machinery of war for domestic political ends. He called both Pelosi and Schumer. “After the Lafayette Square episode, Milley was extremely contrite and communicated to any number of people that he had no intention of playing Trump’s game any longer,” Bob Bauer, the former Obama White House counsel, who was then advising Joe Biden’s campaign and heard about the calls, said. “He was really burned by that experience. He was appalled. He apologized for it, and it was pretty clear he was digging his heels in.”

On Capitol Hill, however, some Democrats, including Pelosi, remained skeptical. To them, Lafayette Square proved that Milley had been a Trumpist all along. “There was a huge misunderstanding about Milley,” Adam Smith, the House Armed Services Committee chairman, recalled. “A lot of my Democratic colleagues after June 1st in particular were concerned about him.” Smith tried to assure other Democrats that “there was never a single solitary moment where it was possible that Milley was going to help Trump do anything that shouldn’t be done.”

And yet Pelosi, among others, also distrusted Milley because of an incident earlier that year in which Trump ordered the killing of the Iranian commander Qassem Suleimani without briefing congressional leaders in advance. Smith said Pelosi believed that the chairman had been “evasive” and disrespectful to Congress. Milley, for his part, felt he could not disregard Trump’s insistence that lawmakers not be notified—a breach that was due to the President’s pique over the impeachment proceedings against him. “The navigation of Trumpworld was more difficult for Milley than Nancy gives him credit for,” Smith said. He vouched for the chairman but never managed to convince Pelosi.

How long could this standoff between the Pentagon and the President go on? For the next few months, Milley woke up each morning not knowing whether he would be fired before the day was over. His wife told him she was shocked that he had not been cashiered outright when he made his apology.

Esper was also on notice. Two days after Lafayette Square, the Defense Secretary had gone to the Pentagon pressroom and offered his own apology, even revealing his opposition to Trump’s demands to invoke the Insurrection Act and use the active-duty military. Such a step, Esper said, should be reserved only for “the most urgent and dire of situations.” Trump later exploded at Esper in the Oval Office about the criticism, delivering what Milley would recall as “the worst reaming out” he had ever heard.

The next day, Trump’s latest chief of staff, Mark Meadows, called the Defense Secretary at home—three times—to get him to recant his opposition to invoking the Insurrection Act. When he refused, Meadows took “the Tony Soprano approach,” as Esper later put it, and began threatening him, before eventually backing off. (A spokesperson for Meadows disputed Esper’s account.) Esper resolved to stay in office as

long as he could, “to endure all the shit and run the clock out,” as he put it. He felt that he had a particular responsibility to hold on. By law, the only person authorized to deploy troops other than the President is the Secretary of Defense. Esper was determined not to hand that power off to satraps such as Robert O’Brien, who had become Trump’s fourth and final national-security adviser, or Ric Grenell, a former public-relations man who had been serving as acting director of National Intelligence.

Both Esper and Milley found new purpose in waiting out the President. They resisted him throughout the summer, as Trump repeatedly demanded that active-duty troops quash ongoing protests, threatened to invoke the Insurrection Act, and tried to stop the military from renaming bases honoring Confederate generals. “They both expected, literally on a daily basis, to be fired,” Gates recalled. Milley “would call me and essentially say, ‘I may not last until tomorrow night.’ And he was comfortable with that. He felt like he knew he was going to support the Constitution, and there were no two ways about it.”

Milley put away the resignation letter in his desk and drew up a plan, a guide for how to get through the next few months. He settled on four goals: First, make sure Trump did not start an unnecessary war overseas. Second, make sure the military was not used in the streets against the American people for the purpose of keeping Trump in power. Third, maintain the military’s integrity. And, fourth, maintain his own integrity. In the months to come, Milley would refer back to the plan more times than he could count.

Even in June, Milley understood that it was not just a matter of holding off Trump until after the Presidential election, on November 3rd. He knew that Election Day might well mark merely the beginning, not the end, of the challenges Trump would pose. The portents were worrisome. Barely one week before Lafayette Square, Trump had posted a tweet that would soon become a refrain. The 2020 Presidential race, he warned for the first time, would end up as “the greatest Rigged Election in history.”

By the evening of Monday, November 9th, Milley’s fears about a volatile post-election period unlike anything America had seen before seemed to be coming true. News organizations had called the election for Biden, but Trump refused to acknowledge that he had lost by millions of votes. The peaceful transition of power—a cornerstone of liberal democracy—was now in doubt. Sitting at home that night at around nine, the chairman received an urgent phone call from the Secretary of State, Mike Pompeo. With the possible exception of Vice-President Mike Pence, no one had been more slavishly loyal in public, or more privately obsequious, to Trump than Pompeo. But even he could not take it anymore.

“We’ve got to talk,” Pompeo told Milley, who was at home in Quarters Six, the red brick house that has been the official residence of chairmen of the Joint Chiefs since the early nineteen-sixties. “Can I come over?”

Milley invited Pompeo to visit immediately.

“The crazies have taken over,” Pompeo told him when they sat down at Milley’s kitchen table. Not only was Trump surrounded by the crazies; they were, in fact, ascendant in the White House and, as of that afternoon, inside the Pentagon itself. Just a few hours earlier, on the first workday after the election was called for Biden, Trump had finally fired Esper. Milley and Pompeo were alarmed that the Defense Secretary was being replaced by Christopher Miller, until recently an obscure mid-level counterterrorism

official at Trump's National Security Council, who had arrived at the Pentagon flanked by a team of what appeared to be Trump's political minders.

For Milley, this was an ominous development. From the beginning, he understood that "if the idea was to seize power," as he told his staff, "you are not going to do this without the military." Milley had studied the history of coups. They invariably required the takeover of what he referred to as the "power ministries"—the military, the national police, and the interior forces.

As soon as he'd heard about Esper's ouster, Milley had rushed upstairs to the Secretary's office. "This is complete bullshit," he told Esper. Milley said that he would resign in protest. "You can't," Esper insisted. "You're the only one left." Once he cooled off, Milley agreed.

In the coming weeks, Milley would repeatedly convene the Joint Chiefs, to bolster their resolve to resist any dangerous political schemes from the White House now that Esper was out. He quoted Benjamin Franklin to them on the virtues of hanging together rather than hanging separately. He told his staff that, if need be, he and all the chiefs were prepared to "put on their uniforms and go across the river together"—to threaten to quit en masse—to prevent Trump from trying to use the military to stay in power illegally.

Soon after Miller arrived at the Pentagon, Milley met with him. "First things first here," he told the new acting Defense Secretary, who had spent the previous few months running the National Counterterrorism Center. "You are one of two people in the United States now with the capability to launch nuclear weapons."

A Pentagon official who had worked closely with Miller had heard a rumor about him potentially replacing Esper more than a week before the election. "My first instinct was this is the most preposterous thing I've ever heard," the official recalled. But then he remembered how Miller had changed in the Trump White House. "He's inclined to be a bit of a sail, and as the wind blows he will flap in that direction," the official said. "He's not an ideologue. He's just a guy willing to do their bidding." By coincidence, the official happened to be walking into the Pentagon just as Miller was entering—a video of Miller tripping on the stairs soon made the rounds. Accompanying him were three men who would, for a few weeks, at least, have immense influence over the most powerful military in the world: Kash Patel, Miller's new chief of staff; Ezra Cohen, who would ascend to acting Under-Secretary of Defense for Intelligence and Security; and Anthony Tata, a retired general and a talking head on Fox News, who would become the Pentagon's acting head of policy.

It was an extraordinary trio. Tata's claims to fame were calling Obama a "terrorist leader"—an assertion he later retracted—and alleging that a former C.I.A. director had threatened to assassinate Trump. Patel, a former aide to Devin Nunes, the top Republican on the House Intelligence Committee, had been accused of spreading conspiracy theories claiming that Ukraine, not Russia, had interfered in the 2016 election. Both Trump's third national-security adviser, John Bolton, and Bolton's deputy, Charles Kupperman, had vociferously objected to putting Patel on the National Security Council staff, backing down only when told that it was a personal, "must-hire" order from the President. Still, Patel found his way around them to deal with Trump directly, feeding him packets of information on Ukraine, which was outside his portfolio, according to testimony during Trump's first impeachment. (In a statement for this article, Patel

called the allegations a “total fabrication.”) Eventually, Patel was sent to help Ric Grenell carry out a White House-ordered purge of the intelligence community.

Cohen, who had worked earlier in his career at the Defense Intelligence Agency under Michael Flynn, had initially been hired at the Trump National Security Council in 2017 but was pushed out after Flynn’s swift implosion as Trump’s first national-security adviser. When efforts were later made to rehire Cohen in the White House, Bolton’s deputy vowed to “put my badge on the table” and quit. “I am not going to hire somebody that is going to be another cancer in the organization, and Ezra is cancer,” Kupperman bluntly told Trump. In the spring of 2020, Cohen landed at the Pentagon, and following Trump’s post-election shakeup he assumed the top intelligence post at the Pentagon.

Milley had firsthand reason to be wary of these new Pentagon advisers. Just before the election, he and Pompeo were infuriated when a top-secret Navy SEAL Team 6 rescue mission to free an American hostage held in Nigeria nearly had to be cancelled at the last minute. The Nigerians had not formally approved the mission in advance, as required, despite Patel’s assurances. “Planes were already in the air and we didn’t have the approvals,” a senior State Department official recalled. The rescue team was kept circling while diplomats tried to track down their Nigerian counterparts. They managed to find them only minutes before the planes would have had to turn back. As a result, the official said, both Pompeo and Milley, who believed he had been personally lied to, “assigned ill will to that whole cabal.” The C.I.A. refused to have anything to do with Patel, Pompeo recalled to his State Department staff, and they should be cautious as well. “The Secretary thought these people were just wackadoodles, nuts, and dangerous,” a second senior State Department official said. (Patel denied their accounts, asserting, “I caused no delay at all.”)

After Esper’s firing, Milley summoned Patel and Cohen separately to his office to deliver stern lectures. Whatever machinations they were up to, he told each of them, “life looks really shitty from behind bars. And, whether you want to realize it or not, there’s going to be a President at exactly 1200 hours on the twentieth and his name is Joe Biden. And, if you guys do anything that’s illegal, I don’t mind having you in prison.” Cohen denied that Milley said this to him, insisting it was a “very friendly, positive conversation.” Patel also denied it, asserting, “He worked for me, not the other way around.” But Milley told his staff that he warned both Cohen and Patel that they were being watched: “Don’t do it, don’t even try to do it. I can smell it. I can see it. And so can a lot of other people. And, by the way, the military will have no part of this shit.”

Part of the new team’s agenda soon became clear: making sure Trump fulfilled his 2016 campaign promise to withdraw American troops from the “endless wars” overseas. Two days after Esper was fired, Patel slid a piece of paper across the desk to Milley during a meeting with him and Miller. It was an order, with Trump’s trademark signature in black Sharpie, decreeing that all four thousand five hundred remaining troops in Afghanistan be withdrawn by January 15th, and that a contingent of fewer than a thousand troops on a counterterrorism mission in Somalia be pulled out by December 31st.

Milley was stunned. “Where’d you get this?” he said.

Patel said that it had just come from the White House.

“Did you advise the President to do this?” he asked Patel, who said no.

“Did you advise the President to do this?” he asked Miller, who said no.

“Well, then, who advised the President to do it?” Milley asked. “By law, I’m the President’s adviser on military action. How does this happen without me rendering my military opinion and advice?”

With that, he announced that he was putting on his dress uniform and going to the White House, where Milley and the others ended up in the office of the national-security adviser, Robert O’Brien.

“Where did this come from?” Milley demanded, putting the withdrawal order on O’Brien’s desk.

“I don’t know. I’ve never seen that before,” O’Brien said. “It doesn’t look like a White House memo.”

Keith Kellogg, a retired general serving as Pence’s national-security adviser, asked to see the document. “This is not the President,” he said. “The format’s not right. This is not done right.”

“Keith, you’ve got to be kidding me,” Milley said. “You’re telling me that someone’s forging the President of the United States’ signature?”

The order, it turned out, was not fake. It was the work of a rogue operation inside Trump’s White House overseen by Johnny McEntee, Trump’s thirty-year-old personnel chief, and supported by the President himself. The order had been drafted by Douglas Macgregor, a retired colonel and a Trump favorite from his television appearances, working with a junior McEntee aide. The order was then brought to the President, bypassing the national-security apparatus and Trump’s own senior officials, to get him to sign it.

Macgregor often appeared on Fox News demanding an exit from Afghanistan and accused Trump’s advisers of blocking the President from doing what he wanted. “He needs to send everyone out of the Oval Office who keeps telling him, ‘If you do that and something bad happens, it’s going to be blamed on you, Mr. President,’ ” Macgregor had told Tucker Carlson in January. “He needs to say, ‘I don’t give a damn.’ ”

On the day that Esper was fired, McEntee had invited Macgregor to his office, offered him a job as the new acting Defense Secretary’s senior adviser, and handed him a handwritten list of four priorities that, as Axios reported, McEntee claimed had come directly from Trump:

1. Get us out of Afghanistan.
2. Get us out of Iraq and Syria.
3. Complete the withdrawal from Germany.
4. Get us out of Africa.

Once the Afghanistan order was discovered, Trump’s advisers persuaded the President to back off, reminding him that he had already approved a plan for leaving over the following few months. “Why do

we need a new plan?” Pompeo asked. Trump relented, and O’Brien then told the rest of the rattled national-security leadership that the order was “null and void.”

The compromise, however, was a new order that codified the drawdown to twenty-five hundred troops in Afghanistan by mid-January, which Milley and Esper had been resisting, and a reduction in the remaining three thousand troops in Iraq as well. The State Department was given one hour to notify leaders of those countries before the order was released.

Two nightmare scenarios kept running through Milley’s mind. One was that Trump might spark an external crisis, such as a war with Iran, to divert attention or to create a pretext for a power grab at home. The other was that Trump would manufacture a domestic crisis to justify ordering the military into the streets to prevent the transfer of power. Milley feared that Trump’s “Hitler-like” embrace of his own lies about the election would lead him to seek a “Reichstag moment.” In 1933, Hitler had seized on a fire in the German parliament to take control of the country. Milley now envisioned a declaration of martial law or a Presidential invocation of the Insurrection Act, with Trumpian Brown Shirts fomenting violence.

By late November, amid Trump’s escalating attacks on the election, Milley and Pompeo’s cooperation had deepened—a fact that the Secretary of State revealed to Attorney General Bill Barr over dinner on the night of December 1st. Barr had just publicly broken with Trump, telling the Associated Press in an interview that there was no evidence of election fraud sufficient to overturn the results. As they ate at an Italian restaurant in a Virginia strip mall, Barr recounted for Pompeo what he called “an eventful day.” And Pompeo told Barr about the extraordinary arrangement he had proposed to Milley to make sure that the country was in steady hands until the Inauguration: they would hold daily morning phone calls with Mark Meadows. Pompeo and Milley soon took to calling them the “land the plane” phone calls.

“Our job is to land this plane safely and to do a peaceful transfer of power the twentieth of January,” Milley told his staff. “This is our obligation to this nation.” There was a problem, however. “Both engines are out, the landing gear are stuck. We’re in an emergency situation.”

In public, Pompeo remained his staunchly pro-Trump self. The day after his secret visit to Milley’s house to commiserate about “the crazies” taking over, in fact, he refused to acknowledge Trump’s defeat, snidely telling reporters, “There will be a smooth transition—to a second Trump Administration.” Behind the scenes, however, Pompeo accepted that the election was over and made it clear that he would not help overturn the result. “He was totally against it,” a senior State Department official recalled. Pompeo cynically justified this jarring contrast between what he said in public and in private. “It was important for him to not get fired at the end, too, to be there to the bitter end,” the senior official said.

Both Milley and Pompeo were angered by the bumbling team of ideologues that Trump had sent to the Pentagon after the firing of Esper, a West Point classmate of Pompeo’s. The two, who were “already converging as fellow-travellers,” as one of the State officials put it, worked even more closely together as their alarm about Trump’s post-election conduct grew, although Milley was under no illusions about the Secretary of State. He believed that Pompeo, a longtime enabler of Trump who aspired to run for President himself, wanted “a second political life,” but that Trump’s final descent into denialism was the line that, at last, he would not cross. “At the end, he wouldn’t be a party to that craziness,” Milley told his

staff. By early December, as they were holding their 8 A.M. land-the-plane calls, Milley was confident that Pompeo was genuinely trying to achieve a peaceful handover of power to Biden. But he was never sure what to make of Meadows. Was the chief of staff trying to land the plane or to hijack it?

Most days, Milley would also call the White House counsel, Pat Cipollone, who was hardly a usual interlocutor for a chairman of the Joint Chiefs. In the final weeks of the Administration, Cipollone, a true believer in Trump's conservative agenda, was a principal actor in the near-daily drama over Trump's various schemes to overturn his election defeat. After getting off one call with Cipollone, Milley told a visitor that the White House counsel was "constructive," "not crazy," and a force for "trying to keep guardrails around the President."

Milley continued to reach out to Democrats close to Biden to assure them that he would not allow the military to be misused to keep Trump in power. One regular contact was Susan Rice, the former Obama national-security adviser, dubbed by Democrats the Rice Channel. He also spoke several times with Senator Angus King, an Independent from Maine. "My conversations with him were about the danger of some attempt to use the military to declare martial law," King said. He took it upon himself to reassure fellow-senators. "I can't tell you why I know this," but the military will absolutely do the right thing, he would tell them, citing Milley's "character and honesty."

Milley had increasing reason to fear that such a choice might actually be forced upon him. In late November, Trump pardoned Michael Flynn, who had pleaded guilty to charges of lying to the F.B.I. about his contacts with Russia. Soon afterward, Flynn publicly suggested several extreme options for Trump: he could invoke martial law, appoint a special counsel, and authorize the military to "rerun" an election in the swing states. On December 18th, Trump hosted Flynn and a group of other election deniers in the Oval Office, where, for the first time in American history, a President would seriously entertain using the military to overturn an election. They brought with them a draft of a proposed Presidential order requiring the acting Defense Secretary—Christopher Miller—to "seize, collect, retain and analyze" voting machines and provide a final assessment of any findings in sixty days, well after the Inauguration was to take place. Later that night, Trump sent out a tweet beckoning his followers to descend on the capital to help him hold on to office. "Big protest in D.C. on January 6th," he wrote at 1:42 A.M. "Be there, will be wild!"

Milley's fears of a coup no longer seemed far-fetched.

While Trump was being lobbied by "the crazies" to order troops to intervene at home, Milley and his fellow-generals were concerned that he would authorize a strike against Iran. For much of his Presidency, Trump's foreign-policy hawks had agitated for a showdown with Iran; they accelerated their efforts when they realized that Trump might lose the election. In early 2020, when Mike Pence advocated taking tough measures, Milley asked why. "Because they are evil," Pence said. Milley recalled replying, "Mr. Vice-President, there's a lot of evil in the world, but we don't go to war against all of it." Milley grew even more nervous before the election, when he heard a senior official tell Trump that if he lost he should strike Iran's nuclear program. At the time, Milley told his staff that it was a "What the fuck are these guys talking about?" moment. Now it seemed frighteningly possible.



Robert O'Brien, the national-security adviser, had been another frequent cheerleader for tough measures: "Mr. President, we should hit 'em hard, hit 'em hard with everything we have." Esper, in his memoir, called "hit them hard" O'Brien's "tedious signature phrase." (O'Brien disputed this, saying, "The quote attributed to me is not accurate.")

In the week of Esper's firing, Milley was called to the White House to present various military options for attacking Iran and encountered a disturbing performance by Miller, the new acting Defense Secretary. Miller later told Jonathan Karl, of ABC, that he had intentionally acted like a "fucking madman" at the meeting, just three days into his tenure, pushing various escalatory scenarios for responding to Iran's breakout nuclear capacities.

Miller's behavior did not look intentional so much as unhelpful to Milley, as Trump kept asking for alternatives, including an attack inside Iran on its ballistic-weapons sites. Milley explained that this would be an illegal preemptive act: "If you attack the mainland of Iran, you will be starting a war." During another clash with Trump's more militant advisers, when Trump was not present, Milley was even more explicit. "If we do what you're saying," he said, "we are all going to be tried as war criminals in The Hague."

Trump often seemed more bluster than bite, and the Pentagon brass still believed that he did not want an all-out war, yet he continued pushing for a missile strike on Iran even after that November meeting. If Trump said it once, Milley told his staff, he said it a thousand times. "The thing he was most worried about was Iran," a senior Biden adviser who spoke with Milley recalled. "Milley had had the experience more than once of having to walk the President off the ledge when it came to retaliating."

The biggest fear was that Iran would provoke Trump, and, using an array of diplomatic and military channels, American officials warned the Iranians not to exploit the volatile domestic situation in the U.S. "There was a distinct concern that Iran would take advantage of this to strike at us in some way," Adam Smith, the House Armed Services chairman, recalled.

Among those pushing the President to hit Iran before Biden's Inauguration, Milley believed, was the Israeli Prime Minister, Benjamin Netanyahu. On December 18th, the same day that Trump met with Flynn to discuss instituting martial law, Milley met with Netanyahu at his home in Jerusalem to personally urge him to back off with Trump. "If you do this, you're gonna have a fucking war," Milley told him.

Two days later, on December 20th, Iranian-backed militias in Iraq fired nearly two dozen rockets at the American Embassy in Baghdad. Trump responded by publicly blaming Iran and threatening major retaliation if so much as a single American was killed. It was the largest attack on the Green Zone in more than a decade, and exactly the sort of provocation Milley had been dreading.

During the holidays, tensions with Iran escalated even more as the first anniversary of the American killing of Suleimani approached. Ayatollah Ali Khamenei warned that "those who ordered the murder of General Soleimani" would "be punished." Late on the afternoon of Sunday, January 3rd, Trump met with Milley, Miller, and his other national-security advisers on Iran. Pompeo and Milley discussed a

worrisome new report from the International Atomic Energy Agency. But, by the end, even Pompeo and O'Brien, the Iran hawks, opposed a military strike at this late hour in Trump's Presidency. "He realized the clock ran out," Milley told his staff. Trump, consumed with his election fight, backed off.

At the end of the meeting with his security chiefs, the President pulled Miller aside and asked him if he was ready for the upcoming January 6th protest. "It's going to be a big deal," Milley heard Trump tell Miller. "You've got enough people to make sure it's safe for my people, right?" Miller assured him he did. This was the last time that Milley would ever see Trump.

On January 6th, Milley was in his office at the Pentagon meeting with Christine Wormuth, the lead Biden transition official for the Defense Department. In the weeks since the election, Milley had started displaying four networks at once on a large monitor across from the round table where he and Wormuth sat: CNN and Fox News, as well as the small pro-Trump outlets Newsmax and One America News Network, which had been airing election disinformation that even Fox would not broadcast. "You've got to know what the enemy is up to," Milley had joked when Wormuth noticed his viewing habits at one of their meetings.

Milley and Wormuth that day were supposed to discuss the Pentagon's plans to draw down U.S. troops in Afghanistan, as well as the Biden team's hopes to mobilize large-scale COVID vaccination sites around the country. But, as they realized in horror what was transpiring on the screen in front of them, Milley was summoned to an urgent meeting with Miller and Ryan McCarthy, the Secretary of the Army. They had not landed the plane, after all. The plane was crashing.

Milley entered the Defense Secretary's office at 2:30 P.M., and they discussed deploying the D.C. National Guard and mobilizing National Guard units from nearby states and federal agents under the umbrella of the Justice Department. Miller issued an order at 3:04 p.m. to send in the D.C. Guard.

But it was too late to prevent the humiliation: Congress had been overwhelmed by a mob of election deniers, white-supremacist militia members, conspiracy theorists, and Trump loyalists. Milley worried that this truly was Trump's "Reichstag moment," the crisis that would allow the President to invoke martial law and maintain his grip on power.

From the secure facility at Fort McNair, where they had been brought by their protective details, congressional leaders called on the Pentagon to send forces to the Capitol immediately. Nancy Pelosi and Chuck Schumer were suspicious of Miller: Whose side was this unknown Trump appointee on? Milley tried to reassure the Democratic leadership that the uniformed military was on the case, and not there to do Trump's bidding. The Guard, he told them, was coming.

It was already after three-thirty by then, however, and the congressional leaders were furious that it was taking so long. They also spoke with Mike Pence, who offered to call the Pentagon as well. He reached Miller around 4 P.M., with Milley still in his office listening in. "Clear the Capitol," Pence ordered.

Although it was the Vice-President who was seeking to defend the Capitol, Meadows wanted to pretend that Trump was the one taking action. He called Milley, telling him, "We have to kill the narrative that the

Vice-President is making all the decisions. We need to establish the narrative that the President is still in charge.” Milley later dismissed Meadows, whose spokesperson denied Milley’s account, as playing “politics, politics, politics.”

The Guard finally arrived at the Capitol by 5:40 P.M., “sprint speed” for the military, as Milley would put it, but not nearly fast enough for some members of Congress, who would spend months investigating why it took so long. By 7 P.M., a perimeter had been set up outside the Capitol, and F.B.I. and A.T.F. agents were going door to door in the Capitol’s many hideaways and narrow corridors, searching for any remaining rioters.

That night, waiting for Congress to return and formally ratify Trump’s electoral defeat, Milley called one of his contacts on the Biden team. He explained that he had spoken with Meadows and Pat Cipollone at the White House, and that he had been on the phone with Pence and the congressional leaders as well. But Milley never heard from the Commander-in-Chief, on a day when the Capitol was overrun by a hostile force for the first time since the War of 1812. Trump, he said, was both “shameful” and “complicit.”

Later, Milley would often think back to that awful day. “It was a very close-run thing,” the historically minded chairman would say, invoking the famous line of the Duke of Wellington after he had only narrowly defeated Napoleon at Waterloo. Trump and his men had failed in their execution of the plot, failed in part by failing to understand that Milley and the others had never been Trump’s generals and never would be. But their attack on the election had exposed a system with glaring weaknesses. “They shook the very Republic to the core,” Milley would eventually reflect. “Can you imagine what a group of people who are much more capable could have done?” ♦

*This is drawn from “The Divider: Trump in the White House, 2017-2021.”*

*An earlier version of this article mistakenly attributed a quote to Mark Esper’s book.*

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### A Duty to Disobey?

By Doyle Hodges     Friday, August 19, 2022, 9:34 AM



Gen. Mark Milley (Department of Defense photo by Lisa Ferdinando, <https://flic.kr/p/2mhQ1fq>).

Among the many revelations in Susan Glasser and Peter Baker’s recent article in the New Yorker about the last days of Trump’s presidency was that Gen. Mark Milley, the chairman of the Joint Chiefs of Staff, resolved to thwart any orders he received from then-President Donald Trump to deploy troops domestically or to attack Iran without sufficient provocation. As the article details, “[Milley] settled on four goals: First, make sure Trump did not start an unnecessary war overseas. Second, make sure the military was not used in the streets against the American people for the purpose of keeping Trump in power. Third, maintain the military’s integrity. And, fourth, maintain his own integrity.”

As Trump’s presidency drew to a close, according to the article, Milley spoke by phone each morning with the secretary of state, the attorney general, and the White House chief of staff. He frequently called the White House counsel, as well. The goal of these phone calls was to “land the plane,” that is, to ensure that Trump’s presidency concluded with a peaceful transition of power, thereby achieving the four goals Milley had set for himself.

While the article portrayed Milley sympathetically, his actions to frustrate the policy desires of the president are problematic from a civil-military relations perspective. That isn't to say that the policy goals in question were ethical, legal, moral, or appropriate. Efforts to overturn a free and fair election are none of those things; neither would be orders to start an unprovoked foreign war. The problem is that the military is not the constitutionally prescribed mechanism to keep these things from happening.

Samuel Huntington, in his influential book "The Soldier and the State," wrote that "loyalty and obedience are the highest military virtues." In her book, "On Obedience," philosopher Pauline Shanks-Kaurin qualifies this somewhat: "[U]nreflective obedience is not a virtue and may in fact be a vice and counterproductive to the military function." How ought Milley's efforts to serve as a guardrail against what he perceived as Trump's dangerous impulses be judged in this context?

This question has at least four parts: How far ought the senior military officer go to shape a president's policy choices? What should the officer do if given an unlawful order? How should the officer respond if given an order that is "lawful but awful"? What other options were available to Milley, and what circumstances might have justified his acting on his own authority to stymie the actions of the president?

### **The Role of the Chairman in Policy Formulation**

The Goldwater-Nichols Act defines the modern role of the chairman of the Joint Chiefs of Staff as "the principal military advisor to the President, the National Security Council, and the Secretary of Defense." As such, the chairman is authorized (and required) to provide "the range of military advice and opinion" to those officials. The secretary of state, the attorney general, and the White House chief of staff are regular attendees of National Security Council (NSC) meetings, and thus Milley's advice to them on military matters would have been within the scope of his responsibility as chairman—if the discussions were held under the auspices of the NSC. The fact that other NSC members were not included in the discussions with these officials, however, casts doubt on whether Milley's daily conversations with them were legitimately part of his advisory responsibility to the NSC.

Whether the discussions related to military advice is also a thorny question. While the New Yorker article did not provide specifics, the implication is that the discussions had to do with a fundamentally political, rather than military, question: Would then-President Donald Trump acknowledge the validity of the 2020 election and peacefully turn over his office to President-elect Joe Biden? Even if the discussions were strictly related to the military's role in such matters, if conversations were focused on the question of how to keep a president from pursuing a particular course of action, that is a political question.

Such behavior would certainly fall into the category of what civil-military relations scholar Peter Feaver has called "shirking"—working to slow-roll or frustrate the known desires of the decision-maker. The chairman's role is to present his assessment of the merits and wisdom of possible military responses, as well as to convey any dissenting views from other members of the joint chiefs. That responsibility may, at times, extend to advocating with a senior official for or against a particular course of military action, but discussions with NSC members of how to steer

the president away from certain military policy choices is different from working with the president's high-level advisers outside of the NSC context on political issues—which Milley was apparently at least prepared to do.

Without specific knowledge of the content of the conversations, it's difficult to conclude definitively whether Milley exceeded his statutory mandate in conferring daily with Mike Pompeo, William Barr, and Mark Meadows. But if the conversations didn't veer into topics well beyond his opinion on military matters, it's puzzling why Milley felt it was important to tell reporters about them, and difficult to understand why these conversations would have continued daily during the postelection period.

### **Actually, Superior Orders Usually *Are* a Defense.**

Supposing Milley had failed to dissuade the president from ordering a rash military action, might he have had a legal or ethical responsibility to disobey the orders as unlawful? Not necessarily—and, in fact, it seems unlikely.

Many people believe that the trials of Nazi leaders after World War II forever precluded superior orders as a defense against charges of illegal action. The International Military Tribunal at Nuremberg did reject the defense of superior orders, but only in the narrowest terms. In the High Command Cases, the tribunal wrote:

Orders are the basis upon which any army operates. It is basic to the discipline of an army that orders are issued to be carried out. Its discipline is built upon this principle. Without it, no army can be effective and it is certainly not incumbent upon a soldier in a subordinate position to screen the orders of superiors for questionable points of legality. Within certain limitations, he has the right to assume that the orders of his superiors and the State which he serves and which are issued to him are in conformity with International Law.

In practical terms, this guidance from the military tribunal and related dictates are generally understood globally to mean that members of the military must disobey an order that is “manifestly unlawful.” But the standard for manifest unlawfulness is extraordinarily high. The Department of Defense Law of War Manual cites as an example an order to “machine gun” shipwreck survivors. Trump's threats to strike Iranian cultural sites, kill terrorists' families, or bring back “waterboarding and a hell of a lot worse” are other examples (although, as I have noted, this last example could be clouded by executive action changing U.S. interrogation guidance). Though these examples illustrate some of the limits imposed by law, a U.S. president can do a lot of mischief without ever issuing an order that is manifestly unlawful.

Milley's first goal, to “make sure Trump did not start an unnecessary war overseas,” illustrates the challenge. The operative word is “unnecessary.” On the one hand, Milley's grave concern that Trump would seek to distract from domestic issues and rally support by launching an attack on Iran or another country seems well founded. On the other hand, the president's war powers are broad and sweeping, and the determination of whether or not a military action is “necessary” is ultimately a determination of the elected president. While not directly comparable, this is similar to the position affirmed by the Court in *Gillette v. United States* that a person subject to

military service claiming conscientious objector status must oppose all war on religious grounds, rather than limiting their objection to one particular war. The military doesn't get to choose which wars it fights—that responsibility is left to civilians. As such, even the senior military officer doesn't get to determine whether or not a war is “necessary.”

An order to deploy troops domestically under the Insurrection Act runs into a similar problem: 10 U.S.C. § 332 states, “Whenever *the President considers* that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State by the ordinary course of judicial proceedings, he may ... use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion” (emphasis added). While Trump's desire to have troops “shoot protesters in the legs” almost certainly does rise to the level of manifest unlawfulness, as would an order to use force against peaceful political opponents, he clearly has a great deal of discretion in determining when the conditions allowing for the domestic deployment of troops have been met. In an environment such as that immediately following the election, when many Americans feared (or rooted for) a coup, the mere deployment of troops into the streets would have crossed a fateful line even if they were strictly constrained in their use of force. Gen. Milley could have strongly advised against such an order, and would have had a responsibility to craft the mission and rules governing the use of force in such a way that they did not violate domestic or international law, but it's not clear he would have had a legal basis to disobey.

The military's oath to “support and defend the Constitution of the United States against all enemies foreign and domestic” raises another possible source of legal objection to justify Milley's efforts to stymie Trump. But the Constitution and federal law charge other offices and institutions—including the Supreme Court, the Office of Legal Counsel, the Department of Defense general counsel, and the legal adviser to the chairman—with determining the legality and constitutionality of orders. Milley's expertise is in military matters, not constitutional law. If Milley consulted with any of these officials, it was not mentioned in the New Yorker story. None of these individuals or offices are mentioned as participants in the daily phone calls, or listed among those to whom Milley turned for advice and counsel. It is possible this omission reflects that his consultation was so routine that he didn't think it worth mentioning, but it is unusual that Milley cited no legal opinions from any of these sources in addressing a challenge with significant legal elements and implications.

Disobeying unlawful orders is a critical element of military professionalism and the rule of law. But the nature of presidential powers and authority surrounding the use of force makes it unclear when a hypothetical order by President Trump to attack a foreign power or deploy troops into the streets would rise to the standard of manifest unlawfulness required to trigger disobedience. And, in fact, a large part of the chairman's role (and that of the officials charged with ensuring the legality of executive action) would be to tailor the implementation of such an order to ensure that it complied with all relevant law.

### **“Lawful but Awful”: Handling Orders That Are Legal but Wrong**

A stronger objection to Trump’s presumed desire to use the military to prolong his tenure is that such orders—even if carefully tailored to avoid legal pitfalls—would be morally wrong. The question of the moral responsibility of military officers for the effects of orders they carry out is a difficult one.

On one end of the spectrum is the advice offered in Shakespeare’s “Henry V.” When on the eve of battle Henry moves in disguise among his men to gauge their spirit, he remarks to one of his men that the king’s quarrel is “just and noble.” One remarks, “that’s more than we know,” joined by another who adds, “Ay, or more than we should seek after, for we know enough if we know we are the King’s subjects. If his cause be wrong, our obedience to the King wipes the crime of it out of us.” At the other end of the spectrum, philosopher Jeff McMahan has written that soldiers who fight in an unjust war bear full moral responsibility for the killing and harm they do, since they commit these acts in the service of an unjust cause. Shanks-Kaurin’s concept of “reflective obedience” seems to strike a balance between these two extremes, in that it asks officers not to blindly obey, but to consider the moral implications of obedience and disobedience, including the duty and presumption of obedience.

But what ought soldiers—especially one in a senior position such as the chairman—do if given an order they believe to be lawful, but morally wrong?

The options available to soldiers given an order are relatively limited. Boiled down to their essence, a soldier’s options are to obey or disobey. If the order is lawful and moral, obedience is a relatively easy choice. If the order is manifestly unlawful, disobedience is hard, but necessary and justified. The more difficult case is when the order is lawful (or the lawfulness is unclear) but morally repugnant. At that point, as Huntington writes, “this comes down to a choice between his own conscience on the one hand, and the good of the state, plus the professional virtue of obedience on the other.” If Milley had confronted such a situation, the balance would seem to tip toward disobedience, since in his judgment the moral objection to the order was that it would be dangerous to the state.

But disobedience in the military comes at a price, especially when it involves the military’s most senior officer and the elected president. It is impossible to have a military subservient to civilian authority if the most senior military officer refuses to follow the orders of the most senior civilian, no matter the reason. As a consequence, many civil-military scholars argue that an officer confronted with this choice must resign. Unlike a civilian official who may consider “civil disobedience,” so long as they are ready to accept any punishment that results, disobedience by the person who controls the military—which has the means to violently enforce its will if it chooses to—is not an acceptable option.

According to the article, Milley considered resignation, and went so far as to draft a resignation letter. However, he eventually decided that he had a responsibility to try to thwart Trump’s actions rather than resign. “He would not quit. ‘Fuck that shit,’ [Milley] told his staff. ‘I’ll just fight him.’ The challenge, as he saw it, was to stop Trump from doing any more damage, while also acting in a way that was consistent with his obligation to carry out the orders of his Commander-in-Chief. Yet the Constitution offered no practical guide for a general faced with a



rogue President.” Thus, the situation with Milley is complicated further by the fact that he didn’t clearly receive unlawful or immoral orders. Instead, he was actively working with others without the president’s knowledge to prevent such orders from being issued.

While Milley’s rationale is laudable, his actions were not. Politicians are chosen and held accountable by election, impeachment, and political pressure. Generals are not. No one voted for Milley. So there are some decisions Milley didn’t have the authority to make. Choosing to “fight” the president, rather than allowing the constitutionally mandated mechanisms of impeachment or replacement under the 25th Amendment was just such a decision. While Trump could have fired or court-martialed Milley, had Milley’s insubordination been direct and clear, Milley’s attempt to hide it from the president meant that the general was intentionally short-circuiting even that extreme mechanism of accountability. Milley’s decision not to resign but, rather, to force the president to fire or punish him, was a stark departure from the military’s fundamental duty to follow and execute lawful orders from civilian authorities.

It may seem that judging Milley harshly suffers from 20/20 hindsight. He was in an unprecedented predicament, and it’s easy to condemn his actions once the crisis has been averted. Philosopher Michael Walzer helps to explain why such condemnation is necessary, even if Milley’s actions may have been justified by the extreme conditions of the moment.

### **Supreme Emergency and Its Consequences**

Walzer’s “Just and Unjust Wars” is a modern classic of moral philosophy, widely admired and cited. In addition to his clear and concise “war convention,” Walzer introduces a controversial concept in the book: supreme emergency. There may be circumstances, Walzer argues, where the continued existence of a political community is in grave peril, and the only way for the community to survive is to commit an act that is ethically wrong. The example Walzer uses is the choice by British leaders during World War II to bomb German cities in order to avoid a Nazi takeover.

It’s possible to consider Milley’s actions in a similar light: The threat posed to the republic by Trump and the apparent unwillingness to act on the part of those constitutionally charged with checks on the presidency left him no other option. Whether or not this reading is accurate is a matter for debate. What Walzer says should follow supreme emergency, however, is not.

“What are we to say about those military commanders (or political leaders) who override the rules of war and kill innocent people in a ‘supreme emergency’? ... They have killed unjustly, let us say, for the sake of justice itself, but justice itself requires that unjust killing be condemned.” In other words, an action itself can be unjust—and should be condemned—even if it is part of a broader military effort that is just.

A similar argument might be made regarding Milley’s deliberate choice to undermine the norms of civilian control by choosing to “fight” the elected president. The circumstances were extraordinary. The stakes were high. His choice, at least on the account provided by the New Yorker article, appears to have been made from honorable motives. But the damage to norms of civilian control is real and serious. If the norms of civilian control of the military and military professionalism are to survive, such damage demands condemnation in some form.

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## The Military in the Political Cross Hairs: Recruiting, Politicization, and the Future

<https://www.justsecurity.org/87053/the-all-volunteer-force-at-50-civil-military-solutions-in-a-time-of-partisan-polarization/>

# The All-Volunteer Force at 50: Civil-Military Solutions in a Time of Partisan Polarization

by Heidi Urben and Peter Feaver  
*June 28, 2023*

The year 2023, marks a major milestone for the United States: the 50th anniversary of the establishment of an all-volunteer force (AVF). 2023 also marks the 75th anniversary of Executive Order 9981, President Harry Truman’s decision to end the Jim Crow era in the armed forces, as well as the 75th anniversary of the Women’s Armed Services Integration Act, the law that allowed women to serve in the regular armed forces and not merely in the Women Accepted for Volunteer Emergency Services (WAVES) and Women’s Army Auxiliary Corps (WAACs), made famous during World War II.

The 50th anniversary of the All-Volunteer Force has coincided with the most acute recruiting crisis in decades. Each of the services has struggled to meet recruiting goals, but none more so than the Army, which failed to meet its target by 15,000 soldiers, or 25 percent, during fiscal year 2022. The recruiting crisis has combined with politicization of all things related to the military to raise doubts about the long-term viability of the AVF.

There is little that can be done about the primary drivers of the recruitment crisis: the comparative health of the civilian economy and the comparative unhealth of youth of recruiting age. By contrast, there is much more that can and should be done about one secondary driver of the crisis: the politicization of the AVF. Addressing the politicization challenge will help on the margins and, just as importantly, shore up best practices in civil-military relations to help this institution weather political storms. It will require, however, that all relevant actors – civilian elites, military elites, and the general public – take the problem seriously and commit to modest remedial steps.

Civilian elites will need to recognize that their actions are a major part of the politicization problem and adjust their behavior accordingly. Military elites will need to recommit to the professional duty to be custodians of professional ethics in this area and be vigilant to patrol their own behavior. And the general public should move from “high regard at high remove” and spend some effort learning more about this institution that is protecting the U.S. Constitution against all enemies, foreign and domestic. Trying to repair the AVF in this manner is better than replacing it with a draft, which is a cure worse than the disease.

### **Recruitment Woes Are Bad Weather, Politicization of the AVF is Bad Behavior**

Most experts agree that the two biggest drivers of contemporary recruiting challenges are in the labor market and public health. First and foremost, a tight civilian labor market makes competition for the pool of workers intense. For instance, according to one recent Department of

Defense study, the percentage of youth (aged 16-21) who report that it is “not at all” or only “somewhat difficult for someone your age to get a full-time job in your community” has been at all-time highs for the past several years. When jobs are easy to come by, recruiters have a tougher time making the case for military service.

At the same time, the pool of youth who meet the eligibility criteria (e.g., for medical, physical, conduct, etc.) for joining the military without receiving a waiver is at an all-time low (as low as 23 percent in 2020). Recruiters face a shrinking pool of young people from which to recruit. Add in the lingering effects of the pandemic and a recruiting crisis is probably over-determined. The military can muddle through in the short run by lowering recruiting standards, but that is not a long term solution. If the shortfalls persist even after the labor market cycles back to an environment more favorable for recruiters, then the calls for drastic measures will intensify.

Yet the AVF may be suffering from yet another pernicious problem, one that has a political root rather than an economic or public health origin. One of the most underappreciated threats to the long-term continuance of the AVF is the harmful effects partisan polarization has on the military and its relationship with society and civilian leaders today. Politicization has permeated virtually every institution in American life, and the national security enterprise is not immune. That includes the U.S. military, which has long enjoyed high public confidence from Americans on both sides of the aisle. However, as the American public has become more polarized, the AVF—which must draw from all corners of the country to remain viable—is in danger of being corrupted.

The community of civil-military scholars has been sounding the alarm on the dangers related to politicization of the military for some time now. On the general danger to civil-military relations, there has been widespread agreement. A linkage between politicization and recruiting challenges also seems intuitive but harder to pin down. As yet, there is very little reliable evidence that many potential recruits are declining to serve because they believe the military has become too closely aligned with one party or another. There is, however, evidence that such concerns have taken root among the most partisan members of the public, and it seems likely that such concerns would reduce their propensity to recommend service. People with lower confidence in the military are less likely to recommend to others that they join.

The politicization of the military is thus likely exacerbating recruiting problems while also undermining the readiness of the military. Practical solutions to the problem of politicization, however, are harder to identify. Drastic fixes that demand politicians refrain from responding to political incentives are not feasible, and expecting the military to take a stronger role in thwarting politicization could backfire by drawing them further into partisan politics, making matters worse. If not cures, are there at least practical palliative steps that are likely to yield results?

Earlier this year the America in the World Consortium and Georgetown University’s Center for Security Studies held a conference with leading scholars and practitioners and we joined a final panel alongside retired Lt. Gen. David Barno, Michèle Flournoy, and Kori Schake. Collectively the panel created a list of action items, a selective sample of which we explain below. While the political divisions in the country often seem intractable today, these recommendations are feasible steps that can help sustain the all-volunteer force for another 50 years.

## **Civilian Leaders Should Stop Shirking Their Role in Civilian Control and Civil-Military Relations**

Too often, civilian leaders in the executive and legislative branches, whether elected or appointed, give in to the temptation of committing civil-military sins of omission or commission – either failing to take steps to prevent the politicization of the armed forces or actively accelerating that politicization. These five recommendations encourage more responsible civilian leadership.

First, civilians need to better understand their own role. Members of the military benefit from years of professional military education throughout their careers. However, there are few such educational opportunities for civilians in the key roles that assist the president, secretary of defense, and members of Congress in exercising civilian control of the military. Civilian staffers on congressional committees, in the Office of the Secretary of Defense and the service secretariats, and on the National Security Council need tailored education and on-going training on what civilian control truly entails and how key civil-military norms apply in their distinctive work assignments. The need is probably greatest among political appointees, who may have very little experience in military settings. Yet even “civilian” staffers who have extensive prior military experience – and thus have undergone some of the civil-military training given to military officers – will likely only have experienced it from a military point of view and would benefit from opportunities to reflect on the issues while in their new civilian roles. Senior civilians, both political appointees and career, would also benefit from equivalent courses to Capstone, Pinnacle, and the related workshops run by the services. These provide refreshers and opportunities to reflect on how best practices might apply to new levels of seniority as the officers advance in their careers. The relative dearth of such training for civilians, especially for political appointees, is an easy-to-fix source of friction in the civil-military relationship.

Second, civilians could exercise their oversight and confirmation responsibilities to reinforce best practices in civil-military relations. During confirmation hearings, senators could use the open letter signed by eight former Secretaries of Defense and five former Chairmen of the Joint Chiefs of Staff on best practices of civil-military relations to guide their questioning of political appointees and senior general and flag officers. Senators should consider making this a standard advanced policy question (APQ): “Do you agree with the statement of principles and best practices outlined in the Open Letter? If you disagree with any element, outline the nature of your disagreement.” In this way, the open letter can come to serve as a grading rubric for civilian and military leaders alike to assess their commitment to, and understanding of, the principle of civilian control by civilian and military nominees. Of course, the senators will pursue many other lines of inquiry and have the discretion to ask about whatever they wish. Yet this modest step could help elevate the public discussion of best practices in civil-military relations and set a baseline standard of expectations – just as Congress regularly reminds the military about their duty to advise Congress with the Senate Armed Services Committee’s standard requirement that military nominees promise to provide their personal opinion, if asked, even if it diverges from Administration policy.

Third, politicians running for office and elected leaders — especially those with prior military experience — should avoid using uniformed members of the military as political props during photo ops, speeches, and at political conventions. During presidential elections, campaigns on

both sides of the aisle should resist the temptation to seek out endorsements by retired general and flag officers. Consulting with retired military experts on policy is a legitimate and beneficial way for campaigns to leverage retired officers' combined expertise to improve national security policymaking. However, asking retired senior military officers to spend their hard-earned public prestige on partisan endorsements has the effect of politicizing the military and makes it harder for the active force to be seen as the non-partisan servant of the state, ready to obey whomever the electorate votes into power. This concern applies with special force to veterans serving in senior civilian leadership positions, especially elected office. They have a special responsibility to set the right example for their non-veteran colleagues and sensitize them to the norms of the military profession. While veterans may no longer be beholden to the rules and norms that governed their behavior when they served in the military, they also should not use their veteran status for partisan advantage. They should be sensitive to the manner in which they invoke their military service during campaigns for office.

Fourth, Congress should actively promote the professional development of a more capable civilian workforce within the Department of Defense. One admittedly controversial way to do this would be to eliminate veterans' hiring preferences for positions within the Office of the Secretary of Defense. The veterans' preference advantage has the effect of making military experience a de facto requirement for hiring – thus weakening the development of a strong cadre of civilian national security experts. While veterans' preference for all other positions in the federal government should be preserved, it could be rescinded for positions within the Office of the Secretary of Defense, which accounts for less than 0.5 percent of the 950,000 federal civilian workforce. Programs like the John S. McCain Strategic Defense Fellows Program represent a good effort at growing future civilian leaders in the DOD and should be expanded. This modest reform would not prevent exceptionally qualified veterans from serving in a second career in national security policymaking but it would open up opportunities for civilians, who presently are all but excluded at the entry levels by this particular affirmative action policy.

Lastly, civilian elected and appointed leaders should agree to treat the military as “noncombatants” in the ongoing culture wars. Attacking uniformed leaders, or worse, individual rank-and-file service members, as “woke” crosses the line of civil-military propriety. It likely degrades public confidence in the military and further politicizes how the public views the military. Repeated attacks will likely also cause those in uniform to lose respect for civilian leaders. Of course, it is appropriate for members of Congress to exercise oversight over all DOD activities, to include diversity, equity, and inclusion programs. That said, the way to exercise such oversight without undermining civil-military relations is to put any challenges or critiques directly to the political appointees responsible for setting policy, not to those in uniform. Civilian secretaries and their civilian staffs must be on the frontlines in these debates and must resist the temptation to hide behind the uniforms. For such a truce to hold, however, the military must stay a noncombatant and should avoid needlessly entering the partisan fray. Yes, military leaders should stand up for and defend their institutional values. But they should be careful to do so without using partisan coded language that has the effect of exacerbating rather than mitigating cultural animosities.

## **Military Leaders Should Reinvigorate Their Commitment to Professional Norms**

While civilian leaders and politicians must do the lion's share of the work to sustain the AVF and insulate it from the harmful effects of politicization, senior military leaders also have work to do. Indeed, this is how it is with any profession: it is the members of the profession, not the customers, who have primary responsibility for enforcing the norms. There are at least three steps that would go some distance to doing just that.

First, the military must recognize that combatting politicization requires greater understanding of civil-military norms, especially the nonpartisan ethic, across all ranks. This will entail careful teaching in both professional military education settings and in guided leader development sessions. While the military's nonpartisan identity remains relatively strong, it has been under acute strain in recent years, and the degree to which the services formally emphasize these principles across the ranks has been uneven and episodic. Deliberate efforts to reinvigorate these norms across the force will serve as a bulwark against further politicization. Rank-appropriate training should extend all the way to the senior-most military officials—service chiefs and vice chiefs, combatant commanders, and the Chairman and Vice Chairman of the Joint Chiefs of Staff. The Open Letter signed by the former Chairmen and Secretaries of Defense is a start, but applying those principles to the specific contexts facing each of the most senior leaders will require both greater consensus on the norms and bespoke training sessions suitable to the individuals.

Second, senior retired officers have their own work to do to counteract the baleful practice of partisan campaign endorsements by retired general and flag officers during each presidential election cycle. Prominent retired four-stars, the individuals with the greatest reach across retired ranks and the greatest ability to speak to public audiences, should reinvigorate their efforts to strengthen a professional norm against such endorsements. This can be accomplished through vigorous discussion among private forums, but it may also require continued public explanations to the electorate why they, and the vast majority of retired general and flag officers, choose to make no partisan endorsements. While the number of endorsements each year has not abated, recent lists of endorsers have drawn attention for their relative obscurity, with many having been retired from the U.S. military for decades. The obvious contrast with the more lustrous list of non-endorsers could, if made public during the 2024 election, neutralize the impact of the minority faction of actively partisan retired officers.

Third, the time has come for a symbolic act of self-denial: military organizations should turn off the television in wardrooms, command suites, training rooms, and offices. Televisions habitually tuned to partisan news on cable television in military workplaces not only lay the groundwork for politicization within the ranks but also create perceptions of partisan alignment both in and out of the military.

## **The American Public Should Understand the Defenders of Their Constitution**

While the public takes its cues from civilian and military elites, the AVF cannot be sustained without the support of the American public and its sensitization to civil-military norms. Unfortunately, while the public still holds the military in high regard, it does not know that much about the military. This problem, which was warned about at the time the AVF was

established, has become acute. The American public needs to understand the difference between those currently in the military and veterans. Veterans, including retirees, do not speak for the military institution, and are no longer subject to the rules and norms that govern those on active duty. Many Americans, unfortunately, are imperfect judges of civil-military norms and draw no distinctions between veterans and those on active duty. Some attach too much importance to the views of a small number of politically vocal retirees and veterans. A better understanding of civil-military norms, including the difference between active duty and veterans, could neutralize efforts to politicize the military.

For many Americans today, most of what they know about military culture and civil-military relations comes from pop culture and Hollywood. The military can do more to address this gap with active campaigns reaching out to the public beyond the settings of major sports events and holiday observances. There is clearly a need to reinvigorate civics education across the United States as well. Even if civics education could somehow be refreshed and strengthened, however, Hollywood and pop culture will likely continue to shape how the public thinks about the military. It is important for the armed forces and for thought leaders to work with these influencers to minimize the wild skews and inaccuracies that all-too-often characterize the depiction of the military in popular entertainment.

### **These Fixes are Better Than Returning to the Draft, a Cure That is Worse Than the Disease**

Current recruitment challenges have prompted more than one observer to look longingly at a return to the draft as a potential solution. Former Chairman of the Joint Chiefs, retired Admiral Mike Mullen surprised many when he argued that it has become too easy to go to war, and that reducing the size of the Army by 100,000 troops—which, in turn, would necessitate a draft in future conflicts—would force more difficult conversations around dinner tables in the United States.

While it is a legitimate concern that, under an all-volunteer force, the American public has grown accustomed to the idea that someone else will always be willing to volunteer and fight the United States' wars, make no mistake: a return to the draft would be a cure worse than the disease. Conscripting Americans into service against their will is fundamentally illiberal and something that the country has tolerated only briefly during periods of intense national security threats. Moreover, the argument that the draft would bring about positive developments, such as greater unity in the country, more equitable burden-sharing, and a country more circumspect about the use of force, does not hold up to close scrutiny. The United States had a draft at the outset of both the Korean and Vietnam wars. During the Korean War, draftees believed they were forgotten by the American public every bit as much as volunteers fighting the Global War on Terror – indeed Korea was dubbed “the Forgotten War” as early as October 1951. During the Vietnam War, President Lyndon Johnson believed relying on draftees rather than calling up the reserves would help ensure that the conflict would not distract from his domestic priorities. Certainly, the American public should care more about its military and the wars it fights, but a draft will not bring that about on its own.

Abandoning the AVF and returning to reliance on the draft would create a military that is less ready, less professional, and less capable of meeting the twin challenges of high-intensity combat



and irregular warfare – and less inclined to abide by the laws of armed conflict while doing so. If we had the luxury of living during a time of general geopolitical stability and peace, then perhaps the United States could afford the risk of having less-capable armed forces; we do not enjoy that luxury and we must not act as if we do.

The AVF has proven to be a resilient bulwark for national security, but its future success is not guaranteed. To paraphrase Ben Franklin: we have a viable AVF, if we can keep it. And to keep it, all of the stakeholders – the military, civilian political leaders, and the American public – have a lot of work to do.

*The authors are grateful to Lieutenant General (retired) David Barno, Michèle Flournoy, Kori Schake, and all of the panelists and keynote speakers at the “All-Volunteer Force at 50” conference for their insights and recommendations.*

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# HOW THE ANTI-WOKE CAMPAIGN AGAINST THE U.S. MILITARY DAMAGES NATIONAL SECURITY

RISA BROOKS  
COMMENTARY

APRIL 7, 2023



According to critics of the U.S. military, its civilian and military leaders are overly fixated on diversity, equity, and inclusion initiatives at the expense of the military’s warfighting mission and organizational well-being. These commentators and politicians accuse the military of everything from making servicemembers uncomfortable in the ranks by requiring their participation in diversity training to wasting time and money and damaging recruitment through those efforts. As Sen. Ted Cruz puts it, “Perhaps a woke, emasculated military is not the best idea” — a message he once tweeted alongside an image comparing a U.S. recruiting ad featuring a female soldier raised by two mothers with one lauding supposedly more masculine Russian soldiers doing push-ups and firing their weapons.

Anti-woke criticism of this kind has become a rallying cry of the American right, especially among those who use nationalism and appeals to a version of American nostalgia to unite a fervent base to “renew America.” The military has become a political football in this campaign. The term woke is now grounds for a grab-bag of complaints against it, including the Department of Defense’s climate initiatives and efforts to develop zero-emissions non-tactical vehicles, as well as the purported decline of masculinity and revamping of fitness standards in the ranks.

Critics frame these attacks with some truly remarkable rhetoric. Fox News commentator Tucker Carlson has famously mocked the Air Force for providing maternity flight suits for pregnant personnel who seek to stay on the job. Sen. J.D. Vance has in turn complained that the military is ignoring important challenges like its adversaries’ development of hypersonic missiles because military leaders only care about diversity training. Florida Governor Ron DeSantis has claimed that the Navy’s supposed obsession with pronouns means that “China is laughing at us.” A glossy brochure sponsored by Florida Sen. Marco Rubio and Rep. Chip Roy even singles out individual civilian and military officials by name as agents of some alleged woke indoctrination initiative within the military.

These attacks are doing serious damage to the U.S. military and, by extension, U.S. national security. They undermine the military’s internal cohesion, politicize oversight, and distract Congress and the American people from serious national security problems — all while addressing a problem that is poorly defined and mostly unsubstantiated. Those who have long seen these attacks for what they are — more performative partisanship than substantive critiques of real problems — should do more to counter them effectively.

In correcting the record, military leaders have a role to play in providing facts to the public and to their congressional overseers about the organization’s personnel policies. They should not shy away from providing that information while avoiding being baited into joining the partisan gamesmanship.

Even more vital, though, is the role of the military’s civilian leaders in countering the anti-woke camp. They are best positioned to explain to the American people the role of diversity initiatives and related policies, and to counter the flawed arguments and false claims circulating in right-wing rhetoric about personnel issues today. The public itself also needs to do more to scrutinize anti-woke claims about the military.

### **The Anti-Woke Critique**

Anti-woke critics are quick to complain about the military, but the specifics of their critique are as murky as the actual definition of “woke.” Some highlight a handful of anonymous and unverified submissions to their websites or conversations with servicemembers reporting that racial or gender issues were discussed in their units in a manner they found offensive, such as someone commenting positively on the Black

Lives Matter movement, or they point to the topics covered during the extremism stand-down that followed the Jan. 6, 2021 attack on the U.S. Capitol.

At other times, self-described anti-woke activists allude to a misplaced organizational focus on diversity trainings or related initiatives, often claiming without much evidence that they are taking over the military. A recent Heritage Foundation publication, for example, contends that “[The Department of Defense] is promoting philosophies that are divisive, far out of the mainstream of American beliefs, and part of postmodernist theories’ school of thought.” The report’s authors claim that a survey of 301 active-duty military personnel shows that an “overemphasis” on diversity, equity, and inclusion is a dominant “area of concern for active military members.” Meanwhile, a former naval officer, who from 2007–2010 taught at the U.S. Naval Academy, claims that anti-bias and cultural awareness training has displaced other essential coursework at the academy, leaving midshipmen incapable of critical thinking and unprepared for their future jobs.

Even if anti-woke claims are taken at face value, the evidence does not support that there are widespread morale issues in the ranks. There is also scant evidence that supports the claim that intellectual blinders are resulting from diversity training, or that this training is crowding out other priorities. As the sergeant major of the U.S. Army, Michael Grinston, stated in recent congressional testimony: “When I looked at it, there is one hour of equal opportunity training in basic training, and 92 hours of rifle marksmanship training.” He then added, “And if you go to [One Station Unit Training], there is 165 hours of rifle marksmanship training and still only one hour of equal opportunity training.”

As Marine Corps Commandant Gen. David Berger noted last December with respect to servicemembers’ concerns about wokeism in the enlisted ranks, “I don’t see it. I don’t hear it. They’re not talking about it. It’s not a factor for them at all.” Other servicemembers have since echoed that sentiment. It also seems unlikely that the Marine Corps would have exceeded its retention goals this year if this were a concern, as the commandant recently noted. That the Army too surpassed its retention goals belies an argument that diversity training is somehow deterring people from serving.

Nor does the now pervasive claim that diversity and inclusion efforts are a major cause of the services’ recruiting challenges match the evidence. As Maj. Gen. Jonny Davis, the commanding general of U.S. Army Recruiting Command, recently put it, “While there are many things that prevent young Americans from enlisting in the military, including a lack of awareness about military life in general, ‘wokeism’ is not one of them.” Army surveys of young Americans’ attitudes back that up. The surveys reveal broad misconceptions within Generation Z about the military, such as that most jobs in the Army involve combat, and a lack of knowledge about the benefits of military service. There are at the same time obvious alternative explanations for today’s recruitment shortfalls, not least an economy with low unemployment and a shrinking pool of Americans fit to serve.

As a recent analysis notes, “By the raw numbers, there have been over four times more articles, op-eds, cable news interviews, think tank reports, and angry web posts on the issue of wokeness deterring service (87,000 at last count) than the actual number of recruits in the gap.”

To the extent some small number of potential recruits are nonetheless deterred from serving, this may be more due to false perceptions created by anti-woke rhetoric about the climate in the military, as due to any actual widespread problem to that effect. The anti-woke campaign may be generating its own self-fulfilling recruiting challenge.

## **Undermining Cohesion**

Beyond recruitment, the anti-woke cause could damage the military in other ways, potentially by undermining the military’s cohesion.

Maintaining a cohesive military is a building block of an effective armed force. When militaries are riddled with mistrust and perceptions of social disparities, research shows that they perform poorly on the battlefield. Sociologists have demonstrated that on the tactical level, small-unit bonds are a key ingredient of an effective military. More recent research supports that cohesive teams in the military are better capable of unity of effort and maximizing individual performance. More broadly, where divisions arise between military leaders and the personnel who they command, the capacity of that military to execute on the battlefield suffers. In the worst cases, it can yield acts of insubordination, as we have seen most recently in the Russian military.

Armed forces in democratic countries often have the advantage of being able to build cohesive militaries. Unlike autocracies, leaders in democratic militaries do not need to worry about military conspiracies from below and therefore face fewer risks in ceding initiative to junior officers and to fostering small-unit bonds. In the U.S. military, for example, doctrinal concepts such as mission command rely on a foundation of trust and resilience in the chain of command.

Yet, while democracies have advantages, they are not immune to divisiveness in the ranks. This is currently playing out in the Israeli military. It is also a lesson that the U.S. military learned as well in the Vietnam War when political divisions over that conflict at home, combined with racial strife and other problems in the ranks, undermined cohesion.

Today, the anti-woke agenda has the potential to undercut the military’s unity. Rather than merely arguing with other politicians, anti-woke actors are injecting partisanship into the military. To be sure, politicization of the military by civilians is nothing new. Over the last few decades there have been numerous instances in which politicians have used the military either to shield themselves from blame or as a prop to promote their priorities or leadership. But whereas once politicians tried to play off the military’s status to enhance their positions or public stature, anti-woke politicians today are criticizing or undermining it to achieve the same goal.

The problem is also worsened by the tendency of anti-woke politicians to single out for criticism the senior military leadership. Before he lost his bid for a Senate seat in Arizona, for example, Blake Masters called for firing all the country's generals and replacing them with "conservative colonels." Vance has also singled out generals as complicit in a woke agenda against the military. Carlson has stooped to calling the chairman of the Joint Chiefs Gen. Mark Milley "a pig" and "stupid." Former President Donald Trump has reportedly called the country's generals "a bunch of dopes and babies."

The suggestion that military leaders are agents of some conspiracy to indoctrinate the troops, and do not care about readiness or training, is similarly corrosive to trust and confidence in the chain of command. The anti-woke agenda thereby risks undermining the cohesive teams that are a hallmark of the U.S. military.

Anti-woke champions also do not give much credit to the troops they say they are defending. They often decry diversity training in part because they equate it with efforts to make white people feel guilty or dislike the United States, or because it at times may allude to past and present racial and gender disparities in society. In so doing they often misconstrue the content and intent of the initiatives, rather than seeing them as Secretary of Defense Mark Esper put it in June 2020, as growing from a commitment to meritocracy and out of a recognition that "as a military, we succeed by working together, hand in hand, side by side."

Critics counter that diversity training instead undermines cohesion by unnecessarily drawing attention to differences among servicemembers — but that argument ignores that those differences often exist regardless and that actively trying to bridge any divides that individuals carry with them from civilian society promotes, rather than detracts from, shared bonds within a unit.

Seen in this light, the anti-woke campaign actually poses a two-sided threat to unity within the ranks. On the one hand, critics' divisive rhetoric can split officers from enlisted personnel and polarize the enlisted ranks internally. On the other, if critics succeed in purging the military of diversity and related training, it might be harder for units comprised of servicemembers with varied backgrounds to work together.

### **Politicizing Oversight**

The anti-woke campaign also erodes the fundamental, if more mundane, foundations of civil-military relations in the United States. In particular, it undermines civilian control and especially the essential oversight role played by members of Congress and the public at large. To start, it absorbs time and resources that might be better devoted to problems that are demonstrably of concern to Congress, including the challenges of peer competition in the international arena.

Take, for example, the recent creation of a new subcommittee of the House Armed Services Committee that focuses on "quality of life" concerns in the military. This might

seem unremarkable, except, as recently noted by an analyst of military personnel policy, there already exists a Military Personnel subcommittee that is responsible for quality of life and related issues. The latter's committee head, Rep. Jim Banks, though, is a self-described leader of the "anti-woke caucus." He aims to focus his efforts in Congress on rooting out the government's supposed role in "inducing self-hatred through indoctrination, stripping away [the oppressor's] rights by not enforcing the laws on their behalf, public humiliation, hatred, expropriation, and ultimately violence." This approach underscores why there is a need for a new subcommittee to deal with substantive personnel issues under Congress' purview.

This politicization erodes norms of congressional oversight. It encourages members to scrutinize military activity when there is some partisan angle to be had and to pay less attention when there are few political benefits from doing so. At the same time, the anti-woke campaign potentially makes it harder for politicians to ask good faith questions critical of personnel policy or the U.S. military. This undermines Congress' essential oversight function. While the bulk of oversight continues with little fanfare, these dynamics are not helpful to the job that members of Congress do.

The anti-woke campaign also distracts the military and absorbs precious time and resources from other priorities. When senior military officers or enlisted are called upon to testify in Congress they must be ready to answer many questions, ranging from the alleged effects of wokeism on force readiness to cultural dynamics within the military. Their staffs must also field calls and deal with any number of inquiries from Congress and negative press about the military's allegedly woke policies, which distract from serious issues that senior leaders have to grapple with on a day-to-day basis.

Finally, all of this circles back around to the public's relationship to the military, which many observers agree could be healthier. Research shows that the public seems to have little understanding of the conventions of civilian control of the military, or of its nonpartisan status. Perhaps this is unsurprising as civil-military relations is not a common topic in high school civics education, or in higher education. But that lack of awareness of foundational principles means that what the public knows about the military is primarily what they see in curated news commentary or in short snippets in social media feeds. Given the inflammatory rhetoric of the anti-woke critics and their widespread coverage, especially in sympathetic news and opinion outlets, the public may come to believe that the Department of Defense's leadership is compromising the organizational health of the military, despite the dearth of evidence to support that claim.

### **What Is to Be Done?**

As with most questions of civil-military relations, the military, civilian leadership, and the public can all play a role in ensuring a healthier discussion about the U.S. armed forces and its personnel policies.

For the military, dealing with anti-woke politicians might at first glance seem like a classic no-win situation. If they say nothing when critics attack the institution for its alleged fixation with diversity in the ranks, it enables those claims to fester. At the same time, speaking out also risks feeding the beast. Nevertheless, as we have seen in recent testimony by senior enlisted members or in public commentary by military leaders, it is appropriate for senior leaders to provide the facts and to be as forthcoming as possible when answering questions. At the same time, coming across as overly solicitous of politicians belaboring the anti-woke critique is to be avoided. One should not confuse responding judiciously and forthrightly to critics with seeking to mollify or appease them.

Civilian political leaders and policymakers are much better positioned to fend off unsubstantiated claims that the Department of Defense is so absorbed in diversity and inclusion initiatives that it is neglecting other priorities. That includes marshaling facts that make the case for such initiatives. After all, while critics claim that diversity efforts are alienating people from joining the military, one might ask: Who exactly are they alienating? According to Pew polling from 2017, nearly 43 percent of servicemembers identify with one or another minority group in society.

Despite this diversity though, the presence of minority groups in the military's senior levels remains limited. While black Americans are overrepresented in the Army's enlisted ranks, they comprise only 6.5 percent of the service's general officers and most serve at the one- and two-star level. And while there are some outstanding female leaders in the military's senior ranks, women overall remain underrepresented at the top. Beyond that, according to Department of Defense figures, across all the services in 2021, women made up just 17.3 percent of the active-duty force.

One thing civilian policymakers therefore should not do is signal a willingness to abandon proven and effective cultural awareness training and other diversity initiatives merely to appease critics. In particular, they should not abandon them out of some misguided notion that it will improve recruitment: There are numerous other options that would better serve that purpose. Indeed, eliminating tools that enable leaders to manage diverse teams could cause significant damage to morale and cohesion.

Finally, the public's role in countering the false claims of anti-woke actors is straightforward, if more easily recognized than achieved: Rather than get caught up in hyperbole, Americans should listen for the facts. Public scrutiny and skepticism are arguably the best antidote to the anti-woke campaign against the U.S. military.

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Image: Wikimedia Commons



**In this brief op-ed, Prof. Feaver points out one of the most dangerous consequences of using the military for partisan combat in the political wars raging in the United States today. Can the senior military do anything to persuade the political leadership to keep the military out of politics, or to lessen the impact on the force?**

<https://townhall.com/columnists/peter-feaver/2023/07/21/we-should-not-be-cavalier-about-declining-public-confidence-in-the-military-n2625819>

## We Should Not Be Cavalier About Declining Public Confidence in the Military



Peter Feaver | Jul 21, 2023

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When the nation sends them into combat, the military expects to take incoming fire. Of late, however, they've been taking fire from an unexpected direction – from political leaders and media pundits. The political dysfunction in Washington has made our men and women in uniform inadvertent combatants in an ongoing culture war and the public's long standing high confidence in the military could end up being an unfortunate casualty.

This politicization of the military comes at a bad moment, with the all-volunteer force facing an exceptionally difficult labor market that has caused the services to fall drastically short of recruitment goals at the same time that a geopolitical environment dominated by the return of great power competition underscores the need for a strong defense. Declining public confidence in the military would make recruiting that much harder and further complicates the challenge of building public support for America's role in the world.

The issue was put in sharp relief during the recent Senate Armed Services Committee (SASC) confirmation hearings for General CQ Brown, President Biden's nominee to be the 21st Chairman of the Joint Chiefs of Staff. Both Chairman Reed and Ranking Member Wicker referenced a rise in the politicization of the military and a decline in public confidence in the military in their opening remarks.

The Senators likely held different interpretations of who (or what) was politicizing the military. Senator Reed probably had in mind the blanket hold that fellow SASC member Senator Tuberville has placed on all general and flag officer nominations in protest of the Department of Defense policy to cover the transportation costs female service members might incur as a result of the Dobbs decision overturning abortion policy.

Senator Wicker, by contrast, claimed that it was the Democrats who were politicizing the military with their emphasis on Diversity, Equity, and Inclusion (DEI) policies – or perhaps the military politicizing themselves by embracing those policies. Senator Wicker also added an important additional consideration: perhaps the public has lost confidence in the military's ability to perform in wartime because the military underperformed in the post-9/11 environment without apparently holding anyone accountable for poor outcomes.

Both Senators are describing different parts of the same proverbial elephant and both are right to draw attention to the issue of public confidence in the military, which remains high relative to other governmental institutions but has dropped noticeably in recent years. As I outline in a just-released book, *Thanks For Your Service: The Causes and Consequences of Public Confidence in the US Military* (Oxford University Press), public confidence is driven by the confluence of six factors:

- **Patriotism:** rally around the flag support for the military during wartime.
- **Performance:** the perception that the military is good at its main mission.
- **Professional ethics:** the perception that the military behaves ethically.
- **Party:** predictable patterns where Republicans consistently express higher confidence than Democrats.
- **Personal contact:** one's connection to the military, whether as a veteran or as a family member of a veteran.
- **Public Pressure:** saying you have confidence in the military because you believe that others have confidence in the military and so this is the politically correct view to hold.

Many of these factors were likely to trend in a negative direction regardless. With the war on terror winding down, it is doubtful that a rally around the flag dynamic would stay strong. Likewise, the passing of the generations that experienced mass mobilization and the draft means that the pool of people with personal connections to the military inexorably is shrinking. Increasingly, it is a case of the public having high regard for – but at a high remove from – the military. Confidence in the military is high but hollow.

Yet it is also the case that the politicization of the military – by dragging the military into partisan politics – can adversely affect many of these dynamics, at least indirectly. For instance, the most partisan Republicans are the ones making claims about a supposed “woke military,” and those claims are bound to shape the views of other Republicans, which may be why some recent polling suggests that the confidence of Republican respondents has dropped more markedly than that of Democratic respondents.

It would be better if both political parties decided to treat the military as noncombatants in the ongoing culture wars. Let's focus those partisan fights on civilian political leaders, the ones who actually make policy, not on the military, the ones who are obliged to implement the policy regardless of their own personal viewpoints. Otherwise, the politicization of the military will further poison public attitudes toward the military and further complicate civil-military relations.

In his opening statement, General Brown underscored the importance of this issue, stating: "Above all, I will dedicate myself to this proposition: that the American people should understand and know their military and its servicemembers solely as the unwavering defenders of the Constitution and our nation." That pledge, and more like it, could help take the military out of the crosshairs of the culture war and help shore up public confidence in this crucial institution.

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<https://warontherocks.com/2023/07/its-time-to-revise-guidance-on-political-activities-for-members-of-the-u-s-military/>



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# IT’S TIME TO REVISE GUIDANCE ON POLITICAL ACTIVITIES FOR MEMBERS OF THE U.S. MILITARY

JOHN CHILDRESS, DAVE RICHARDSON, AND HEIDI URBEN

JULY 6, 2023

COMMENTARY



When the Department of Defense last updated its directive that regulates the political activities of servicemembers, the social media platforms TikTok, Instagram, and WhatsApp had not yet been created. Twitter was two years old, and Facebook had only been open to the public for 18 months. The current directive was published exactly two weeks after Super Tuesday in the 2008 presidential primaries, a time when political polarization was starting to gain more attention on the national landscape. As the

Department of Defense wrestles with how to preserve the military's nonpartisanship in what is clearly now an exceptional period of polarization, it relies on an outdated directive that fails to address the contemporary challenges the military services face regarding partisan political speech and behavior by those in uniform.

It is critical that the Department of Defense develop and publish a significant revision to the outdated directive that currently guides the political activities of U.S. military members before the November 2024 presidential election. However, a new and updated directive is not enough. The U.S. military should also commit to training the force on both the content of the new directive and the reasons why norms and rules surrounding political activities are so important to the health of U.S. democratic norms.

### **Military Personnel and Rules of Political Behavior**

The military's status as a trusted servant of the state certainly faces external pressures. The military's nonpartisan ethic depends on a combination of healthy norms — informal practices that guide behavior in a profession — and applicable, enforceable rules for its members to abide by. In general, professions prefer to regulate their members' behavior through norms, as rules typically outline the bare minimum requirements or standards of conduct. Norms speak to a deeper professional commitment, while rules often signify basic compliance. However, norms work best when backstopped by complementary rules.

The contemporary rules for political behavior have their roots in the 1939 Hatch Act, which codified the limits of political activities for federal employees and remains in effect today. Of note, the Hatch Act applies to civilian Department of Defense employees but not to the uniformed members of the military. The nonpartisan ethic in the military was maintained in the early decades of the Cold War by the strength of norms — not a set of codified rules that all servicemembers had to follow. George C. Marshall represented the quintessential nonpartisan military officer in this era, carrying on a tradition established by William Tecumseh Sherman and other senior military leaders after the Civil War.

Three decades after the adoption of the Hatch Act, detailed guidance to members of the military finally emerged in 1969 with the issuance of the first version of Department of Defense Directive 1344.10, titled "Political Activities by Members of the Armed Forces." Minor revisions of the directive were issued in 1986, 1990, 2004, and 2008, notably all timed in election years. These minor updates over four decades did little to alter the substance of the document first signed at the height of the Vietnam War. If anything, the 1969 version of Department of Defense Directive 1344.10 is more direct and easier to digest than the current version. The 2008 directive is longer due to the inclusion of four modifications, and it is written in a multilayered subparagraph structure, a format with little consideration for the U.S. military members expected to read, digest, and ultimately follow the nuanced guidance.

In broad terms, the directive details three things. The first is a list of definitions for a few basic terms (including the meanings of partisan and nonpartisan political activity, active duty, and civil office). Second, there is a short list of permitted political activities. And, third, there is a much longer list of political activities that are *not* permitted. Nowhere in the directive is even a brief explanation for why the nature of political activities by those who wear the cloth of the nation is important, or even why the nonpartisan ethic of the U.S. military exists in the first place. A policy document that focuses on such a critical and nuanced topic that fails to give this brief context is arguably deficient. The same policy document that also fails to provide updated guidance on something so ubiquitous in the current world of political activity as the use of social media is woefully inadequate.

This points to the most glaring issue with adhering to a 2008 directive — its silence on social media during an age in which servicemembers tweet, post updates on Facebook, maintain LinkedIn profiles, upload videos to TikTok, and play online games. The Department of Defense's formal ambiguity about social media behavior diminishes its ability to both educate the force and enforce a nonpartisan ethic. In the past three years, servicemembers have used social media to disparage politicians and elected leaders and trumpet their personal political opinions. Stronger, enforceable guidelines could have arguably deterred some of these behaviors or even prevented partisan comments on some anonymous accounts claiming military affiliation. Even general officers have been caught up in the uncertainty about how to use and interpret social media posts. As the United States enters another presidential election season, the pressures and temptations to use social media will only increase.

### **What Changes Need to Be Made?**

The Department of Defense should not let another election cycle pass without updating Department of Defense Directive 1344.10. It should do so by the end of this calendar year in order to sensitize servicemembers to key tenets of nonpartisanship before the 2024 election. Revisions to Department of Defense Directive 1344.10 should address the following gaps.

First, the directive should open with a very brief section that provides context for members of the military on the importance of maintaining healthy norms of nonpartisanship. This introduction should touch on the reasons behind servicemembers properly exercising permitted political activities and the damage that can occur if activities that are not permitted are not avoided. While this sort of context is arguably not the norm for directives in the Department of Defense, it would serve to remind servicemembers that these rules establish a baseline level of compliance only in a very complex, nuanced topic. The commitment to professional norms, including the norm of nonpartisanship, requires servicemembers to reflect upon whether certain political activities are appropriate, even when they are allowable. This sort of brief introduction providing context would also serve to frame the associated training for members of the military that we outline below.

Second, Department of Defense Directive 1344.10 must be updated to address the particular harm associated with servicemembers' unregulated partisan speech on social media. Each service maintains its own social media guide but refers to Department of Defense Directive 1344.10 when addressing political speech. However, the current version of Department of Defense Directive 1344.10 has no references to social media whatsoever, leaving unit commanders to interpret what constitutes partisan political activity on social media. In August 2022, the Department of Defense issued its first instruction on the use of social media, aimed at providing guidelines for the use of official social media accounts. Unfortunately, its discussion of political activity is cursory, including the obvious restriction that official social media accounts are prohibited from engaging in political activity and that Department of Defense personnel may not use their personal accounts for political purposes while on duty and while in the workplace. The instruction says little else on the matter and provides a link to the website for the Department of Defense Standards of Conduct Office, an ethics website with no straightforward guidance about political activity, while also failing to mention Department of Defense Directive 1344.10 at all.

Third, Department of Defense Directive 1344.10 should be updated to require servicemembers to post a disclaimer on all of their personal social media accounts that their views do not reflect those of the U.S. military or Department of Defense. The department should also consider a prohibition on active-duty servicemembers liking, sharing, retweeting, or posting partisan content on their personal social media accounts. By its very nature, social media is today's public town square, where content has a written, lasting record and exponential reach. Posting on social media is an inherently public act. Therefore, partisan commentary on social media should be prohibited in the same way the current version of the directive precludes servicemembers from speaking before a partisan political gathering or participating in partisan discussion on the radio, television, or other program.

Posting on social media is not akin to writing an op-ed, which is an allowable form of non-social media expression under the current guidelines. An op-ed must meet certain publication and editorial standards, and military organizations often require servicemembers to submit them for a public affairs and operational security review prior to publication, even when they include the department's standard disclaimer. Tweets or posts face no such scrutiny or review and can be unlimited in their volume. We realize that this injunction against all partisan related social media activity will strike some as too strong, but given the public nature of this form of political expression, it is necessary for reinforcing the military's nonpartisan ethic.

Fourth, the directive should expand the section that refers to Article 88 of the Uniform Code of Military Justice, which prohibits officers from using contemptuous words against certain elected and appointed officials. Survey research has shown that a sizable portion of active-duty officers have observed their peers make rude and disdainful comments about the president and other elected officials on social media — during both the Obama and Trump administrations — so the directive should make it clear that Article 88 applies to social media as well. Not only should Department of Defense



Directive 1344.10 list which officials are protected by Article 88, but it should also include the reminder that enlisted servicemembers who use contemptuous words against elected and appointed officials can be punished under Article 134 as a violation of good order and discipline.

Fifth, any new revision to the current directives must be accompanied by purposeful training and education efforts across the military, both at the unit level and across professional military education to better sensitize servicemembers to the importance of nonpartisanship and reversing the perception that the U.S. military has become politicized. One of us has authored a guide on how to teach and instill the nonpartisan ethic at the unit level, which includes guided discussion questions, prompts, and recommended readings that can be adopted by unit commanders at the lieutenant colonel and colonel levels. Absent such a framework, discussions at the small unit level on how the military should avoid politicization run the risk of uneven implementation, as some critics characterized the Department of Defense's extremism stand-down in 2021.

Finally, the department should better enforce the provisions already contained in Department of Defense Directive 1344.10. Retired servicemembers and currently serving members of the Reserves and National Guard running for elected office have come under increased criticism for appearing to violate the directive in their campaign advertisements. Some have failed to include a disclaimer that use of military photographs does not imply endorsement by the U.S. military or Defense Department, while other ads appear to misrepresent the candidate's military service and imply official endorsement. While many ads do contain disclaimers, several push the envelope on the prohibition that photographs of them in uniform cannot be the "primary graphic representation" in an advertisement. While the department lacks jurisdiction over veterans, it should not hesitate to take action to curb ads that violate the spirit and intent of Department of Defense Directive 1344.10.

### **The Risks of Inaction**

Certainly, there are some incentives against updating Department of Defense Directive 1344.10 by the end of the calendar year. Some critics might label this as an attempt by the current administration to infringe upon servicemembers' right to free speech or argue that placing increased restrictions on servicemembers' political activities is a partisan act in and of itself. While it is true that these new changes to the regulations may limit and revise servicemembers' speech on social media, it is equally true that servicemembers have already given up specific rights to partisan speech in the public domain that no one disputes based on existing regulations. The basis of these suggested revisions is simply to clearly outline how existing norms and rules apply to social media — an area currently unregulated to the detriment of the nonpartisan military ethic.

Similarly, the secretary of defense may wish to tread carefully and avoid such perceptions, given the already strained relationship with some in Congress. However, revisions to Department of Defense Directive 1344.10 do not favor one party over the

other and should be something both parties can rally around. Regardless of one's political predispositions, providing the military services greater clarity on what constitutes prohibited partisan activity is a prudent step toward thwarting politicization.

Additionally, some will be concerned that any social media regulations will be outdated before they are officially approved. If, for example, the regulations stipulated specific guidance about using Facebook's "like" feature, a reader may interpret the absence of guidance relating to yet-to-be-developed tools as license for their use. In addition, it is not clear how evolving technologies such as artificial intelligence and the Metaverse will impact social and political experience. These concerns should provide useful cautions about an update to Department of Defense Directive 1344.10 that focuses too closely on the specific features or any technology. Likewise, these concerns should only serve to further encourage the Department of Defense to include a short introduction in the revised directive that provides context and at least some thoughtful discussion about the importance of both rules and norms in the maintenance of the nonpartisan ethic that is currently under attack.

While concerns about taking action immediately and before the next election cycle are understandable, the risks of inaction are too great to dismiss. The words to all members of the military from then-Chairman of the Joint Chiefs of Staff Adm. Mike Mullen at the time of the 2008 presidential election cycle when the directive was last updated resonate even more today: As the Nation prepares to elect a new President, we would all do well to remember the promises we made: to obey civilian authority, to support and defend the Constitution, and to do our duty at all times. Keeping our politics private is a good first step. The only things we should be wearing on our sleeves are our military insignia.

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**Image: Army photo by Capt. Mike Manougian**