

**PROPOSING A NEW STRATEGY FOR  
ARMY ETHICS TRAINING**

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*I felt that the only remaining great decision to be faced before D-Day was that of fixing, definitely, the day and hour of the assault. However, the old question of the wisdom of the airborne operation into the Cherbourg peninsula was not yet fully settled . . . . It would be difficult to conceive of a more soul racking problem. If my technical expert was correct, then the planned operation was worse than stubborn folly, because even at the enormous cost predicted we could not gain the principal object of the drop . . . . To protect him in case his advice was disregarded, I instructed the air commander to put his recommendations in a letter and informed him he would have my answer within a few hours . . . . I went to my tent alone and sat down to think . . . I realized, of course, that if I deliberately disregarded the advice of my technical expert . . . and his predictions should prove accurate, then I would carry to my grave the unbearable burden of a conscience justly accusing me of the stupid, blind sacrifice of thousands of the flower of our youth.<sup>1</sup>*

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## I. Introduction

Battlefields demand decisions; decisions without complete information, decisions without time to deliberate, and decisions without the opportunity to discuss and debate the “right” course of action. While battlefields demand decisions, the Army demands that decisions be ethical, and in-line with Army Values.<sup>2</sup> The decision-maker must often feel his way forward absent a clear picture of the ethical terrain ahead, relying only on experience and the training the Army provides.<sup>3</sup> Too often, Army training fails decision-makers by not showing them how to make decisions when conflicts arise between the values they have been taught, and the situation on the ground. They may not even recognize the ethical dimensions of their decisions. The Army must train decision-makers to make decisions by recognizing and applying values and rules.

Ethics is a broad category of study encompassing overarching moral principles and standards of conduct.<sup>4</sup> This article discusses both facets. For clarity, the term “values” will be used to reference moral principles, and the term “rules” will be used to reference standards of conduct.<sup>5</sup> “Ethical decision-making” refers to the use of values and rules to make decisions. Ethics training can be divided into two categories, knowledge-based training and application-based training. Knowledge-based training

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<sup>1</sup> DWIGHT D. EISENHOWER, CRUSADE IN EUROPE 246–47 (1948).

<sup>2</sup> U.S. DEP’T OF ARMY, REG 600-100, ARMY LEADERSHIP para. 1-4 (8 Mar. 2007) [hereinafter AR 600-100].

<sup>3</sup> *Id.* para. 1-4(c).

<sup>4</sup> *Ethics Definition*, OXFORD DICT., [http://www.oxforddictionaries.com/us/definition/american\\_english/ethics?q=ethicist#ethics\\_\\_7](http://www.oxforddictionaries.com/us/definition/american_english/ethics?q=ethicist#ethics__7) (last visited Aug. 1, 2016) (defining ethics as “[m]oral principles that govern a person’s or group’s behavior” or “[t]he moral correctness of specified conduct”).

<sup>5</sup> U.S. GOV’T ACCOUNTABILITY OFF., GAO 15-711, MILITARY PERSONNEL: ADDITIONAL STEPS ARE NEEDED TO STRENGTHEN DOD’S OVERSIGHT OF ETHICS AND PROFESSIONALISM ISSUES (Sept. 2015) [hereinafter GAO Report on Military Ethics] (distinguishing between compliance-based and values-based ethics programs).

focuses on teaching values and rules.<sup>6</sup> Application-based training focuses on teaching individuals to apply their knowledge of values and rules.<sup>7</sup>

Currently, the Army emphasizes knowledge-based training for rules and values.<sup>8</sup> Soldiers receive annual refresher training on the rules.<sup>9</sup> Soldiers may receive some training on values, and may even receive some training on the application of values to specific situations.<sup>10</sup> However, the Army places little emphasis specifically on ethical decision-making training.<sup>11</sup> Failure to emphasize ethical decision-making creates an application gap when decision-makers encounter complex situations where values conflict with the rules or when one value conflicts with another.

Knowledge-based training alone does not provide decision-makers, with the skills necessary to make ethical decisions in complex or morally ambiguous situations.<sup>12</sup> Soldiers receive training on what choice is the

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<sup>6</sup> Leslie E. Sekerka, ETHICS TRAINING IN ACTION: AN EXAMINATION OF ISSUES TECHNIQUES, AND DEVELOPMENT 317 (2013); Sscott, *Knowledge based curriculum vs skills based curriculum*, TARGET MAPS (MAY 15, 2015), <http://targetmaps.co.uk/knowledge-based-curriculum-vs-skills-based-curriculum/>. “Knowledge based learning . . . aims to build upon the knowledge that the pupil already has.” *Id.*

<sup>7</sup> Sscott, *supra* note 6. “Skills based learning centers around developing and applying specific skills that can then be used to obtain the required knowledge.” *Id.* This article uses the term application-based, rather than skills-based, but both refer to the same technique.

<sup>8</sup> U.S. DEP’T OF ARMY, REG 350-1, ARMY TRAINING AND LEADER DEVELOPMENT table G-1 (RAR 4 Aug. 2011) [hereinafter AR 350-1] (containing a mandatory training matrix).

<sup>9</sup> *Id.* para. G-18 (discussing ethics and laws of war).

<sup>10</sup> AR 600-100, *supra* note 2, para. 1-5(a); *see also* U.S. DEP’T OF ARMY, REG 165-1, ARMY CHAPLAIN CORPS ACTIVITIES para. 9-10 (23 June 2015) [hereinafter AR 165-1]. “The commander uses [Moral Leadership Training] to promote unit readiness, good order and discipline, warrior ethos, spiritual fitness, positive moral choices and[s]oldier and [f]amily care.” *Id.* The Army vests the determination of what should be included in the moral leadership training program on the Commander. *Id.*

<sup>11</sup> Robert Roetzel, *The Need for Discretion in Resilient Soldiering*, MIL REV. Sept. 2010, at 80, 83 (arguing that achieving the capacity for discretionary judgment requires intentional development). Select Army institutional training programs cover decision-making, but they are not specifically targeted at teaching ethical decision-making. For examples, *see* AR 350-1 *supra* note 8 at para. 3-36 (Warrant Officer Intermediate Level Education) and para. 3-46 (describing General Officer Training professional development programs).

<sup>12</sup> Amber Levanson Seligson & Laurie Choi, *Critical Elements of an Organizational Ethical Culture*, ETHICS RESOURCE CENT. 3 (2006), <http://crawfordcpas.com/critical-elements.df> (telling employees what to do is less successful than addressing employee behaviors influencing the ethical culture of the organization).

right choice, and what actions violate the rules.<sup>13</sup> Knowledge-based training does not teach why decisions are the right choice or how to make decisions that comply with the rules and fit within the Army's organizational values.<sup>14</sup> Specific training on ethical decision-making throughout an Army career will influence crucial individual actions, helping to achieve overall mission-accomplishment.<sup>15</sup> Individual actions require decision-makers to have the acumen that comes from developing ethical decision-making skills and relying on those skills to make ethical decisions.<sup>16</sup> "Such moral reasoning involves more than an understanding of fundamental values. Values are indeed essential building blocks for ethical reasoning, but a [s]oldier who is capable of discretion must also learn how to apply values within a disciplined framework of ethical analysis."<sup>17</sup> The Army's current ethics training paradigm lacks clear focus and emphasis on ethical decision-making.

Ethical decision-making is an essential part of a successful ethics training program and must be emphasized in the Army's training regimen. In Section I, this article explains the application gap and proposes a revised strategy for Army ethics training to develop decision-makers' ability to make ethical decisions in complex or morally ambiguous situations. It proposes training decision-makers to recognize and analyze ethical dilemmas using a progressive,<sup>18</sup> reflective,<sup>19</sup> integrated,<sup>20</sup> comprehensive,<sup>21</sup> and experiential<sup>22</sup> (PRICE) strategy to enhance ethical decision-making skills. Implementation of this strategy requires a qualitative shift in the way ethics training is presented, not a quantitative increase in the number of hours spent on ethics training.

Section II describes the current Army ethics training paradigm. It explains the limits of knowledge-based values and rules training. Section III highlights one situation exemplifying the need for application-based

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<sup>13</sup> Roetzel, *supra* note 11, at 84.

<sup>14</sup> *Id.* at 81.

<sup>15</sup> U.S. DEP'T OF ARMY, DOCTRINE REF. PUB 7-0, TRAINING UNITS AND DEVELOPING LEADERS para. 1-6 (Aug. 2012) [hereinafter ADRP 7-0]. "Training and education prepare individuals to perform assigned tasks to standard, accomplish their mission and duties, and survive on the battlefield." *Id.*

<sup>16</sup> Roetzel, *supra* note 11, at 81.

<sup>17</sup> *Id.*

<sup>18</sup> See *infra* Part V (proposing the PRICE strategy for ethics training).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

ethical decision-making training. Section IV describes the framework used to analyze the Army's current ethics training program. It describes the optimal end-state and sets out three goals to help achieve the end-state. Section V proposes revisions to the current ethics training program using the PRICE strategy. This section shows how the PRICE strategy would work in conjunction with current knowledge-based initiatives aimed toward enhancing the Army Ethic.<sup>23</sup> It also discusses how the PRICE strategy fits within the Army's leader development model<sup>24</sup> and supports the mission command philosophy.<sup>25</sup>

## II. The Army's Current Ethics Training Program

### A. Defining the problem

The current Army ethics training paradigm focuses on expanding knowledge of values<sup>26</sup> and explaining applicable rules and consequences.<sup>27</sup> Chaplains teach values and advise commanders on moral leadership issues.<sup>28</sup> Judge advocates (JAs) advise commanders on actions to take against offenders for committing ethical violations.<sup>29</sup> Judge advocates also train Army personnel on specific ethics rules.<sup>30</sup> Commanders maintain overall responsibility for training<sup>31</sup> and the ethical climate within the unit.<sup>32</sup> Together the chaplain, JA, and commander must

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<sup>23</sup> CENTER FOR THE ARMY PROFESSION AND ETHIC, *Army Ethic White Paper* (11 July 2014) <http://cape.army.mil/repository/white-papers/Army-Ethic-White-Paper.pdf> [hereinafter *Army Ethic White Paper*].

<sup>24</sup> ADRP 7-0, *supra* note 15, fig. 1-1.

<sup>25</sup> U.S. DEP'T OF ARMY, DOCTRINE REF. PUB. 6-0, MISSION COMMAND paras. 1-12, 1-13 (May 2012) [hereinafter ADRP 6-0].

<sup>26</sup> AR 165-1, *supra* note 10, para. 9-10.

<sup>27</sup> AR 350-1, *supra* note 8, tbl. G-1.

<sup>28</sup> U.S. DEP'T OF ARMY, DOCTRINE PUB. 6-22, ARMY LEADERSHIP paras. 20-21 (Aug. 2012) [hereinafter ADP 6-22]; *see also* AR 350-1, *supra* note 8, paras. 2-16-2-17 (defining responsibilities for providing both types of training); AR 165-1, *supra* note 10, para. 9-10 (designating the chaplain as the primary staff officer responsible for moral leadership training). U.S. DEP'T OF ARMY REG 27-1, JUDGE ADVOCATE LEGAL SERVICES para. 2-2(z) (RAR 13 Sept. 2011) [hereinafter AR 27-1] (detailing responsibility for the Army Ethics Program).

<sup>29</sup> AR 27-1, *supra* note 28.

<sup>30</sup> *Id.*

<sup>31</sup> ADRP 7-0, *supra* note 15, para. 2-2

<sup>32</sup> ADRP 6-22, *supra* note 28, para. 2-1.

teach, train, and mentor soldiers to make decisions, ensuring mission accomplishment in a moral, legal, and ethical fashion.<sup>33</sup>

Increasingly, under the mission command philosophy,<sup>34</sup> the Army places the burden of decision-making at lower levels and expects decision-makers to comport with its organizational values.<sup>35</sup> However, expecting individuals to make ethical decisions without first providing training and opportunities to exercise ethical decision-making could be a recipe for failure. Consider former President Ronald Reagan's thoughts:

[T]he character that takes command in moments of crucial choices has already been determined. It has been determined by a thousand other choices made earlier in seemingly unimportant moments. It has been determined by all the little choices of years past—by all those times when the voice of conscience was at war with the voice of temptation—whispering the lie that it really doesn't matter. It has been determined by all the day-to-day decisions made when life seemed easy and crises seemed far away—the decisions that, piece by piece, bit by bit, developed habits of discipline or of laziness, habits of self-sacrifice or of self-indulgence, habits of duty and honor and integrity—or dishonor and shame. Because

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<sup>33</sup> See U.S. DEP'T OF ARMY, DOCTRINE REF. PUB. 6-22 preface (Aug. 2012) [hereinafter ADRP 6-22] "Commanders, staffs, and subordinates ensure their decisions and actions comply with applicable United States, international, and, in some cases, host-nation laws and regulations. Commanders at all levels ensure their [s]oldiers operate in accordance with the law of war and the rules of engagement." *Id.* See also U.S. DEP'T OF ARMY, TRADOC PAM. 525-3-0, U.S. ARMY CAPSTONE CONCEPT para. 4-6(b) (19 Dec. 2012) [hereinafter 33 525-3-0] (suggesting that Army forces need to "think independently and act decisively, morally, and ethically").

<sup>34</sup> U.S. DEP'T OF ARMY, DOCTRINE PUB. 6-0, MISSION COMMAND para. 22 (May 2012) [hereinafter ADP 6-0].

<sup>35</sup> TRADOC PAM. 525-3-0, *supra* note 33, para. 4-6(b).

To facilitate the necessary level of adaptation, Army forces empower increasingly lower echelons of command with the capabilities, capacities, authorities, and responsibilities needed to think independently and act decisively, morally, and ethically. Decentralized execution guided by the tenets of mission command places increased responsibility on [s]oldiers to make decisions with strategic, operational, and tactical implications.

*Id.*

when life does get tough, and the crisis is undeniably at hand—when we must, in an instant look inward for strength of character to see us through—we will find nothing inside ourselves that we have not already put there.<sup>36</sup>

In other words, the Army cannot wait until its decision-makers are on the battlefield to train and empower them to make ethical decisions. As the Army instills trust in its leaders and decision-makers to make the right decisions, it also has a responsibility to provide the necessary training to empower them to do so.<sup>37</sup>

Increasing the amount of time that individuals spend receiving knowledge-based training and ignoring application-based ethical decision-making training may backfire and cause more ethical failures.<sup>38</sup> Leaders at the tactical level already complain that training schedules overwhelm the unit and result in officers lying about compliance with training requirements.<sup>39</sup> Deciding to report compliance in order to prioritize other mission requirements is one example where rules (required training and reporting) meet values (duty to accomplish mission, loyalty to the command, etc.) in a morally ambiguous way. Decision-makers must choose between falsely reporting that training is complete so that the unit

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<sup>36</sup> Ronald Wilson Reagan, *40th President of the United States, Commencement Address at Citadel*, The Military College of South Carolina (May 15, 1993), <http://www3.citadel.edu/pao/addresses/reagan.htm>.

<sup>37</sup> AR 600-100, *supra* note 2, para. 1-4 “The Army’s strategic objectives clearly state the Army’s purpose . . . train and equip [s]oldiers to serve as warriors and grow as adaptive leaders . . . and provide infrastructure and support to enable the force to fulfill its strategic roles and missions.” *Id.*

<sup>38</sup> See George Reed et al., *Mapping the Route of Leadership Education: Caution Ahead*, 34 U.S. ARMY WAR COLL. 46, 48 (2004).

The paradox is that more is actually less. The more we try to describe and prescribe a list of defined, specific competencies, the more we lead away from the agile, adaptive, self-aware leader we want. The danger of prescriptive lists is that they create the impression that success can be assured by mastering specific competencies.

*Id.*

<sup>39</sup> LEONARD WONG & STEPHEN J. GERRAS, LYING TO OURSELVES: DISHONESTY IN THE ARMY PROFESSION, 6 STRATEGIC STUD. INST & U.S. ARMY WAR COLLEGE PRESS (Feb. 17, 2015). “If units and individuals are literally unable to complete the tasks placed upon them, then reports submitted upward by leaders must be either admitting noncompliance, or they must be intentionally inaccurate.” *Id.*

can complete other missions; sacrificing other missions to complete the training;<sup>40</sup> or accurately reporting that training is not complete, opening themselves up to career-impacting criticism.<sup>41</sup> Leaders confront similar circumstances in the motor pool,<sup>42</sup> complying with requirements to regularly inspect unit equipment and report deficiencies.<sup>43</sup> Leaders also confront these circumstances while deployed.<sup>44</sup>

Dishonesty becomes routine when the quantity of training, or other administrative requirements, interferes with a unit's ability to accomplish its regular mission.<sup>45</sup> When decision-makers choose to make false reports, both the individual decision-makers and the institutional Army recognize and accept that the reported information is inaccurate.<sup>46</sup> Then, individuals realize that the Army will accept the inaccurate report and most likely take no action against the individual for submitting the false report.<sup>47</sup>

In these situations, individuals not only fail to tell the truth, they fail to recognize that they are lying.<sup>48</sup> "Ethical fading allows us to convince ourselves that considerations of right or wrong are not applicable to decisions that in any other circumstances would be ethical dilemmas."<sup>49</sup> Small decisions build on themselves and harden into thoughtless habit until senior leaders feel justified violating rules and values.<sup>50</sup> A quick

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<sup>40</sup> *Id.* at 5–6.

<sup>41</sup> *Id.* at 5, 26.

<sup>42</sup> *Id.* at 9 (reporting vehicles at 100% availability for use, knowing report was inaccurate).

<sup>43</sup> *Id.* (reporting inaccurate property accountability).

<sup>44</sup> *Id.* at 13–16 (ignoring standards to ensure the correct number of individuals deployed; manipulating supply accountability; failing to report enemy contact; and failing to request permission to use indirect fire).

<sup>45</sup> *Id.* at 17–18. "[M]any officers even go as far as to insist that lying to the system can better be described as prioritizing, accepting prudent risk, or simply good leadership." *Id.*

<sup>46</sup> *Id.* at 12.

<sup>47</sup> *Id.* at 12–13.

<sup>48</sup> *Id.* at 17.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 30.

Overconfidence can leave officers—especially those at the senior level—vulnerable to the belief that they are unimpaired by the temptations and snares found at the common level of life. The ease of fudging on a [temporary duty] voucher, the enticement of improper gifts, and the allure of an illicit relationship are minimized and discounted as concerns faced by lesser mortals.

*Id.* See also Dean C. Ludwig & Clinton O. Longenecker, *The Bathsheba Syndrome: The Ethical Failure of Successful Leaders*, 12 J. BUS. ETHICS 265, 270–71 (1993) (asserting

glance at news reports over the last several years shows allegations of sexual misconduct, misuse of government resources, and maltreatment of subordinates by senior leaders empowered to lead and train Army forces.<sup>51</sup> Investigations substantiated these allegations and resulted in administrative sanctions, including reprimands and demotions.<sup>52</sup> In 2012, the *Washington Post* reported “[t]he Defense Department’s inspector general reviewed [thirty-eight] cases of alleged wrongdoing by senior officials in 2011, and substantiated the accusations in nearly [forty] percent of the them[sic], up from [twenty-one] percent in 2007.”<sup>53</sup>

Poor ethical choices by Army leaders reflect negatively on the entire organization.<sup>54</sup> Ethical failures erode public trust and subject the Army to additional scrutiny.<sup>55</sup> Conversely, ethical behavior by Army decision-makers enhances the public trust and strengthens the Army’s ability to complete the mission.<sup>56</sup> The Army’s legitimacy stems from the public

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that organizational autonomy combined with an inflated sense of self can cause successful leaders to make unethical choices).

<sup>51</sup> Ernesto Londoño, *Accusations Against General Cast a Long Shadow Over Army*, WASH. POST (Oct. 27, 2012), [http://www.washingtonpost.com/world/national-security/2012/10/27/a43bf66a-1f8e-11e2-ba31-3083ca97c314\\_story.html](http://www.washingtonpost.com/world/national-security/2012/10/27/a43bf66a-1f8e-11e2-ba31-3083ca97c314_story.html) (referencing generals accused of sexual misconduct, financial mismanagement, accepting inappropriate gifts, assigning staff personal tasks, and verbal abuse of subordinates).

<sup>52</sup> See, e.g., Inspector Gen., U.S. Dep’t of Def., *Report of Investigation on Major General William E. Ward, U.S. Army, Commander, U.S. AFRICOM* (26 June 2012), [http://www.dodig.mil/foia/ERR/WardROI\\_Redacted.pdf](http://www.dodig.mil/foia/ERR/WardROI_Redacted.pdf); Inspector Gen., U.S. Dep’t of Def., *Report of Investigation on Lieutenant General Patrick J. O’Reilly, U.S. Army, Director, Missile Defense Agency* (2 May 2012), <http://www.dodig.mil/foia/ERR/O’ReillyROI.pdf>; Inspector Gen., U.S. Dep’t of Def., *Report of Investigation on Lieutenant General David H. Huntoon, U.S. Army, Superintendent, United States Military Academy* (1 May, 2012), <http://www.dodig.mil/foia/ERR/H11L120171242.pdf>; Inspector Gen., U.S. Dep’t of Def., *Report of Investigation on Major General Joseph F. Fil, U.S. Army, Former Commanding General, Eighth United States Army and Chief of Staff, United Nations Command/Combined Forces Command/United States Forces Korea* (23 Jan. 2012), <http://www.dodig.mil/foia/ERR/H11-120936321.pdf> (investigating officer unnamed).

<sup>53</sup> Londoño, *supra* note 51.

<sup>54</sup> WONG & GERRAS, *supra* note 39, at 1–2.

<sup>55</sup> *Id.* (describing how scandals erode internal and external trust critical to the institution of the military). See also U.S. DEPT. OF ARMY, DOCTRINE REF. PUB. 1, THE ARMY PROFESSION para. 3-2 (Jun. 2015) [hereinafter ADRP 1]. “The Army has been successful in keeping the high regard and sacred trust of the American people as a military profession. However, this trust relationship is fragile and easily damaged if we do not understand who we are, who we serve, and why we serve.” *Id.*

<sup>56</sup> Memorandum from The Secretary of Defense, to Secretaries of the Military Departments et al., subject: Ethics, Integrity, and Accountability (2 May 2012) [hereinafter EIA Memo]. See also ARMY ETHIC WHITE PAPER, *supra* note 23, at i (discussing how performance of duty according to the Army Ethic reinforces trust).

trust.<sup>57</sup> The Army must recognize the application gap in its ethics training paradigm and implement a strategy to remedy the problem before further erosion occurs. An ethics training program including knowledge-based values and rules training, but with increasing focus on ethical decision-making will enhance public trust and contribute to mission accomplishment.<sup>58</sup>

### B. Recognizing the Limits of Knowledge-based Values Training

Values training, the primary domain of the chaplain acting on behalf of the commander, includes training on the Army Values and overarching moral principles.<sup>59</sup> The Army expects members to uphold and emulate seven primary values: loyalty, duty, respect, selfless service, honor, integrity, and personal courage.<sup>60</sup> These values derive from the U.S.

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<sup>57</sup> “External trust is the confidence and faith that the American people have in the Army to serve the Nation ethically, effectively, and efficiently. It is the bedrock of our relationship with society.” ADRP 1, *supra* note 55, para. 3-1.

<sup>58</sup> ARMY ETHIC WHITE PAPER, *supra* note 23, at 3 (“[T]here can be no tension between mission accomplishment and professional ethics.”). *See also* ADRP 6-22, *supra* note 28, para. 1-9 (stating the “Army and its leadership requirements are based on the nation’s democratic foundations, defined values, and standards of excellence”).

<sup>59</sup> AR 165-1, *supra* note 10.

<sup>60</sup> AR 600-100, *supra* note 2, para. 1-5. The Army Values are further defined:

Loyalty. Bear true faith and allegiance to the U.S. Constitution, the Army, your unit, and other [s]oldiers . . . . Duty. Fulfill your obligations. Duty is the legal and moral obligation to do what should be done without being told. Respect. Treat people as they should be treated. . . . Selfless Service. Put the welfare of the Nation, the Army, and subordinates before your own . . . . Honor. Live up to the Army Values. This implies always following your moral compass in any circumstance. Integrity. Do what’s right—legally and morally . . . . It means honesty, uprightness, the avoidance of deception, and steadfast adherence to the standards of behavior. Personal Courage. Face fear, danger, or adversity (physical or moral). This means being brave under all circumstances (physical or moral).

*Id.* Some critics argue that by including definitions of these terms, “[o]ur current Army [v]alues approach implicitly acknowledges that a value alone is insufficient to guide action . . . . This effort to provide meaning to the values reflects the insufficiency of values by themselves to adequately guide action and educate practitioners.” Brian Imiola & Danny Cazier, *On the Road to Articulating Our Professional Ethic*, MIL. REV. Sept. 2010, at 11, 15. The Army utilized this article in the development of the Army Ethic. ARMY ETHIC WHITE PAPER, *supra* note 23. Note that the author of this article was discussing Field Manual 6-22, which has since been replaced by Army Doctrine Reference Publication 6-

Constitution and Declaration of Independence<sup>61</sup> and together with those documents “characterize the Army’s professionalism and culture, and describe the ethical standards expected of all Army leaders.”<sup>62</sup> The Chief of Chaplains “[d]evelop[s] and provide[s] training at selected Army schools on topics to include ethics, world religions, moral leadership . . . [and] [e]xercise[s] [Headquarters, Department of the Army] responsibility for moral leadership training in the Army.”<sup>63</sup> Individual chaplains work with commanders to determine the content of unit training programs.<sup>64</sup> The prior edition of Army Regulation (AR) 165-1 mentioned “moral dimensions of decision making”<sup>65</sup> as a potential topic for the chaplain’s moral leadership program, but did not make it a mandatory training requirement.<sup>66</sup> The current version of AR 165-1 does not provide a list of training topics, stating only that moral leadership training is a commander’s program, not a religious program, and the training should be nested with AR 350-1 and Department of Army Pamphlet (DA Pam) 165-16.<sup>67</sup> Thus, individual decision-makers may receive little or no ethical decision-making training in the current knowledge-based values training program.

Values training is, and can only ever be, a single component of a successful ethics training program. Focusing solely on training broad values provides basic knowledge of abstract principles, but fails to train individual decision-makers to apply that knowledge to making ethical decisions.<sup>68</sup> Individuals faced with morally ambiguous situations may

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22. The definitions of the Army values were not changed. See ADRP 6-22, *supra* note 28, paras. 3-4-3-16.

<sup>61</sup> AR 600-100, *supra* note 2, para. 1-5a.

<sup>62</sup> *Id.*

<sup>63</sup> AR 350-1, *supra* note 8, para. 2-17.

<sup>64</sup> AR 165-1 para. 9-15.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* para. 9-10.

<sup>68</sup> Imiola & Cazier, *supra* note 60, at 15.

Given their vagueness, [s]oldiers can interpret values in ways that could generate irreconcilable conflict as they attempt to use them as a foundation for decisions . . . . To illustrate this point, consider the values of personal courage and loyalty. These seem appropriate values, but they can easily be hijacked in pursuit of immoral ends. Courage, for example, makes a bank robber even more dangerous to society than he would otherwise be. Loyalty makes organized crime a more insidious threat than if its members were disloyal to a gang or mob. Even those engaged in illicit ends find courage and loyalty

rationalize “white lies.”<sup>69</sup> They may even view these lies as beneficial for the organization.<sup>70</sup> These individuals may disengage from their moral framework by taking action in opposition to their values.<sup>71</sup> Moral disengagement happens when individuals examine their behaviors differently, by using different words to describe their behavior; by comparing it to other, worse behavior in order to justify their own unethical conduct; or by shifting responsibility for their actions to others’ actions.<sup>72</sup> The Army attempts to remedy these types of problems by codifying its organizational values<sup>73</sup> and providing concrete rules for individuals to comply with. Judge advocates primarily focus on these rules in the training they provide.<sup>74</sup>

### C. Recognizing the Limitations of Knowledge-based Rules Training

Rules training focuses on encouraging behavior to be in compliance with the rules.<sup>75</sup> It does so by informing individuals of the negative consequences resulting from a failure to comply. In Army doctrine, compliance is a leadership method most “appropriate for short-term, immediate requirements and for situations with little risk tolerance.”<sup>76</sup> However, examples of rules and regulations abound in the Army. “The law of land warfare, the Uniform Code of Military Justice, and the standards of conduct structure the discipline imperative to which leaders must adhere.”<sup>77</sup> The Joint Ethics Regulation (JER) regulates conflicts of

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useful. And their conduct is all the more immoral for having harnessed these values.

*Id.*

<sup>69</sup> WONG & GERRAS, *supra* note 39, at 17.

<sup>70</sup> *Id.* at 18

<sup>71</sup> Christopher M. Barnes & Keith Leavitt, *Moral Disengagements: When Will Good Soldiers Do Bad Things?*, MIL. REV., Sept. 2010, at 46, 47–48 (describing moral disengagement by “re-construing conduct through framing, . . . re-construing conduct through the use of euphemistic language, . . . re-construing conduct through advantageous comparison, . . . obscuring responsibility via displacement, . . . [and] obscuring responsibility via diffusion”).

<sup>72</sup> *Id.*

<sup>73</sup> AR 600-100, *supra* note 2, para. 1–5.

<sup>74</sup> AR 350-1, *supra* note 8, para. 2–16, G-18

<sup>75</sup> ADRP 6-22, *supra* note 33, para. 6-3. Compliance is “the act of conforming to a requirement or demand.” *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> AR 600-100, *supra* note 2, para. 1-5a.

interest, appearances of impropriety, and contains prohibitions on the receipt of gifts from subordinates and contractors.<sup>78</sup> Joint Travel Regulations govern how, where, when, and with whom military members may travel.<sup>79</sup> Taken together, the rules and regulations provide the structure for ethical behavior in numerous common and recurrent military situations. Those who fail to comply with the rules subject themselves to negative consequences and enforcement actions. Consequences range from administrative sanctions to civil and criminal liability. When made public, these breaches undermine and erode public trust, especially when the public, or other soldiers, perceive that the consequence is not sufficient for the underlying offense.<sup>80</sup>

Rules-based training is traditionally—and by regulation—a responsibility of the The Judge Advocate General’s Corps. The Judge Advocate General (TJAG), “[a]dvise[s] . . . during the development of training and training support products for the Army including training programs mandated by domestic and international law obligations” and “[e]xercises [Headquarters, Department of the Army] responsibility for training on the law of war.”<sup>81</sup> Army Regulation 350-1 does not mention values training as a specific task for TJAG.<sup>82</sup> Judge advocates provide JER training, mandatory annual refresher training on the laws of armed conflict, and Standards of Conduct training.<sup>83</sup> Joint Ethics Regulation

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Discipline reflects the self-control necessary to do the hard right over the easy wrong in the face of temptation, obstacles, and adversity. Pride reflects the commitment to master the military-technical, moral-ethical, political-cultural, and leader/human development knowledge and skills that define Army professionals as experts. Army professionals, who perform under stressful conditions including the chaos and danger of combat, require the highest level of discipline and pride.

ADRP 1, *supra* note 55, paras. 5–11.

<sup>78</sup> U.S. DEP’T OF DEF., 5500.7-R, JOINT ETHICS REG. (30 Aug. 1993) [hereinafter JER].

<sup>79</sup> See U.S. DEP’T OF DEF., JOINT TRAVEL REGULATIONS, UNIFORMED SERVICE MEMBERS AND DOD CIVILIAN EMPLOYEES (1 Oct. 14). The Joint Federal Travel Regulation and Joint Travel Regulations were consolidated into one publication as of October 1, 2014. *Id.*

<sup>80</sup> See, e.g., Richard Sandza, *Colonel’s Sentence in Bigamy Case Draws Outrage*, ARMY TIMES (July 1, 2012, 10:00 AM), <http://www.armytimes.com/article/20120701/NEWS/207010309/Colonel-s-sentence-bigamy-case-draws-outrage>. “In one swift decision, the board made a mockery of justice and allowed a bigamist and a thief to retire with honor.” *Id.*

<sup>81</sup> AR 350-1, *supra* note 8, para. 2-16.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

training is mandatory for servicemembers upon initial entry, and required annually for those who must file financial disclosure forms.<sup>84</sup>

Knowledge-based rules training, on its own, is insufficient to provide decision-makers with the skills necessary to solve the kinds of complex problems soldiers encounter regularly.<sup>85</sup> The Army requires creative thinking and problem-solving.<sup>86</sup> Organizations use rules to constrain behavior.<sup>87</sup> When presented with rules without knowing why the rules are in place, individuals may be tempted to believe that “what is not forbidden is allowed.”<sup>88</sup> Decision-makers may justify the use of whatever means necessary to stay just to the left of the legal boundary.<sup>89</sup> Decision-makers may choose to ignore minor ethical discretions for the perceived greater good of the organization.<sup>90</sup> Alternatively, individuals may robotically

<sup>84</sup> *Id.* tbl. G-1, para. G-18. Required initial ethics training must take place within ninety days and may consist only of written materials. *Id.* para. G-18. Thereafter, annual training is required for financial disclosure filers and must be conducted face-to-face by a qualified instructor or via other means if a qualified instructor is available for questions. *Id.* Financial disclosure filers are generally senior leaders. *Id.*

<sup>85</sup> ADRP 7-0, *supra* note 15, para. 2-26.

<sup>86</sup> *Id.* “Effective leaders comfortably make decisions with only partial information.” *Id.* They “are open-minded and consider alternative, sometimes nonconformist, solutions and the second- and third-order effects of those solutions.” *Id.* Effective leaders “[c]ollaborate with others” and “[a]re adept at honestly assessing their own strengths and weaknesses and determining ways to sustain strengths and overcome weaknesses.” *Id.*

<sup>87</sup> Gedeon J. Rossouw & Leon J. van Vuuren, *Modes of Managing Morality: A Descriptive Model of Strategies for Managing Ethics*, 46 J. BUS. ETHICS 389, 397 (2003).

[A] comprehensive and diligent attempt to enforce ethical compliance . . . may assume bureaucratic proportions over time. This can lead to a proliferation of ethical rules and guidelines . . . . These rules can grow so numerous that it becomes difficult to keep track of them. Should this happen, it is almost impossible to recall all the directives, and for that reason they may have little impact on actual corporate behavior.

*Id.*

<sup>88</sup> *Id.* at 397; *see also* Imiola & Cazier, *supra* note 60, at 15.

[N]o list of rules could ever be long enough to capture all the things that we should and should not do . . . any list of rules . . . really just approximates another legal code. It invites legalistic interpretation and gaming . . . . [I]f not enforced, rules are impotent.

*Id.*

<sup>89</sup> Rossouw & van Vuuren, *supra* note 87, at 397.

<sup>90</sup> Imiola & Cazier, *supra* note 60, at 15; *see also* WONG & GERRAS, *supra* note 39, at 20. “[D]ishonesty is often necessary because the directed task, the data requested, or the

follow the prescribed rules without applying any discretionary thought.<sup>91</sup> Any of these processes can lead to unethical decisions.<sup>92</sup> Knowledge-based rules training gives the framework for compliance, but does not explain how the rules should be applied,<sup>93</sup> or provide the skills necessary to allow the individual to exercise independent discretion.<sup>94</sup> Moreover, when individuals receive only knowledge-based training, an application gap develops in which decision-makers may lack the skills necessary to apply that knowledge in a complex and morally ambiguous war zone.<sup>95</sup>

### III. Evidence of the Application Gap

*[A]s his junior officers briefed him in January about what happened to two Iraqis his men detained that night by the Tigris, the straight lines and rigid hierarchy of the Army that created him seemed, like so many other American ideas brought to this murky land, no longer particularly relevant. More important . . . were his own men . . . . There would be a fuss if his superiors discovered what his men had done that night . . . . And so Sassaman . . . decided to flout his [nineteen] years in the Army and his straight-and-narrow upbringing. He turned to one of his company commanders . . . and told him what to do. "Tell them about everything . . . except the water."<sup>96</sup>*

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reporting requirement is unreasonable or 'dumb'. . . . Officers convince themselves that instead of being unethical, that are really restoring a sense of balance and sanity to the Army." *Id.*

<sup>91</sup> Roetzel, *supra* note 11, at 84 (using non-discretionary reasoning, soldiers respond robotically and respond to unexpected circumstances by simply applying the guidance that is most similar, without exercising independent reasoning); *see also* Rossouw & van Vuuren, *supra* note 87, at 397 (describing how under a rules-based system, members of an organization "can rely merely on the existing rules for moral guidance" without applying independent thought).

<sup>92</sup> WONG & GERRAS, *supra* note 39, at 20. "With ethical fading serving to bolster the self-deception that problematic moral decisions are ethics-neutral, any remaining ethical doubts can be overcome by justifications and rationalizations." *Id.*

<sup>93</sup> ADRP 1, *supra* note 55, para. 1-17 "Simple or strict compliance with laws and regulations rarely generate a deeper understanding of why a prescribed behavior is right and good." *Id.*

<sup>94</sup> Rossouw & van Vuuren, *supra* note 87, at 397.

<sup>95</sup> Roetzel, *supra* note 11, at 83.

<sup>96</sup> Dexter Filkins, *The Fall of the Warrior King*, N.Y. TIMES (Oct. 23, 2005), [http://www.nytimes.com/2005/10/23/magazine/23sassaman.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2005/10/23/magazine/23sassaman.html?pagewanted=all&_r=0).

Lieutenant Colonel (LTC) Nathan Sassaman commanded a unit in Iraq in 2004.<sup>97</sup> The unit faced constant fire and pressure to perform.<sup>98</sup> His subordinates caught several Iraqi males out after curfew driving the same type of vehicle used by insurgents in the area.<sup>99</sup> Americans assumed that curfew-breakers were guerrillas and normally detained them.<sup>100</sup> If the curfew breakers became aggressive, they would be killed.<sup>101</sup> On that night, the soldiers detained the individuals, released them with a warning, and then detained them again, on the order of their lieutenant.<sup>102</sup>

The soldiers then drove the Iraqis to the bank of the Tigris River, at a point roughly seventy feet above the water.<sup>103</sup> The patrol intended to force the detainees into the river so that they would have to walk home, soaking wet, as punishment for breaking curfew, as opposed to detaining them according to normal procedures.<sup>104</sup> One soldier balked at the seventy foot drop and refused to participate because he knew his peers were not following correct curfew enforcement procedures.<sup>105</sup> He knew that by refusing, he was subject to punishment.<sup>106</sup> This was not the first time he had concerns with the tactics being used.<sup>107</sup> The other soldiers considered him an “oddball”<sup>108</sup> for his concerns and forced him to stand guard.<sup>109</sup> Then the soldiers moved to a lower point on the riverbank, approximately ten feet from the water, and they told the men to jump.<sup>110</sup> When the men

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<sup>97</sup> *Id.*

<sup>98</sup> *Id.* See also Thomas Ricks, ‘*It Looked Weird and Felt Wrong*’, WASH. POST (Jul. 24, 2006), [http://www.washingtonpost.com/wp-dyn/content/article/2006/07/23/AR2006072300495\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/07/23/AR2006072300495_pf.html).

<sup>99</sup> Filkins, *supra* note 96.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.* “At the time, the American soldiers were under strict instructions to detain anyone out after curfew, but they usually allowed themselves a little leeway.” *Id.* The platoon guide later testified that the unit was seeking revenge, “I understood that he was directing me and my subordinates to kill certain Iraqis we were seeking that night who were suspected of killing the company commander in our unit’ . . . [n]or was he to take prisoners” Ricks, *supra* note 98.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> Filkins, *supra* note 96.

<sup>110</sup> *Id.* “At first, the soldiers insisted to Army investigators that they had released the men—without mentioning that they had ‘released’ them into the river. Pressed, they subsequently said that they’d seen both men swim to shore and emerge. That was a lie, Saville later testified.” Ricks, *supra* note 98.

begged not to, one was pushed in, the other jumped.<sup>111</sup> Days later, Iraqi search crews found a body downriver from where the men were forced to jump.<sup>112</sup> This was not the first time the soldiers had forced civilians into the river for breaking curfew, but it was the first time that someone died from the tactic.<sup>113</sup>

Lieutenant Colonel Sassaman found out about the incident several days later and “decided that that throwing the Iraqis into the Tigris was wrong, but not criminal and that publicizing it could whip up anti-American feeling.”<sup>114</sup> Instead of immediately reporting the incident and taking responsibility for the actions of his subordinates, LTC Sassaman decided to treat his soldiers’ crimes as simple mistakes.<sup>115</sup> He attempted to deceive his superiors about his knowledge of the events,

I really didn’t lie to anybody . . . I just didn’t come out and say exactly what happened. I didn’t have anything to gain by ordering a cover-up. There was no way I was going to let them court-martial [sic] my men, not after all they had been through.<sup>116</sup>

Lieutenant Colonel Sassaman committed several ethical failures. He tacitly condoned the unauthorized use of curfew punishments.<sup>117</sup> He failed to identify the actions of his subordinates as potentially illegal and requiring investigation.<sup>118</sup> He failed to immediately report the incident

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<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.* (discussing putting people in the water as within the scope of non-lethal punishments).

<sup>118</sup> *Id.* See also Protocol Additional to the Geneva Conventions of Aug. 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts, June 8, 1977, art. 87, June 8, 1977, 1125 U.N.T.S. 3.

The High Contracting Parties and the Parties to the conflict shall require military commanders, with respect to members of the armed forces under their command and other persons under their control, to prevent and, where necessary, to suppress and to report to competent authorities breaches of the Conventions and of this Protocol.

*Id.*

and actively covered up the crimes by directing subordinates to lie.<sup>119</sup> Ultimately, LTC Sassaman rationalized his own dishonest behavior as loyalty to his men.<sup>120</sup> Loyalty to his comrades is an admirable value, one the Army actively encourages.<sup>121</sup> However, LTC Sassaman's application of loyalty to this situation was decidedly less than admirable, resulting in the loss of his command, the prosecution of his soldiers, a black eye for the Army,<sup>122</sup> and the death of an innocent civilian.<sup>123</sup> One individual exhibited personal courage<sup>124</sup> by defying his superiors, arguably applying more ethical values and rules under stressful circumstances. He ended up being ostracized by his peers after the incident, and left the Army.<sup>125</sup>

This incident illustrates the difficulty decision-makers have applying the Army's organizational values and rules to morally ambiguous situations. Lieutenant Colonel Sassaman was a nineteen-year veteran and graduate of West Point.<sup>126</sup> According to AR 350-1, every individual involved should have received annual training and pre-deployment training on the rules of engagement, standards of conduct, and Army

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<sup>119</sup> Filkins, *supra* note 96.

<sup>120</sup> *Id.*

If I were to do it all over again, I would do the exact same thing, and I've thought about this long and hard, Sassaman testified. I was taught in the Army to win, and I was trying to win all the way, and I just disagreed—deeply disagreed—with my superior commanders on the actions that they thought should be taken with these individuals [charged in the Tigris bridge case]. And you have to understand, the legal community, my senior commanders, were not fighting in the streets of Samarra. They were living in a palace in Tikrit.

Ricks, *supra* note 98.

<sup>121</sup> See AR 600-100, *supra* note 2, sec. II. Glossary. "Loyalty. Bear true faith and allegiance to the U.S. Constitution, the Army, your unit, and other [s]oldiers. This means supporting the military and civilian chain of command, as well as devoting oneself to the welfare of others." *Id.*

<sup>122</sup> Filkins, *supra* note 96.

<sup>123</sup> *Id.* Lieutenant Colonel (LTC) Nathan Sassaman and two others received a General Officer Memorandums of Reprimand, effectively ending their careers. *Id.* Lieutenant Colonel Sassaman retired. The two soldiers who put the men in the water were convicted of assault and sent to prison. *Id.*

<sup>124</sup> See AR 600-100, *supra* note 2, glossary, sec. II. "Personal Courage. Face fear, danger, or adversity (physical or moral). This means being brave under all circumstances (physical or moral)." *Id.*

<sup>125</sup> Filkins, *supra* note 96.

<sup>126</sup> *Id.*

Values.<sup>127</sup> They received the knowledge-based training, but when presented with a morally ambiguous situation, they did not have the skills to apply the knowledge.

When values conflict with other values, or when values conflict with rules, decision-makers need to have the ethical decision-making skills to analyze the situation. After analysis individuals must decide which course of action is the ethical choice. Decision-makers need application-based training to make that determination. Knowledge-based training alone is insufficient.

#### IV. Formulating the Objectives for Successful Ethics Training

##### A. Framework for Analysis

Addressing the application gap requires analyzing the current Army ethics training program and developing new solutions to close the gap. As an organization, the Army would benefit from using scholarship involving ethical decision-making in external organizations to examine problems with ethical decision-making internally.<sup>128</sup> Similar to decision-making in a corporate setting, military decision-making relies on a group of individuals from diverse backgrounds to work together to make joint decisions within particular organizational structures.<sup>129</sup> Researchers

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<sup>127</sup> AR 350-1, *supra* note 8, tbl. G-1.

<sup>128</sup> Army leadership recognizes the similarities between military organizations and corporations, and leverages those similarities to review processes and practices. *See* U.S. DEP'T OF ARMY, DIR. 2016-16, CHANGING MANAGEMENT BEHAVIOR: EVERY DOLLAR COUNTS 1 (15 Apr. 2016). The Government Accountability Office (GAO) conducted a performance audit of DoD ethics programs in 2014–2015. During that audit, the GAO interviewed representatives from the military services and “foreign military officials, defense industry organizations, and commercial firm” and reviewed literature from both the military and corporate sectors. GAO Report on Military Ethics, *supra* note 5.

<sup>129</sup> Rossouw & van Vuuren, *supra* note 87, at 390.

Decisions and actions are the outcomes of complicated group dynamic processes in which individual members of the organization participate. The decisions and actions therefore do not emanate from a collective personality, or a collective mind, or a collective moral state of development, but from a group dynamic process in which individuals with different personalities, minds, and levels of moral development participate.

developed an analytical model to evaluate the methods used by organizations to manage morality.<sup>130</sup> Applying this model allows for an analysis of the Army ethics training using external criteria. It also provides an opportunity for the Army to address the current application gap by further developing its ethical decision-making training, and nesting the training within current Army doctrine and tradition.

The model uses four criteria to categorize organizations' "modes of managing morality."<sup>131</sup> The criteria used are: (1) the nature of the conduct within the organization; (2) the purpose of ethics in the organization; (3) the organization's management strategy; and (4) challenges experienced by the organization.<sup>132</sup> The five modes of managing morality are: "immorality, reactivity, compliance, integrity and total alignment."<sup>133</sup> The model places the modes on an evolutionary continuum to explain changes within organizations.<sup>134</sup>

In the compliance mode, the organization commits to "manage and monitor ethics performance."<sup>135</sup> The organization codifies the rules and punishes violators to prevent unethical behavior.<sup>136</sup> The organization's goal is to maintain a good ethical reputation.<sup>137</sup> In the integrity mode, individuals within the organization internalize the organization's ethical values and standards.<sup>138</sup> The organization attempts to "raise the level of corporate ethical performance"<sup>139</sup> by "proactive[ly] promot[ing] . . . ethical behavior."<sup>140</sup> The leadership of the organization recognizes the strategic importance of ethical behavior.<sup>141</sup> In a totally aligned organization, ethics are seamlessly integrated into an organization's

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*Id.* The study uses the British spellings; for consistency, this paper will use American English spellings (e.g. organisation vs. organization) throughout. *See also* U.S. DEP'T OF ARMY, DOCTRINE PUB. 5-0, THE OPERATIONS PROCESS para. 32 (17 May 2012) [hereinafter ADP 5-0] (describing the military decision-making process (MDMP)).

<sup>130</sup> Rossouw & van Vuuren, *supra* note 87, at 389.

<sup>131</sup> *Id.* at 391. "A mode can be described as the predominant (preferred) strategy of an organization to manage its ethics at a given point in time." *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> *Id.* at 392. "[C]hallenges that arise within each mode provide an explanation for the change in mode of managing ethic that typically occur within organizations over time." *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

“purpose, strategy, and operations.”<sup>142</sup> In this mode, ethics are an integral part of the “discourse and decision-making,” not a separate checklist.<sup>143</sup> Each individual is responsible for managing ethics within the organization.<sup>144</sup>

The above model provides the framework used in this article to analyze the Army’s current ethics training program and for the proposed new strategy. The compliance mode and integrity mode apply most proximately to the Army’s methods for managing ethics.<sup>145</sup> Using the modes above, the Army is a compliance organization, but needs to transform into an integrity organization to close the application gap and foster ethical decision-making. A revised strategy for Army ethics training will aid the transformation from the compliance to the integrity mode.

#### B. The Path from Compliance to Integrity

Arguably, the Army today is a compliance organization, but is making strides to transform into an integrity organization. Currently, the Army recognizes, manages, and monitors ethics performance by punishing unethical behavior and codifying the rules and values.<sup>146</sup> The Army’s knowledge-based ethics training program “display[s] a commitment to eradicate unethical behavior,”<sup>147</sup> but emphasizes compliance in exchange for the withholding of punishment rather than encouraging individuals to internalize the organization’s values.<sup>148</sup>

An ethics training program in a compliance organization focuses more on bureaucracy than effectiveness. That is, it compares the number of individuals trained to the number sanctioned, and focuses more on whether training was completed rather than whether it was successful.<sup>149</sup> Neither

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<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *Id.* at 396–99. Total alignment is difficult to achieve in an organization as large as the Army, with a rapidly changing population, but is available as a goal to strive toward. *Id.* at 399–401.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.* at 396.

<sup>148</sup> *Id.* at 397.

<sup>149</sup> JAMES Q. WILSON, BUREAUCRACY 163–64 (1991) (asserting that how operators do the job is more important than whether doing the job produces the required outcome). *See also* James H. Toner, *Mistakes in Teaching Ethics*, AIR POWER J. 45, 49 (1998). “A major problem with ethics education is that it cannot be crammed into neat compartments and

ethics training nor ethical behavior lend themselves to that type of objective measurement.<sup>150</sup> Focusing on objective metrics may create short-term gains, but in the long-term it may lead to an increase in unethical behavior.

An overly-detailed, list-based approach could result in professional military education that is contrary to that which is actually needed. It could restrict what is taught to only that which is on the list . . . [and it could] become self-perpetuating, not subject to continuous review, and therefore become detached from what is needed in the field.<sup>151</sup>

Ethical decision-making is a skill to be honed, not a checklist to be satisfied.<sup>152</sup> The Army needs to be wary of creating ethical checklists or other similar methodologies that aim toward “measurable outcomes,”<sup>153</sup> but “undermine personal moral autonomy and responsibility.”<sup>154</sup> When the Army imposes and enforces rules on the individual, the individual has a minimal personal stake in any outcome.<sup>155</sup> If the individual “checks the block”<sup>156</sup> by completing the absolute minimum requirement without positive reinforcement or negative consequence, the individual has no reason to commit to doing any more.<sup>157</sup> Efficiency at accomplishing the mission does not necessarily mean that the individuals performing the mission acted ethically.<sup>158</sup> Decision-makers who meet all the training requirements and accomplish the mission, but fail to integrate values and

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nice sounding, desired learning outcomes . . . . We must teach moral reasoning, not just ‘core values’ or ‘ethical checklists.’” *Id.*

<sup>150</sup> Toner, *supra* note 149, at 51.

<sup>151</sup> *Id.* See also Reed, *supra* note 38, at 53, 55 (focusing on “how to think” not “what to think”).

<sup>152</sup> Imiola & Cazier, *supra* note 60, at 15–16.

<sup>153</sup> Wilson, *supra* note 149, at 161, 164.

<sup>154</sup> Rossouw & van Vuuren, *supra* note 87, at 397.

<sup>155</sup> *Id.*

<sup>156</sup> WONG & GERRAS, *supra* note 39, at 19.

<sup>157</sup> Rossouw & van Vuuren, *supra* note 87, at 397.

<sup>158</sup> Imiola & Cazier, *supra* note 60, at 12; see also ADRP 1, *supra* note 55, para. 1-5. “Professions earn and maintain the trust of society through ethical, effective, and efficient application of their expertise on society’s behalf . . . . If a profession violates its ethic and loses trust with the society it serves, it becomes subject to increased oversight and control.” *Id.*

rules into their decisions, may still make ethically questionable decisions.<sup>159</sup>

As decision-making shifts from higher echelons to lower echelons,<sup>160</sup> the Army should implement a new strategy to close the application gap by moving away from the compliance mode and shifting to the integrity mode. By implementing a new strategy for ethics training focused on application, the Army will encourage individual internalization of the Army's values and rules,<sup>161</sup> will foster commitment to using internalized values and rules to make decisions,<sup>162</sup> and will develop organizational incentives for ethical behavior.<sup>163</sup> Decision-makers will then have the skills to make ethical decisions in complex, morally ambiguous situations.

### 1. *Internalization of Organizational Values*

The difference between the Army being a bureaucracy and a profession lies in its ability to encourage the exercise of individual judgment through the application of organizational values.<sup>164</sup> To move beyond the compliance mode, the Army must first strive for its members to internalize—not merely memorize—the organizational values.<sup>165</sup> Internalization happens when “members of the profession will genuinely believe that these principles are morally correct and just.”<sup>166</sup> And believing

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<sup>159</sup> ADRP 1, *supra* note 55, para. 1-7. “The professional must routinely make discretionary judgments and take appropriate action. *Id.* para. 1-8.

<sup>160</sup> TRADOC PAM. 525-3-0, *supra* note 33, para. 4-6(b).

<sup>161</sup> Rossouw & van Vuuren, *supra* note 87, at 397. “[T]he integrity approach is marked by the internalization of ethical values and standards.” *Id.*

<sup>162</sup> *Id.* at 397. “[I]t seeks to obtain the commitment of individual members of the organization to a set of shared corporate values.” *Id.* See also ADRP 1, *supra* note 55, para. 1-28 (describing success as a profession when individuals commit to the essential characteristics of the profession).

<sup>163</sup> Rossouw & van Vuuren, *supra* note 87, at 397.

<sup>164</sup> Imiola & Cazier, *supra* note 60, at 16 (asserting that principles promote discretionary judgment while rules obviate judgment); see also Reed et al., *supra* note 38, at 48.

At the heart of any profession is a body of expertise and abstract knowledge that its members are expected to apply within its granted jurisdiction. Those who learn and employ that knowledge in unique contexts are rightly described as professionals; in them lies the heart and soul of the profession.

*Id.*

<sup>165</sup> Imiola & Cazier, *supra* note 60, at 17.

<sup>166</sup> *Id.*

these principles just, they will seek to better understand them and conform their actions to them.”<sup>167</sup>

Complex or morally ambiguous circumstances require decision-makers with highly developed ethical decision-making skills<sup>168</sup> who have also internalized organizational values.

Sometimes there are difficult decisions to be made. In those circumstances, I do not want simply rules or simply considerations of outcomes or simply examination of pressing circumstances or simply patterns of thought; I want all of them, considered as prudentially as possible by a man or woman who has learned to reason wisely and well.<sup>169</sup>

Internalization of Army organizational values, combined with the exercise of ethical decision-making, increases the soldiers’ “operational adaptability”<sup>170</sup> in pursuit of mission success.<sup>171</sup>

In the compliance mode, rote memorization and adherence to the organization’s standards of conduct was sufficient, because the individual shared no responsibility for upholding the organizations’ ethics.<sup>172</sup> In the integrity mode, however, each individual must internalize the Army’s organizational values independently.<sup>173</sup> Once the individuals have done so, the Army as an organization must encourage commitment to making ethical decisions by training them to exercise ethical decision-making.<sup>174</sup> Ethical decision-making contributes to the Army’s mission,<sup>175</sup> and should

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<sup>167</sup> *Id.* Army doctrine describes the internalization process through the development of a professional identity. ADRP 1, *supra* note 55, para. 3-25; *see also* Wilson, *supra* note 149, at 175. (“The most successful agencies of this type are those that develop among their workers a sense of mission, a commitment to craftsmanship, or a belief in professional norms that will keep unobserved workers from abusing their discretion.”).

<sup>168</sup> ADRP 7-0, *supra* note 15, paras. 2-25–2-26 (providing training to develop adaptive leaders who can think critically and creatively).

<sup>169</sup> Toner, *supra* note 149, at 45.

<sup>170</sup> Operational adaptability is “[t]he ability to shape conditions and respond effectively to changing threats and situations with appropriate, flexible, and timely actions.” TRADOC PAM. 525-3-0, *supra* note 33, glossary, sec. III.

<sup>171</sup> Chris Case et al., *Owning Our Army Ethic*, MIL. REV., Sept. 2010 at 3, 7–8.

<sup>172</sup> Rossouw & van Vuuren, *supra* note 87, at 397.

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> ADRP 1, *supra* note 55, para. 5-1. “Military expertise is the ethical design, generation, support, and application of land-power, primarily in unified land operations, and all

consist of more than “procedural constraints.”<sup>176</sup> Members of the Army must internalize the organization’s values—and commit to applying those values—in the execution of their duties.

## 2. Commitment to Ethical Decision-Making

Commitment is “[t]he resolve of Army professionals to contribute honorable service to the Nation, to perform their duties with discipline and to standard, and to strive to successfully and ethically accomplish the mission despite adversity, obstacles, and challenges.”<sup>177</sup> In 2012, the Secretary of Defense highlighted the need for personal responsibility for ethics within the DoD by stating, “[e]very DoD employee, civilian and military, bears a portion of the responsibility in this regard. I count on your personal engagement to shape our environment to ensure we work in an ethical culture.”<sup>178</sup> Committed individuals take initiative, exercise critical thinking, and become personally involved in the decision-making process.<sup>179</sup>

To transform from a compliance organization to an integrity organization, the Army must recognize the strategic importance of ethical performance.<sup>180</sup> It must also relax control over individuals, and rely instead on individual discernment rooted in the organization’s values.<sup>181</sup> Doctrinally, the Army recognizes the need for decision-makers who are: (1) properly trained; (2) committed to the organization; (3) adapt well to changing circumstances; and (4) exercise independent decision-making.<sup>182</sup>

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supporting capabilities essential to accomplish the mission in defense of the American people.” *Id.*

<sup>176</sup> Wilson, *supra* note 149, at 164; *see also* Army Ethic White Paper, *supra* note 23, at 13 n.23 (self-policing).

<sup>177</sup> ADRP 1, *supra* note 55, para. 3-18; *see also* ADRP 6-22, *supra* note 33, para. 3-27 (asserting that internalization of values leads to a desire to do the right thing).

<sup>178</sup> EIA Memo, *supra* note 56.

<sup>179</sup> ADRP 6-22, *supra* note 33, para. 6-4.

<sup>180</sup> Rossouw & van Vuuren, *supra* note 87, at 398.

<sup>181</sup> *Id.*

<sup>182</sup> ADP 6-0, *supra* note 34, para. 5.

The exercise of mission command is based on mutual trust, shared understanding, and purpose. Commanders understand that some decisions must be made quickly at the point of action. Therefore, they concentrate on the objectives of an operation, not how to achieve it. Commanders provide subordinates with their intent, the purpose of the operation, the key tasks, the desired end state, and resources.

This kind of decision-maker is a force-multiplier and increases the operational capability of the unit.<sup>183</sup> Commitment to the Army's organizational values fosters trust between unit members and supports the Army's intent to distribute decision-making responsibility at lower levels, with less guidance and supervision.<sup>184</sup> In order to achieve full transformation to an integrity organization, however, the Army must also incentivize ethical behavior.

### 3. *Organizational Incentives for Ethical Decision-Makers*

How the Army deals with violations of rules and values either incentivizes ethical conduct or underwrites unethical conduct by focusing on bureaucratic requirements.<sup>185</sup> In the compliance mode, the focus is on enforcement, not on commitment to the organization's underlying values.<sup>186</sup> Punishment of non-compliant behavior disempowers employees who take action in "blind adherence to the code of conduct."<sup>187</sup> All actions must comply with the rules, or negative consequences occur—with little room for the exercise of independent judgment or decision-making.<sup>188</sup> Individuals within this mode feel that they have little control over situations or decision-making.<sup>189</sup> They are "less likely to hold their

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Subordinates then exercise disciplined initiative to respond to unanticipated problems. Every [s]oldier must be prepared to assume responsibility, maintain unity of effort, take prudent action, and act resourcefully within the commander's intent.

*Id.*

<sup>183</sup> Case et al., *supra* note 171, at 8. "The fundamental characteristic of the Army necessary to provide decisive landpower is operational adaptability—the ability of Army leaders, [s]oldiers, and civilians to shape conditions and respond effectively to a broad range of missions and changing threats and situations with appropriate, flexible, and responsive capabilities." TRADOC PAM. 525-3-0, *supra* note 33, para. 3-3.

<sup>184</sup> ADRP 1, *supra* note 55, para. 2-6.

<sup>185</sup> WONG & GERRAS, *supra* note 39, at 11–12.

<sup>186</sup> Rossouw & van Vuuren, *supra* note 87, at 397.

<sup>187</sup> *Id.*

<sup>188</sup> Wilson, *supra* note 149, at 175.

<sup>189</sup> For example, reporting motor-pool readiness one officer stated,

I sat in a log synch and they're like, "what's your vehicle percentage?" I said, "I'm at 90%." [But] if [anyone] told me to move them tomorrow, [I knew] they would all break. For months and months and months we reported up "90%, [g]ood-to-go on vehicles!"—knowing

behavior to their own moral standards,” and may rationalize behavior that violates the organizational values.<sup>190</sup> In this type of situation, the organization may perform very efficiently, but there is little commitment to using organizational values to make decisions.<sup>191</sup>

In the integrity mode, the organization cedes some measure of control over individual action, and some enforcement of ethical behavior to the individual.<sup>192</sup> The integrity mode relies heavily on the independent judgment of individual actors.<sup>193</sup> It necessitates that individuals receive qualitative decision-making training and rewards ethical behavior.<sup>194</sup> The organization places less emphasis on punishment or monitoring for compliance, but retains a compliance framework as a safety-net.<sup>195</sup>

In order to move from the compliance mode to the integrity mode, the Army needs to incentivize ethical behavior by incorporating ethical decision-making as a key component in performance evaluations, and holding individuals who make ethical decisions out as exemplars.<sup>196</sup> In the integrity mode, the Army will need to provide external guidance through professional development and on-going training, rather than simply subjecting individuals to external control.<sup>197</sup> The Army wants decision-makers to strive to make ethical decisions by applying values and

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that it didn't matter because it carried no weight. It literally was just filling a box on a slide.

WONG & GERRAS, *supra* note 39, at 9.

<sup>190</sup> Barnes & Leavitt, *supra* note 71, at 46. One example is officers lying about the completion of mandatory training. “Eventually words and phrases such as ‘hand waving, fudging, massaging, or checking the box’ would surface to sugarcoat the hard reality that in order to satisfy compliance with the surfeit of directed requirements from above, officers resort to evasion and deception.” WONG & GERRAS, *supra* note 39, at 8.

<sup>191</sup> Imiola & Cazier, *supra* note 60, at 12. “Any code whose underlying function is merely effectiveness will work equally well for the unjust warrior as for the just warrior . . . . Our professional military ethic must truly point toward ethical conduct and not mere expediency.” *Id.*

<sup>192</sup> Rossouw & van Vuuren, *supra* note 87, at 398.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

<sup>195</sup> *Id.* at 389.

<sup>196</sup> *Id.* (stating that the integrity approach requires systems for evaluating and rewarding ethical performance); *see also* Case et al., *supra* note 171, at 10. “[T]he Army must be self-regulating and that falls on the shoulders of leaders at all levels. If the Army fails to self-regulate its ethic, it is quite justifiable that those external to the profession must do so on its behalf, which degrades the autonomy and legitimacy of the profession.” *Id.*

<sup>197</sup> Rossouw & van Vuuren, *supra* note 87, at 398.

rules to the information available at the time, and to exercise independent judgment.<sup>198</sup>

Leaders who emphasize compliance with rules over the exercise of ethical judgment take opportunities for ethical decision-making away from individuals, and increase resentment.<sup>199</sup> Leaders who fail to tolerate some level of imperfection inhibit soldiers from taking action.<sup>200</sup> Overemphasis on compliance decreases individual motivation and inclination to creatively tackle problems,<sup>201</sup> and may impair the operational adaptability of the individual and the overall morale of the unit.<sup>202</sup> Alternately, emphasizing commitment to organizational values encourages ethical decision-making and increases the overall morale and operational adaptability of the unit.<sup>203</sup>

A successful ethics training program in the integrity mode emphasizes internalization of the organization's values and rules and focuses on developing the individual's commitment to them.<sup>204</sup> Members of the organization need guidance and training to develop the skills necessary to make ethical decisions.<sup>205</sup> The Army adopted doctrinal changes to facilitate transformation from a compliance organization to an integrity organization. Now, the Army must undertake a qualitative review and revision of its current ethics training paradigm to complete the transformation.

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<sup>198</sup> ADP 6-0, *supra* note 34, para. 6.

<sup>199</sup> ADRP 6-22, *supra* note 33, para. 6-6.

<sup>200</sup> James A. McGrath & Gustaf E. Anderson III, *Recent Work on the American Professional Military Ethic: An Introduction and Survey*, 30 AM. PHIL. Q. 187, 196-97 (1993); *see also* Roetzel, *supra* note 11, at 84.

[W]hen the capacity and freedom to exercise professional discretion are absent, a false dichotomy can arise in the [s]oldier's mind between doing what is "right" and doing what is "legal." This can lead [s]oldiers to assume a "survival mentality," which asserts "I'm not going to risk doing what I think is right, and end up going to jail for it. If I follow the rules, they can't hold me responsible for what goes wrong."

*Id.*

<sup>201</sup> ADRP 6-22, *supra* note 33, para. 6-6.

<sup>202</sup> *Id.*

<sup>203</sup> ADP 6-0, *supra* note 34, para. 12.

<sup>204</sup> Rossouw & van Vuuren, *supra* note 87, at 398.

<sup>205</sup> *Id.*

## V. Proposing a New Strategy to Improve the Success of Ethics Training

### A. Moving in the Right Direction.

Transitioning from the compliance mode to the integrity mode usually begins with “a comprehensive and deep diagnosis of the corporate ethical culture and current state of ethical behavior.”<sup>206</sup> In 2010, the Secretary of the Army and the Chief of Staff of the Army ordered Training and Doctrine (TRADOC) Command to review the impact years of protracted warfare has had on members of the Army profession.<sup>207</sup> The review resulted in the publication of new doctrine and the development of a professional education and training program entitled *America’s Army—Our Profession* (otherwise known as the AAOP training program).<sup>208</sup> This knowledge-based training program targeted all members of the Army profession. Subsequent calendar year training included *America’s Army—Our Profession—Stand Strong*<sup>209</sup> in 2014, and currently, for fiscal year 2015–2016, includes *America’s Army—Our Profession—Living the Army Ethic*.<sup>210</sup> In June 2015, the Army published the *Army Ethic*,<sup>211</sup> which

define[d] the moral principles that guide us in the conduct of our missions, performance of duty, and all aspects of life. Our ethic is reflected in law, Army [v]alues, creeds oaths, ethos, and shared beliefs embedded within Army culture. It inspires and motivates all of us to make right decisions and to take right actions at all times.<sup>212</sup>

This updated doctrine emphasizes the importance of ethical decision-making at all stages of career development.<sup>213</sup> Development and distribution of the Army Ethic and the new training program reflect the Army’s interest in moving beyond compliance management and into an integrity mode of managing ethics.

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<sup>206</sup> *Id.*

<sup>207</sup> All Army Activities Message, 189/2014/291040Z July 14, U.S. Dep’t of Army, subject: ALARACT Announcement of the Army’s Fiscal Year 2015–2016 America’s Army—Our Profession Theme “Living the Army Ethic” [hereinafter ALARACT 189/2014].

<sup>208</sup> *Id.*

<sup>209</sup> *Id.*

<sup>210</sup> *Id.*

<sup>211</sup> Army Ethic White Paper, *supra* note 23, at 11. The Army Ethic was incorporated into the newest version of ADRP 1, not published as a stand-alone document. ADRP 1, *supra* note 55.

<sup>212</sup> Army Ethic White Paper, *supra* note 23, at 11.

<sup>213</sup> *Id.*

The AAOP training program requires each unit to hold a professional development session annually, following the specific theme for that calendar year.<sup>214</sup> In 2016, training focuses on specific sections of the Army Ethic.<sup>215</sup> The Center for the Army Profession and Ethic (CAPE) leads the ongoing efforts to modify Army doctrine to focus more heavily on adhering to our profession's moral obligations.<sup>216</sup> This new, holistic approach to teaching ethics encourages all Army professionals to "seek to discover the truth, decide what is right, and to demonstrate the character, competence, and commitment to act accordingly . . . ."<sup>217</sup>

The Center for the Army Profession and Ethic provides some training material for the implementation of the program, but recognizes the insufficiency of annual training alone by stating that the material "will enhance planning and conduct of professional development activities in support of this program . . . ."<sup>218</sup> This language implies that the provided material should not be the entirety of the program.<sup>219</sup> Implementation instructions require commands to foster positive command climates and to develop their own professional development programs that "integrate Army Profession Doctrine throughout education training, operations, after-action reviews, and in coaching, counseling, and mentoring."<sup>220</sup>

A requirement for measurable/quantifiable impact is notably absent from the implementation instructions.<sup>221</sup> Instead of a measuring success by focusing on the quantity of soldiers who receive the training, the focus is instead on the qualitative goal "to generate shared understanding of the central role of the Army Ethic in explaining, inspiring, and motivating why and how we serve."<sup>222</sup> The desired outcome is for Army professionals to act "consistent[ly] with the Army Ethic, reflecting a shared understanding for why and how we serve in defense of the American people. As trustworthy Army professionals, we are honorable servants, military

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<sup>214</sup> ALARACT 189/2014, *supra* note 207.

<sup>215</sup> *Id.*

<sup>216</sup> ARMY ETHIC WHITE PAPER, *supra* note 23, at 12.

<sup>217</sup> ALARACT 189/2014, *supra* note 207.

<sup>218</sup> *Id.*

<sup>219</sup> *Id.*

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

<sup>222</sup> *Id.* Shared understanding is a mission command concept. "Shared understanding and purpose form the basis for unity of effort and trust. Commanders and staffs actively build and maintain shared understanding within the force and with unified action partners by continual collaboration throughout the operations process (planning, preparation, execution, and assessment)." ADRP 6-0, *supra* note 25, para. 2-9.

experts, and stewards of the people and resources entrusted to our care.”<sup>223</sup> The Army Ethic moves beyond a simple list of values towards an integrated doctrinal publication emphasizing the strategic importance of ethical behavior and ethical decision-making.<sup>224</sup>

The development, distribution, and training on the Army Ethic increases the ethical knowledge-base of the decision-makers in the Army. However, in order to complete the shift from a compliance mode organization to an integrity mode organization the Army must address the application gap. Addressing the application gap requires an application-based training strategy designed to develop decision-makers who internalize and commit themselves to the Army’s organizational values, as represented in the Army Ethic.

#### B. Defining the PRICE Strategy for Ethics Training

The PRICE strategy specifically targets the gap existing between knowledge of values and rules and the application of that knowledge to complex and morally ambiguous situations. This strategy proposes

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<sup>223</sup> ALARACT 189/2014, *supra* note 207.

<sup>224</sup> ARMY ETHIC WHITE PAPER, *supra* note 23, at 3. Specifically, the drafters note:

Failure to publish and promulgate the Army Ethic in doctrine; Neglects the explicit inclusion of moral and ethical reasoning informing Army [v]alues-based decisions and actions under Mission-Command; Fails to inspire our shared identity as Trustworthy Army Professionals and our Duty to uphold ethical standards; Compromises our ability to develop and certify the Character of Army Professionals, essential to Trust; Continues misunderstanding among the Army Profession cohorts concerning the vital role that each plays in ethical conduct of Mission Command; Concedes that legalistic, rules-based, and consequential reasoning dominate Soldier and Army Civilian decisions; and Permits the continuation of dissonance between our professed ethic and nonconforming institutional policies and practices.

*Id.* Drafters further noted, “The Army Ethic is an integrated and coherent whole. It may be discussed in segments or in part for instructional purposes, but altogether it applies to what an Army [p]rofessional is and does, everywhere, always.” ADRP 1, *supra* note 55, para 3-9. The DoD and the Army also utilize other existing tools to assess ethical issues, such as the Center for Army Leadership’s Annual Survey, Annual Survey of the Army Profession, Army’s Peer and Advisory Survey, Army’s Leadership Behavioral Scale, Tailored Adaptive Personality Assessment System, and 360 degree assessments. None of these tools are designed specifically to assess ethical behavior or decision-making. GAO Report on Military Ethics, *supra* note 5 at 15.

improving the quality of ethics training in the U.S. Army, while rejecting any notion that simply increasing the number of hours devoted to ethics training will resolve the application gap.<sup>225</sup> It requires an acknowledgement by the institutional Army that the current ethics training program fails to fully address the needs of the Army.<sup>226</sup> Meaningful reform will require revision and adaptation of the training regime at all levels, from strategic to tactical. Once the Army acknowledges the existence of an application gap, then implementation of the PRICE strategy can effectively address the problem.

Each of the five prongs of the PRICE strategy deal with particular elements of ethics training. *Progressive* training represents the strategy's temporal element. Training on ethical decision-making should begin when soldiers enter the military, and should continue throughout military service.<sup>227</sup> Training over the course of a career encourages constant internalization of, and commitment to, the Army Values;<sup>228</sup> it prepares individuals to make crucial, ethical decisions.<sup>229</sup> *Reflective* training is a method that gives decision-makers opportunities to review ethical decisions and develop a "bank" of experiences to draw from when facing ethical dilemmas.<sup>230</sup> Decision-makers review and reflect not only on their own decision, but also on decisions made by peers, seniors, and subordinates.<sup>231</sup> Soldiers make grave decisions requiring a depth of understanding only achievable through *Integrated* training. This training

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<sup>225</sup> GAO Report on Military Ethics, *supra* note 5 at 15. "Our work on human capital states that agencies should strategically target training to optimize employee and organizational performance by considering whether expected costs associated with proposed training are worth the anticipated benefits over the short and long terms." *Id.*

<sup>226</sup> When discussing the overall DoD ethics program, the GAO found that by failing to provide targeted training, or assessing the feasibility of training the entire force, the agency "may be missing opportunities to promote and enhance DoD employees' familiarity with values-based ethical decision-making." *Id.*

<sup>227</sup> ADRP 7-0, *supra* note 15, para. 1-5 (discussing overall training).

<sup>228</sup> "[C]haracter doesn't just develop in the heat of battle or a time of crisis. It develops from the consistent application of moral values and ethical behavior throughout one's military career." EDGAR F. PURYEAR, JR., *AMERICAN GENERALSHIP* 360 (2000).

<sup>229</sup> ADRP 7-0, *supra* note 15, para. 2-26.

<sup>230</sup> "Reflection involves a person (or group) thinking about, writing about, and discussing in detail an experience, idea, value, or new knowledge." Joe Doty & Walter Sowden, *Competency vs. Character? It Must Be Both!*, *MIL. REV.* Nov.–Dec. 2009, at 38; *see also* Jan L. Jacobwitz & Scott Rogers, *Mindful Ethics—A Pedagogical and Practical Approach to Teaching Legal Ethics, Developing Professional Identity, and Encouraging Civility*, 4 *ST. MARY'S J. LEGAL MALPRACTICE & ETHICS* 198, 213 (2014) (finding that memories help to make sense of data and allow individuals to make decisions).

<sup>231</sup> ADRP 7-0, *supra* note 15, para. 3-73.

incorporates organizational values, rules appropriate to the soldiers' rank and position, and develops decision-making processes.<sup>232</sup> Decision-makers learn to make ethical decisions in regularly recurring military ethical dilemmas. The *Comprehensive* prong of the strategy redefines the scope of training. Comprehensive training incorporates ethical decision-making processes into everyday life and teaches decision-makers how to make ethical choices the norm. This prong gives decision-makers opportunities to develop stronger ethical reasoning skills for more ethically complex situations as they progress through the ranks. *Experiential* training takes soldiers out of the classroom vacuum and forces them to make ethical decisions in real-world scenarios.<sup>233</sup> In order to reflect on ethical decisions, decision-makers must be given the opportunity to experience ethical dilemmas.<sup>234</sup> Through experience and reflection, decision-makers develop increasingly sophisticated ethical reasoning skills.<sup>235</sup>

The objective of the PRICE strategy for ethics training is to close the application gap by developing decision-makers who internalize the Army Ethic, commit themselves to using those values and rules to make ethical decisions, and possess the ethical reasoning skills to make ethical decisions in morally ambiguous and complex situations. Ultimately, this strategy supports the Army's transformation from the compliance mode of managing ethics to the integrity mode. This strategy will increase both individual and organizational operational adaptability to fight and win the nations wars.<sup>236</sup>

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<sup>232</sup> *Id.* para. 2-21.

<sup>233</sup> John R. Schafer, *Making Ethical Decisions*, FBI LAW ENFORCEMENT BULLETIN, May 2002, at 14. "Contrived scenarios in the classroom differ significantly from real-life ethical dilemmas." *Id.* See also Jacobowitz & Rogers, *supra* note 230, at 198, 214.

<sup>234</sup> ADRP 7-0, *supra* note 15, paras. 2-21–2-25.

<sup>235</sup> Jacobowitz & Rogers, *supra* note 230, at 214 n.55.

<sup>236</sup> TRADOC PAM.525-3-0, *supra* note 33, para. 5(b).

The Army must maintain a credible, robust capacity to win decisively . . . . This places a premium on operational adaptability . . . . Operational adaptability requires resilient [s]oldiers and cohesive teams that are able to overcome the psychological and moral challenges of combat, proficient in the fundamentals, masters of the operational art, and cognizant of the human aspects of conflict and war.

*Id.*

### C. *Progressive Training*

Progressive decision-making training should build on the individual's knowledge and experience level. "[L]eader development and education programs must account for prior knowledge and experience by assessing competencies and tailoring instruction to [s]oldiers' existing experience levels.<sup>237</sup> These programs must also adjust to take advantage of changes in leader and [s]oldier experiences over time."<sup>238</sup> As soldiers mature, their judgment will also mature.<sup>239</sup> Training must also evolve.<sup>240</sup> Decision-makers need greater exposure to complex and morally ambiguous situations as they progress through their careers.<sup>241</sup> The situations decision-makers encounter today will not be the same as those they will encounter in ten years.<sup>242</sup> The Army requires soldiers who can adapt to changing situations and continue to make ethical decisions in ever-changing operational environments.<sup>243</sup>

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<sup>237</sup> *Id.* para. 4-6(c)

<sup>238</sup> *Id.*

<sup>239</sup> Imiola & Cazier, *supra* note 60, at 16.

<sup>240</sup> Martin L. Cook, *Moral Reasoning as a Strategic Leader Competency*, AIR UNIVERSITY, [http://www.au.af.mil/au/awc/awcgate/army-usawc/moral\\_dev.pdf](http://www.au.af.mil/au/awc/awcgate/army-usawc/moral_dev.pdf) (last visited June 28, 2016).

<sup>241</sup> *Id.*

For the direct leader of troops, it may be adequate if one maintains one's integrity and tells the truth. And, more importantly, it may be perfectly clear in most or all circumstances which courses of action are morally right in the more defined areas or direct and even organizational leadership. In the more complex and multifaceted environment of strategic leadership, in contrast, moral decision making is far more complex.

*Id.* See also Ludwig & Longenecker, *supra* note 50 ("[E]ven successful leaders need both the input, direction, and support of a governing body to be prevented from falling into the dark side of success.").

<sup>242</sup> TRADOC PAM. 525-3-0, *supra* note 33, para. 2-1(b).

<sup>243</sup> Case et al., *supra* note 171, at 3. "With ongoing change in the world balance of power and rapid advances in technology, the Army [p]rofession's practice of warfare continuously evolves. However, the moral principles of the Army Ethic . . . are timeless and enduring." ADRP 1, *supra* note 55, para. 3-17.

Operational adaptability requires every professional [s]oldier to understand his or her situation in depth and context. In the midst of complexity and uncertainty, the character of warfare may change, yet the fundamental duty of the Army and its [s]oldiers to employ force with competence and character in defense of the Nation and its interest does not change. The duty of the Army endures across all contexts along the spectrum of conflict.

To increase decision-makers ability to adapt to changing circumstances, commanders must provide opportunities to participate in formal and informal training events focused on ethical decision-making.<sup>244</sup> Commanders must develop strong command programs emphasizing ethical decision-making.<sup>245</sup> Commanders should rely on the expertise of the judge advocate and chaplain to tailor training programs to the audience. All three should work together to improve training and to communicate the importance and practicality. Senior members of the unit should train on more complex and morally ambiguous scenarios than do junior soldiers.<sup>246</sup> Commanders should take every available opportunity to recognize individuals for ethical decision-making, encourage further training, and promote personal development in ethical decision-making. Highlighting good ethical behavior incentivizes others to act in similar ways.<sup>247</sup>

Progressive training aids in the Army's transition toward the integrity mode by recognizing the need for "ongoing communication and induction of new employees."<sup>248</sup> The Army faces unique challenge because of the significant number of new trainees joining each year, and because those who leave take the institutional memory with them.<sup>249</sup> Additionally, progressive training allows leaders to mitigate this challenge by providing opportunities for each new recruit to begin internalization of and commitment to the Army's organizational values immediately.<sup>250</sup>

The Army should develop a career progression model for ethical decision-making training incorporating operational, institutional, and self-development training.<sup>251</sup> Progressive training focusing on application of

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*Id.*

<sup>244</sup> ADRP 7-0, *supra* note 15, para. 1-10.

<sup>245</sup> *Id.* para.3-4.

<sup>246</sup> Cook, *supra* note 240 (describing how at the strategic level "moral reasoning operates at various levels and moral issues arise at new levels of complexity).

<sup>247</sup> Rossouw & van Vuuren, *supra* note 87, at 398.

<sup>248</sup> *Id.*

<sup>249</sup> *Id.*

<sup>250</sup> *Id.* "An integrity mode of ethics management has transformational proportions—as such deep cultural organizational change is effected over time." *Id.*

<sup>251</sup> AR 350-1, *supra* note 8, para. 1-10. Army training occurs on three levels, operational, institutional, and self-development, all requiring synchronization. *Id.* "Training builds confidence and competence while providing essential skills and knowledge." *Id.* "Leader development is the deliberate, continuous, sequential, and progressive process—grounded in Army values—that develops [s]oldiers and Army civilians into competent and confident leaders capable of decisive action, mission accomplishment, and taking care of [s]oldiers

ethical decision-making processes works in conjunction with knowledge-based training holistically to develop ethical decision-makers. Constant and consistent development of decision-makers requires institutional patience and reflective examination of ethical dilemmas on the individual and organizational levels.

#### D. Reflective Training

The Reflective prong of the PRICE strategy provides a method to develop ethical decision-making skills. Individuals must make ethical decisions and then be given the opportunity to reflect on all aspects of the decision-making process.<sup>252</sup> This reflective training method will lead to internalization of and commitment to organizational values.<sup>253</sup> Reflective training gives soldiers a “bank” of experiences to draw from when making decisions.<sup>254</sup> “The moral insight necessary to render sound moral judgment requires considerable study,” and that study must include conversations and reflection on the moral principles that govern the

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and their [f]amilies.” *Id.* Ethical decision-making needs to be incorporated into both training and leadership development.

<sup>252</sup> Jacobowitz & Rogers, *supra* note 230, at 219.

[O]nce armed with knowledge, the path to practical wisdom or professional judgment and effective decision-making involves not only knowledge and experience, but also an awareness of the thoughts, feelings, and bodily sensations influencing your thinking . . . . By pausing to gain insight into what is influencing your thought process, you may be able to reflect and more consciously deliberate to thoughtfully decide upon a response rather than quickly react in a regrettable manner.

*Id.*

<sup>253</sup> Rossouw & van Vuuren, *supra* note 87, at 398.

<sup>254</sup> *Id.* at 215. In the field of legal ethics, the University of Miami School of Law developed an experiential professional ethics program. *Id.* It is a full semester long and involves a combination of reading, discussions, role-playing, and mindful reflective exercises. *Id.* The students in the program are:

[E]ngaged in grappling with real-world ethical dilemmas designed to create a frame of reference or set of emotional memories that the students may be able to intuitively access in the future. In other words, the goal is implicit, internalized learning resulting from experience as opposed to the explicit rote memorization of rules that often remains barely long enough to take an exam.

*Id.* at 233.

military profession.<sup>255</sup> Reflection forces individuals to examine actions from multiple perspectives, removes them from their comfort zones, and forces them to discuss things that they would rather not.<sup>256</sup> Breaking away from normal experiences and forcing discussion and reflection on ethical dilemmas leads to individual transformation.<sup>257</sup> Reflective exercises encourage growth through experience.<sup>258</sup>

Decision-makers who complete reflective exercises will remain engaged in the ethical decision-making process.<sup>259</sup> Participation in reflective training will help to prevent moral disengagement that can lead to unethical behavior.<sup>260</sup> Individuals given the opportunity to reflect on prior ethical decisions are better equipped to avoid moral disengagement when presented with morally ambiguous situations.<sup>261</sup> Commanders must remain actively engaged in the reflective process.<sup>262</sup> It is not enough for the commander to emphasize the importance of ethics once a year.

Leaders must recognize that values can change during significant emotional events, and assess small unit

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<sup>255</sup> Imiola & Cazier, *supra* note 60, at 17.

<sup>256</sup> Doty & Sowden, *supra* note 230, at 41.

<sup>257</sup> *Id.* (asserting that reflection causes cognitive dissonance, challenging beliefs and leading to change).

<sup>258</sup> Jacobwitz & Rogers, *supra* note 230, at 214 n.55.

<sup>259</sup> Barnes & Leavitt, *supra* note 71, at 50.

<sup>260</sup> *Id.* (moral disengagement); *see also* WONG & GERRAS, *supra* note 39, at 17 (describing ethical fading which “allows Army officers to transform morally wrong behavior into socially acceptable conduct by dimming the glare and guilt of the ethical spotlight”).

<sup>261</sup> Barnes & Leavitt, *supra* note 71, at 50.

<sup>262</sup> ADRP 7-0, *supra* note 15, para. 1-16. The Army already archives and requires units to submit “lessons learned” to a centralized clearinghouse. U.S. DEP’T OF ARMY, REG., ARMY LESSONS LEARNED PROGRAM para. 2-8 (1 Apr. 2016). The Army Lessons Learned Program (ALLP):

Supports a fully integrated lessons sharing culture. The integration of lessons and best practices from training and operations is part of the Army culture and an accepted practice throughout the force. The systemic and continuous implementation of organizational requirements outlined in this regulation is critical to the success of the program. The ALLP supports rapid adaptation of leaders and units throughout the operations process (plan, prepare, execute, and assess). ACOMs, units, and organizations at all levels share their lessons and best practices continuously to improve performance and efficiency and to save lives across the force.

*Id.* para. 1-6(g) (emphasis added).

cohesiveness and the underlying values present in such groups. Commanders make a mistake assuming that once inculcated, every unit forever retains good organizational values. Values need constant reinforcement, and commanders must monitor the values of small groups in their organizations to determine if they meet the standards of their institution.<sup>263</sup>

Encouraging leaders to constantly assess ethical decisions made by decision-makers in the organization encourages rapid adaptation, which is a force multiplier in the current climate.<sup>264</sup> Decision-makers who participate in reflective ethics training develop “practical wisdom”<sup>265</sup> and “[t]he person possessing ‘practical wisdom may evaluate a situation and agilely apply general principles to particular facts to discern all of the relevant considerations and thereby develop a strategic solution.’”<sup>266</sup>

Reflective discussion should occur regularly in both peer-to-peer groups and in senior-subordinate mentor relationships.<sup>267</sup> Training should also emphasize the importance of individual reflection.<sup>268</sup> Both commanders and the Army’s TRADOC should rely on the expertise of JAs and chaplains to develop reflective ethical decision-making training throughout the training domains.

Participation in reflective training will increase individual internalization of the Army’s organizational values by encouraging examination of action in light of organizational values. Once the individual internalizes and commits to the organizations’ values, the Army needs individuals to engage in ethical decision-making.<sup>269</sup> Reflective training empowers decision-makers to evaluate and compare the intended action with all the available courses of action using ethical decision-making tools.<sup>270</sup> Continuous exposure to, and reflection on, ethical

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<sup>263</sup> Robert Rielly, *The Inclination for War Crimes*, MIL. REV. May–June 2009, at 52, 58.

<sup>264</sup> Reed et al., *supra* note 38, at 58. See also Imiola & Cazier, *supra* note 60, at 16 (describing how principles require the use of discretionary judgment).

<sup>265</sup> Jacobowitz & Rogers, *supra* note 230, at 205.

<sup>266</sup> *Id.*

<sup>267</sup> ADRP 7-0, *supra* note 15, para. 2-8.

<sup>268</sup> Roetzel, *supra* note 11, at 81–82.

<sup>269</sup> Rossouw & van Vuuren, *supra* note 87, at 392.

<sup>270</sup> ADRP 7-0, *supra* note 15, para. 2-26.

dilemmas throughout their careers provides decision-makers concrete opportunities to develop ethical reasoning skills for future use.<sup>271</sup>

#### E. *Integrated Training*

The *Integrated* prong provides the depth element of the PRICE strategy. Integrated training incorporates the Army's organizational values, rules applicable to the decision-makers rank and position, and decision-making processes into non-classroom training environments.<sup>272</sup> Integrated training that references situations decision-makers encounter at their rank and experience level will prepare them for future promotion and leadership positions.<sup>273</sup> "The Army must develop its capacity for accelerated learning that extends from organizational levels to the individual [s]oldier, and tests their knowledge, skills, and abilities in the most unforgiving environments."<sup>274</sup> Traditional garrison operations provided the luxury of time and resources to allot to training.<sup>275</sup> Today's operational tempo is much quicker, requires action in a variety of environments, and necessitates training that maximizes training opportunities with limited resources.<sup>276</sup> Integrated training will decrease the application gap by teaching members to apply organizational values

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<sup>271</sup> TRADOC PAM. 525-3-0, *supra* note 33, App. B-8. "The future Army requires the capability to provide leaders at all echelons who are critical and creative thinkers with highly refined problem solving skills that can process data and information into usable knowledge to develop strategic thinkers in decisive action in support of unified land operations." *Id.*

<sup>272</sup> ADRP 7-0, *supra* note 15, para. 2-6, 2-8 (training as you fight and training while operating).

<sup>273</sup> ALARACT 189/2014, *supra* note 207.

<sup>274</sup> TRADOC PAM. 525-3-0, *supra* note 33, para.4-6(a).

<sup>275</sup> For example, an article about the Robin Sage training exercise for Special Forces states,

[I]n the pre-9/11 days, Robin Sage was as much of a training event for the conventional Army as it was for the Special Forces students. The conventional [s]oldiers would be red-cycled—tasked to play the enemy and some of the guerilla forces—so they were able to train in their tactics, techniques, and procedures at the same time. With the current operations tempo, there are fewer G-forces, but the training is as intensive.

Janice Burton, *World's Foremost Unconventional Warfare Exercise Turns 35*, SPECIAL WARFARE, Mar.-Apr. 2009, at 14, 17.

<sup>276</sup> ADRP 7-0, *supra* note 15, para. 1-4. Units are encouraged to develop concurrent training involving more than one echelon or involving tasks not directly related to the exercise in order to maximize the use of resources. *Id.* para. 2-16–2-17.

and rules within their particular Military Occupational Specialty (MOS) training.<sup>277</sup> Further, integrated training will increase the soldiers' understanding of the effects their decisions have on other individuals and on the organization as a whole. Discussion should include topics such as the deleterious effects on the organization when individuals rationalize unethical behavior.<sup>278</sup>

Failure to incorporate and integrate ethical decision-making into all phases of training and operations deemphasizes its importance<sup>279</sup> and "provides a fertile environment for cutting corners to the easier wrong instead of taking time to do the harder right. These 'paths of least resistance' can force people to act unethically in order to achieve milestones or meet operational requirements."<sup>280</sup> The qualitative shift to integrate ethical decision-making into training scenarios and operations, instead of focusing on checklists of rules, will enhance decision-makers' ability to adapt to complex situations. Including this integrated ethical decision-making training should not increase already burdensome quantitative training.<sup>281</sup>

Proactive integration of ethical decision-making into all training and operations will "raise the ethical performance"<sup>282</sup> of the Army and move it along the continuum to become an integrity organization. Army decision-makers, like corporate employees, "need to get into the habit of discussing the ethical dimension of their work. No decision should be considered complete unless the ethical dimension thereof has been

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<sup>277</sup> TRADOC PAM. 525-3-0, *supra* note 33, App. B-8.

Future Army forces require the capability to train and educate leaders, [s]oldiers, and civilians using a continuous adaptive learning model that develops the initial, functional and professional skills, knowledge and attributes to provide the fundamental technical and tactical competence necessary to conduct decisive action in support of unified land operations.

*Id.* See also ADRP 7-0, *supra* note 15, para. 1-6.

<sup>278</sup> WONG & GERRAS, *supra* note 39, at 33.

<sup>279</sup> Doty & Sowden, *supra* note 230, at 43.

<sup>280</sup> Mark S. Patterson & Janet E. Phipps, Ethics: Redirecting the Army's Moral Compass at 13 (Apr. 24, 2002) (unpublished Senior Service College Fellowship Research Paper) (on file with the Army War College).

<sup>281</sup> WONG & GERRAS, *supra* note 39, at 30 (urging restraint when issuing mandatory training directives).

<sup>282</sup> *Id.*

contemplated.”<sup>283</sup> Integrating ethical decision-making into all training and operations will encourage decision-makers to internalize and commit to Army organizational values, and will move the organization toward the integrity mode.

#### F. *Comprehensive* Training

The *Comprehensive* prong of the PRICE strategy describes the breadth of the scope of ethical decision-making training. Comprehensive training incorporates ethical decision-making processes at all decision points. Army decision-makers encounter situations where they must make ethical decisions on a regular basis.<sup>284</sup> Therefore, regular training in ethical decision-making is necessary to develop ethical decision-making skills.

Regulatory guidance specifically prescribes formal institutional training and unit level training requirements and requires training to be conducted to particular standards.<sup>285</sup> In the ethics realm, formal training includes annual Law of Armed Conflict, Standards of Conduct, and JER briefings as prescribed by AR 350-1.<sup>286</sup> Outside of the formal institutional training, leaders have significant opportunity to develop creative training in ethical decision-making.<sup>287</sup> Annual ethics reviews with attendance limited to senior leaders is insufficient to develop ethical decision-makers throughout the Army. Commanders, chaplains, and judge advocates, retain primary responsibility for ethics training,<sup>288</sup> but every soldier makes decisions and every soldier contributes valuable insight to the ongoing ethics dialogue.<sup>289</sup> Commanders can leverage the experience and expertise of all unit personnel to expand and enhance ethical decision-making training opportunities outside of those prescribed in regulatory guidance.

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<sup>283</sup> Rossouw & van Vuuren, *supra* note 87, at 398.

<sup>284</sup> TRADOC PAM. 525-3-0, *supra* note 33, para. 4-6(b) “[A]rmy forces empower increasingly lower echelons of command with the capabilities, capacities, authorities, and responsibilities needed to think independently and act decisively, morally, and ethically. Decentralized execution guided by the tenets of mission command places increased responsibility on [s]oldiers to make decisions with strategic, operational, and tactical implications.” *Id.*

<sup>285</sup> AR 350-1, *supra* note 8, tbl. G-1.

<sup>286</sup> *Id.* para. G-4.

<sup>287</sup> See also ADRP 7-0, *supra* note 15, para. 1-6 (empowering subordinates to develop training at lower levels).

<sup>288</sup> See AR 27-1, *supra* note 25 (describing responsibilities for ethics training).

<sup>289</sup> Doty & Sowden, *supra* note 230, at 44 (claiming that peer interaction is an effective developmental tool).

In the absence of formal guidance, unit commanders, other leaders, judge advocates, and chaplains can expand professional development programs by incorporating ethical decision-making into daily missions.<sup>290</sup> Command emphasis imparts significant importance to the training.<sup>291</sup> Commanders emphasize the importance of ethical decision-making by modeling ethical behavior and incorporating ethical decision-making into the training and operations process. Modeling helps other decision-makers internalize organizational values by seeing the values in practice.<sup>292</sup>

Opportunities abound to incorporate ethics training during routine mission accomplishment. For example, during operations briefings, leaders can encourage subordinates to identify the commander's intent and the implied missions. "This provides an opportunity to explore how one goes about the process of recognizing considerations that are not explicitly stated and why an understanding of the commander's overall intent is important for correctly carrying out specific tasks."<sup>293</sup>

Comprehensive training can also be incorporated in operations planning when the staff must plan, prepare, and execute the commander's intent, while constantly performing assessments.<sup>294</sup> Utilizing the military decision-making process (MDMP), staff officers can incorporate ethics concerns.<sup>295</sup> The MDMP consists of seven steps, normally completed sequentially, but which may be revised as necessary as new information becomes available.<sup>296</sup> The steps are: (1) receipt of mission; (2) mission analysis; (3) course of action development; (4) course of action analysis; (5) course of action comparison; (6) course of action approval; and (7) orders production, dissemination, and transition.<sup>297</sup> Similarly, an ethical decision-making model in the JER provides ten steps to making an ethical decision:

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<sup>290</sup> *Id.* para. 2-6-2-8.

<sup>291</sup> *Id.* para. 1-15.

<sup>292</sup> Rielly, *supra* note 263, at 54. "The lesson for leaders at all levels is to ensure the quality of the training matches the subject's importance and that they constantly conduct, integrate, and reinforce it." *Id.*

<sup>293</sup> Roetzel, *supra* note 11, at 82.

<sup>294</sup> ADP 5-0, *supra* note 129, para. 34.

<sup>295</sup> *Id.* The MDMP is "an iterative planning methodology to understand the situation and mission, develop a course of action, and produce an operation plan or order." *Id.* para. 32.

<sup>296</sup> *Id.* para. 34.

<sup>297</sup> *Id.* para. 32.

1. Define the problem.
2. Identify the goals.
3. List appropriate laws or regulations.
4. List the ethical values at stake.
5. Name all the stakeholders.
6. Gather additional information.
7. State all feasible solutions.
8. Eliminate unethical options.
9. Rank the remaining options according to how close they bring you to your goal, and solve the problem.
10. Commit to and implement the best ethical solution.<sup>298</sup>

The first two steps in the JER model already exist in the receipt of mission and mission analysis portions of the MDMP. Specific inclusion of the remainder of the JER model into the mission analysis and course of action development would provide staff officers the opportunity to recognize and analyze ethical issues and to develop ethical solutions drawing on the expertise and experience of the entire group.

One way of incorporating an ethical decision-making model into the MDMP would be to examine the “moral value of the goal of the operation[,]. . . [the] threat posed by the enemy in a given operation[,]. . . [the] permissible moral cost . . . in pursuit of the operation . . . [and a] developed view of how the operation is going to achieve a better state of peace”<sup>299</sup> during the planning, execution and assessment of all operations. Eliminating unethical solutions during the planning process should decrease the likelihood of unethical decisions by individual decision-makers. It should also clarify application of the organizational values and rules to the given situation and emphasizes the importance of ethical conduct. Each operation, or training exercise, is an opportunity to discuss ethical decision-making.

Informal discussions between leadership and subordinates about decision-making emphasize the importance of both values and rules in everyday conduct of operations.<sup>300</sup> Peer-to-peer discussions encourage collaboration and build upon the available knowledge bank for future decisions.<sup>301</sup> Judge advocates should involve themselves early in the

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<sup>298</sup> JER, *supra* note 78, para. 12-501.

<sup>299</sup> Case et al., *supra* note 171, at 8.

<sup>300</sup> Roetzel, *supra* note 11, at 82–83.

<sup>301</sup> *Id.*

planning process and utilize their own critical reasoning and ethical decision-making skills to interject when ethical concerns arise, or provide insight as to what risks for ethical dilemmas may arise with particular courses of action.

After each training session or operation is concluded, ethical decisions should be analyzed during an after action review (AAR) at each level of command.<sup>302</sup> An AAR should specifically address situations where decision-makers encountered decision-points requiring application of organizational values and rules. Special attention should be given to how the decision was made; whether the decision was appropriate based on the organizational values; and if not, what information or training would have been necessary to make an appropriate decision. Squad-leaders and commanders alike have the opportunity to influence future ethical decision-making by taking the time to incorporate ethical decision-making into all operations and reflecting on the decisions afterward.<sup>303</sup>

While the Army does not expect perfection, accountability for ethically-flawed decisions is necessary. Leaders must be exemplars of ethical behavior.<sup>304</sup> They must also consistently act on unethical behavior, and encourage subordinates to report and discuss ethical issues with the command.<sup>305</sup> They must investigate unethical behavior to determine not only what happened, but why it happened.<sup>306</sup> After the investigation, they must take appropriate action, including determining consequences for unethical actions, and must praise ethical behavior.<sup>307</sup> At each of these points, leaders have the opportunity to review and address ethical decisions and ethical compromises with their peers and subordinates.<sup>308</sup>

Comprehensive training would incorporate ethical decision-making at all levels, from individual self-development, through formal training at the Army's institutional schools. Additionally, comprehensive training requires a "concerted effort in which all members of the organization take

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<sup>302</sup> ADRP 7-0, *supra* note 15, para. 3-73.

<sup>303</sup> Doty & Sowden, *supra* note 230, at 43. "We can and should make subjects such as honesty and integrity a common part of the conversation in motor pools, forward operating bases, training areas, orderly rooms, and athletic fields." *Id.*

<sup>304</sup> 10 U.S.C. § 3583 (1987).

<sup>305</sup> *Id.* Christopher M. Barnes & Joseph Doty, *What Does Contemporary Science Say About Ethical Leadership?*, MIL. REV., Sept. 2010, 91.

<sup>306</sup> *Id.* at 92.

<sup>307</sup> *Id.* at 93.

<sup>308</sup> ADRP 7-0, *supra* note 15, at 2-8.

joint responsibility for the ethics performance . . . .”<sup>309</sup> It will result in an organization that moves past compliance based ethics management, into integrity based management of ethics. Comprehensive training includes both reflective and experiential training methods.

### G. *Experiential* Training

*Experiential* training provides context for ethical decision-making. It encourages soldiers to make ethical decisions in situations where they are likely to encounter ethical dilemmas.<sup>310</sup> Soldiers need this context for ethical decision-making and they need practical experience making ethical decisions in morally ambiguous situations.<sup>311</sup> A one-hour *PowerPoint* presentation per year satisfies the regulatory training requirement, but does not give the decision-maker the capability to make ethical decisions in future complex situations.<sup>312</sup> Integrating ethical decision-making experiences into training scenarios can be as simple as including moral vignettes in normal training scenarios.<sup>313</sup> Vignettes force decision-makers to confront morally intense scenarios that have definite consequences, but may not have an easily identifiable right answer.<sup>314</sup> Soldiering, by its very nature, exposes soldiers to situations that non-soldiers may never confront—soldiers must confront issues of torture, killing, dealing with foreigners, both friend and foe, and with different value systems and organizational beliefs.<sup>315</sup>

Exposure to issues alone is not sufficient. Decision-makers must actively confront ethical dilemmas, make decisions, and then reflect on those decisions.<sup>316</sup> “No amount of discretionary capacity will be of any

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<sup>309</sup> Rossouw & van Vuuren, *supra* note 87, at 398.

<sup>310</sup> ADRP 7-0, *supra* note 15, paras. 2-6–2-7; *see also* Schafer, *supra* note 233, at 14 (describing limits to classroom training); Jacobowitz & Rogers, *supra* note 230, at 214–15 (describing how experiential learning builds the memory bank for future decisions).

<sup>311</sup> Doty & Sowden, *supra* note 230, at 42.

<sup>312</sup> *Id.* at 39. *See also* TRADOC PAM. 525-3-0, *supra* note 35, App. B-8. “The future Army requires the capability to train units in a tough realistic environment, adapting training as the mission, threat, or operational environment changes, [and] to provide trained and ready forces capable of conducting missions across the range of military operations in support of unified land operations.” *Id.*

<sup>313</sup> Doty & Sowden, *supra* note 230, at 42.

<sup>314</sup> *Id.*

<sup>315</sup> *Id.* at 44 (setting the conditions and creating opportunities for soldiers to discuss difficult issues aids in character development).

<sup>316</sup> *Id.*

use unless there is a freedom to act upon it. Military leaders must therefore empower [s]oldiers to exercise their capacity for discretionary judgment.”<sup>317</sup> Facets of the U.S. Army already complete this type of training. Before graduating and receiving their green beret, special forces soldiers must complete the Robin-Sage unconventional warfare exercise.<sup>318</sup>

The exercise “tests a [s]oldier’s ability to put into practice all of the training he has received . . . .”<sup>319</sup> The month-long exercise takes place outside of the schoolhouse and scenarios change regularly to keep pace (or get in front of) the operational environment in which the special forces operate.<sup>320</sup> The special forces must confront a variety of ethical dilemmas, including situation, such as the following:

[T]alking guerillas out of committing war crimes . . . . For the guerillas, killing a captured prisoner wasn’t a big deal, but the [special forces] students had to get them to understand that it was. These are the kinds of things they run into all the time in the real world.<sup>321</sup>

This extensive training scenario is unrealistic for conventional forces, but provides a valuable example of methods that commanders can use to incorporate experiential ethics decision-making into their training arsenal.

Compartmentalized, classroom based ethics training limits soldiers’ ability to apply organizational values, rules, and ethical decision-making concepts in real-world situations.<sup>322</sup> Experiential training, however, exposes soldiers to ethical dilemmas and forces them to confront morally ambiguous or complex situations head-on. Discussion of values and rules should be a part of the natural and ongoing workplace conversation, not limited to the unit auditorium during an annual training brief.<sup>323</sup>

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<sup>317</sup> Roetzel, *supra* note 11, at 80.

<sup>318</sup> Burton, *supra* note 275, at 14.

<sup>319</sup> *Id.* at 16.

<sup>320</sup> *Id.* at 20.

<sup>321</sup> *Id.*

<sup>322</sup> Toner, *supra* note 149, at 45.

<sup>323</sup> Doty & Sowden, *supra* note 230, at 43.

## VI. Conclusion

The proposed PRICE strategy of progressive, reflective, integrated, comprehensive, and experiential training fits the Army training and leader model as well as current Army doctrine it also dovetails with the spirit and intent of the AAOP training program. Commanders, JAs, and chaplains each retain responsibility for ethics training in particular realms, but coordinated effort, utilizing the PRICE strategy will operationalize ethical decision-making training and help the Army take the next step in its move from the compliance to the integrity mode of managing ethics.

Command emphasis on ethical decision-making promotes internalization of, and commitment to, organizational values. Conversely, failure to include ethical topics into the course of daily life signals that ethical issues are less important than other pressing issues.<sup>324</sup> Inclusion of moral ambiguities into training scenarios and recognition of ethical experiences in daily existence, however, will allow individuals to develop more sophisticated, ethical decision-making skills. Through continuous exposure to progressively more complex ethical scenarios, decision-makers experience the difficulties that arise when situations pit one value against another, or values against rules. Following these opportunities with reflective exercises builds a stronger framework for future ethical decisions. The entire process facilitates further internalization of—and commitment to—organizational values, and creates the crucial building-blocks to move the Army from a compliance organization to an integrity organization.

Some argue that individual character or morality cannot be trained, but must be developed, and that character development is more important than competency based ethics training.<sup>325</sup> The argument holds that removing knowledge-based ethics training and focusing instead solely on character development will save resources, and that the “Army will have transformed into a profession where character and competence training, education, and development occur simultaneously—with the outcome being [s]oldiers who understand and have internalized what it means to be an American [s]oldier.”<sup>326</sup>

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<sup>324</sup> *Id.*

<sup>325</sup> Doty & Sowden, *supra* note 230, at 41. “Character must be developed, not taught. Training results in a skill, education results in a changed person. Therefore our Army needs to develop character and to undergo development, people must undergo a transformation that fundamentally alters how they think, feel, and behave.” *Id.*

<sup>326</sup> *Id.* at 44.

Internalization of organizational values alone, however, is insufficient to prepare individuals to make ethical decisions. Individuals need both knowledge-based training in rules and values and application-based training in ethical decision-making. Decision-makers need to commit to using internalized values and rules to analyze ethical dilemmas, and training to apply the rules and values to the dilemma. Instead of wholesale repeal of ethics training, or simply increasing the quantity of knowledge-based ethics training,<sup>327</sup> the Army should undertake qualitative revisions to its strategy for teaching ethical decision-making. Recent doctrinal changes make it easier for soldiers to internalize and commit to the Army's organizational values. Now the Army must make qualitative changes to its ethics training paradigm to implement the doctrinal adjustments. Ethical decision-making must be emphasized in training if the Army wants to complete the transformation from a compliance organization to an integrity organization.<sup>328</sup>

“Over time, with reinforcement and correction by the profession, our [s]oldiers will make these principles such a habit that they routinely perform the actions the principles dictate.”<sup>329</sup> Internalization of ethics and implementation of ethical decision-making will not occur overnight; it requires repetition.<sup>330</sup> Repetition leads to internalization, and internalization results in commitment. In order to make conduct habitual, soldiers must experience ethical dilemmas and work through them, developing a bank of experiences to draw from for future decision-making. “Aristotle spoke of virtue and ethics as practical wisdom, which one may develop by acquiring knowledge and engaging in habituation—an individual gains wisdom only after he combines his knowledge with personal experience.”<sup>331</sup>

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<sup>327</sup> “[T]he Army required face-to-face annual ethics training for all employees from approximately 2002 through 2006[, it] subsequently eliminated the requirement because of the resource burden and the concern that the training was not needed for most enlisted personnel and junior officers.” GAO Report on Military Ethics, *supra* note 5, at 15. This training focused on knowledge based training on the financial ethics rule, not on ethical decision-making. *Id.* at 14. During this period, the Army increased the quantity of the training, but did not make qualitative adjustments to target training to specifically address decision-making in the situations the individuals were facing, or preparing to face. *Id.* at 15.

<sup>328</sup> In the integrity mode, “[t]raining on moral decision-making becomes much more prominent as there is an increased reliance on the moral discretion of employees . . . .” Rossouw & van Vuuren, *supra* note 87, at 398.

<sup>329</sup> Imiola & Cazier, *supra* note 60, at 17.

<sup>330</sup> ADRP 7-0, *supra* note 15, para. 2-10.

<sup>331</sup> THE ETHICS OF ARISTOTLE 10–11 (Jim Manis ed., J.A. Smith trans., 2004).

President Obama recently said, “[l]eading—always—with the example of our values. That [is] what makes us exceptional. That [is] what keeps us strong. And that [is] why we must keep striving to hold ourselves to the highest of standards—our own.”<sup>332</sup> Secretary of Defense Ash Carter also recently emphasized the need for “Leader-Led, Values-Based Ethics Engagement.”<sup>333</sup>

I expect leaders at every level of the Department to engage personally with the subordinates in both formal and informal discussions about values-based decision-making. Our personnel, at all levels, should carefully consider the Department’s primary ethical values set forth in Chapter 12 of the Joint Ethics Regulation . . . . [T]his engagement must begin with top leaders and cascade down . . . . Leaders at all levels must foster a culture of ethics within their organizations by setting the example in their own conduct and by making values-based decision-making central to all aspects of the Department’s activities . . . . This should be viewed as a continuing engagement rather than a one-time effort.<sup>334</sup>

The Army is leaning forward to accept this mission. The Army needs ethical leaders and soldiers committed its organizational values. It recognizes the need for members whose conduct is governed by skilled ethical decision-making. The PRICE strategy for ethical decision-making training can accomplish that mission.

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<sup>332</sup> Barack Obama, President of the United States, State of the Union Address (Jan. 20, 2015).

<sup>333</sup> Memorandum from The Secretary of Defense, to Secretaries of the Military Departments et al., subject: Leader-Led, Values-Based Ethics Engagement (12 Feb. 2016).

<sup>334</sup> *Id.*