"You probably don't know who or what you are talking about": Cultural and Moral Incompetence in Evaluating the Veteran in the Criminal Justice System

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Abstract

The topic *veterans entangled in criminal justice* is not novel. Veterans have often been used to occupy jail cells and fill empty prison beds since at least the end of the Civil War. Massive numbers of World War I veterans made the transition from war to prison. While there are no specific data regarding World War II veterans and criminal justice encounters, the Vietnam War produced many veterans who landed in prison. Today many Iraq and Afghanistan veterans are beginning the long process from war to jail and prison. Historically, the criminal justice system, along with much of the general public, has ignored the intricate details of military culture and the impact that culture plays on veterans trying to find their place in the civilian culture. The primary purpose of this article is to awaken and educate those in the criminal justice system about the importance of cultural competency when it comes to processing veterans through the criminal justice system. We also introduce the

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importance of employing a multidisciplinary approach to enable a comprehensive understanding of the plight of veterans as they attempt to re-acculturate back into civilian communities. This article demonstrates the value and importance of bringing together the disciplines of anthropology, psychology, and sociology to address social and criminal justice problems that confront veterans returning home from war. The two primary problems related to veterans that we address in this article are posttraumatic stress disorder and moral injury.

Introduction

The title of this article is meant to challenge the thinking of the reader. Today, we have a *quiet* crisis in America that few know about. The public prominently display "support the troops" bumper stickers without really understanding the darker side of the veterans' experience. For example, we underestimate the casualty counts of war by excluding suicide from the body count, which exceeds 8,000 per year. In fact, we often conceal, or at least make it difficult to find, the number of military personnel who have died or been injured/wounded in the Iraq and Afghanistan wars.   We don't even know who our veterans are. Few of us see the cultural impact of war on veterans and their families. We deny they are even part of a different culture by identifying the returning veteran problems as "re-integration" – a term best used for returning to work after vacation, not the challenge of re-learning how the civil culture works and *how* military culture *assists* and/or *prevents* the returning veteran to learn or function in the civil culture.

In reality veterans are often pawns caught between a socialist-like military mode surrendering one's individuality and individual liberty to save lives versus the private environment in the civilian world, where individuality is considered the most important (especially with legal matters). When the veteran, who was carefully selected pre-enlistment to not have experienced legal problems or anti-social values, runs afoul the law inside the private environment and becomes targeted for criminal prosecution, we ignore how the military culture and moral injuries sustained by the veteran contributed to or caused the criminal problems he or she became trapped in. Instead, the criminal act(s) of the veteran was/were freely chosen and that the war experience is unrelated.

Culturally speaking, most people are unable to know who or what we are talking about when it comes to veterans and the military. Consider the movie "American Sniper." Either he is a war hero or a serial, mass murderer. We should go to war or never go to war. A nuanced discussion is impossible, so even the necessity of having a military can't be agreed upon. We ignore the fact that the dehumanizing of

the sniper's target is a mandatory curriculum component of Basic Training where the soldier is taught that the enemy is less than human. We ignore the psychological necessity to dehumanize the enemy in order to deal with the moral injury inherent in killing, but the typical questions thrown to the returning veteran by family and friends are morally loaded ones: did you kill anyone over there? How many?

The central tenet of this paper is this: we don't know what we are talking about or who we are talking about if the problem of veterans in the criminal justice system is not viewed as in a larger context social context. It is, therefore, our position that the criminal justice system has yet to competently make any effort to confront ignorance of the political, cultural and moral aspects of human behavior.

Following the arrest and booking of a veteran the decision to prosecute rests in the hands of the prosecutor – the gatekeeper to the court. Prosecutors have enormous discretionary power when it comes to making a decision of whether to prosecute, which includes when, how, and whom to bring charges against (Balko, 2007). Prosecutors may also exercise *nolle prosequi* – Latin term meaning *unwilling to prosecute*. There are two primary interrelated elements considered by the prosecutor. First, the prosecutor considers the sufficiency of the evidence. Second, when applicable, the prosecutor looks at the reliability and quality of the witness or witnesses. Prosecutors can, in the case of many felony offenses, drop the charges to a lower-level felony or down to a misdemeanor.[5]

More importantly, charging decisions are also based on the DA's belief about what the veteran did and thought.   A culturally incompetent DA then can see attacking when attacked or under threat as evidence of intent to assault rather than the proper application of military training and tactics that require an *automatic attack to eliminate the threat* – which is what the veteran was taught in Basic Training. While the DA sees an intentional assault, in reality for the veteran it is just "muscle memory." This allows for a defense two-prong attack. The first is actus reus, which requires proof that the act was conscious and volitional. Second, it also allows for specific mens rea , which is part of the charged criminal act. As Melissa Hamilton (2011) notes:

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[5] In Oregon, for example, the prosecutor has the discretion to recommend diversion programs that allow for treatment and deferred prosecution. While Oregon has a specific bill (Senate Bill 999) for deferring veteran defendants it is very underused. In part, this is because entry requires the prosecutor to agree to the deferment. It is also underused because defense attorneys frequently do not know about this bill and so do not ask. Judges have complained that they often do not know the veteran status of the defendant until sentencing.

Empirical evidence substantially supports the perspective that the stress of war trauma has impaired the cognitive, physiological, and behavioral functioning of veterans with PTSD to the extent that some of their aggressive actions may be deprived of any internal component of voluntariness, will, or control. If this is true in a particular case, the failure of the voluntary act element to be proven means there is no moral or legal basis for criminal culpability (Hamilton, 2011, p. 22).

Needless to say, a culturally incompetent defense attorney will (secretly) agree with the DA and not see the evidence that can be used to disprove criminal state of mind. The culturally incompetent Judge will also infer a state of mind that never happened as he sentences the veteran to prison. If a veteran is convicted and sentenced to prison treatment for PTSD is rare. [6]

Overall, cultural competence is required to make the right charging decision, the right defense, the right sentence and the right treatment plan. Cultural incompetence, specifically related to many veteran defendants, may be one of the leading causes of injustice throughout American courts.

One primary purpose of this article is to educate the reader about the social reality of who a veteran is and the *baggage* that many veterans carry. This baggage consists of a collection of cultural and experiential artifacts acquired throughout the period that an individual serves in the military.   We begin this article with a discussion of culture – military culture. Without an understanding of military culture it is impossible to understand the true meaning of the term veteran. The optimum approach to comprehend military culture is to assess culture through the lenses of anthropology, sociology, and psychology.

The Military Total Institution/Military Culture: Changing the Person

Not only does the military change people, but also the military itself undergoes significant changes/alterations. Consider military doctrines (Department of the Army, Field Manual 100-5, 1954, 1962, 1968, 1976, 1982, 1986, 1993, and 2001)

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[6] In Oregon, for instance, this is done as a matter of policy as the Oregon DOC (Department of Corrections) has gone on record stating that it is too "dangerous" to treat veterans with PTSD in a prison setting (Steward, 2015). This policy is so obviously out of touch with reality as to be hard to believe. First PTSD is associated with deadly outcomes. We declare it a tragedy that we don't understand why veterans kill themselves at a rate of 22 per day. In Oregon the leading cause of death in veterans under 45 is suicide (Oregon Violent Death Reporting System, 2014). PTSD is also causally associated with substance abuse (Richards et al., 1989; McFarlane, 1998; Hasin, et al., 2007; Jacobson, et al., 2008), but no DOC drug treatment program is allowed to address PTSD because of this policy.

which heavily influence and reflect changes that occur in the military. These documents are the blueprints of operations, procedures, training directives, and general strategies for Officers and Noncommissioned Officers. They construct boundaries and restrictions on how the military must operate and conduct itself during peacetime and war. Military doctrines establish the printed format of military culture.

All branches of the military are directed by their own military doctrines. Military doctrines are comprised of a fundamental set of principles that guide military forces as they pursue their objectives, which include defeating the enemy and protecting the country. Military doctrines must be authorized/approved by the governing body, which in this case is the U.S. government (Specifically the Executive branch of the U.S government) and that approving authority must then insure that the military branch complies with the contents of the doctrine.

Military doctrines are not static. They are subject to change as are levels and types of technology, changes in political and economic conditions/situations, and deviations in operational conditions/situations. For instance, as more females enter the military the doctrines must accommodate gender difference adaptations. Changes in military doctrines often pertain to specific goals as well as the means to attain those goals, which include amendments to tactical practices, and expectations, which often result in critical reformations in personnel demands and expectations. These vicissitudes can create elevated levels of confusion and stress on military personnel – particularly when those policy and tactical changes have not been tested and are subjected to immediate change in either actual or perceived precarious situations.

Young men and women join the military for a variety of reasons. Some of those reasons range from wanting to serve my country or a desire to do something with my life. Others join the military for possible education benefits or need of a job. Many younger veterans indicate they joined the military because of the events of 9/11. Some younger people join the military because they want to replicate the heroes in movies produced in Hollywood – Rambo or GI Jane. Others were encouraged by their parents to join the military – in some cases they want to further the family tradition of serving in the military. Some veterans indicate they were encouraged by recruiters to join the military and travel around the world. One U.S. Marine recruiter conveyed that he regretted lying to potential recruits in order to get them to join, however he added that he had to do this to meet his recruitment quotas. The Marine recruiter indicated that what bothered him most was later discovering that some of the young men he recruited had been killed in

Iraq or Afghanistan.[7] Regardless of the reason why individuals join the military, once they take their oath of allegiance, they enter a culture that often contradicts the rules and moral values of their civilian culture. To understand these contradictions we must consider the roles of sociology, anthropology, and psychology in understanding military culture.

Sociology focuses on social life, social changes, the social causes and consequences of human behavior, along with the effects of collective human behavior on the broader society. Human behavior is a product of social factors and social influences – those factors and influences can and do occur at various stages in people's lives. Sociology overlaps with the discipline of anthropology in pursuit of answers to questions related to culture and human behavior (Scott and Marshall, 2005).

Among other areas of social life, anthropology focuses on human culture. Cultural anthropology is one of four fields of anthropology interested in observing complex elements of the human condition and how they inform each other (American Anthropological Association, 2014): the beliefs, myths, practices, technologies, economies and other domains of organization that together make up human culture. Therefore, cultures are the behaviors characteristic of a society.

Cultures are further described as learned, shared, patterned, adaptive, and symbolic. Cultures are passed on through teaching and lifestyle experiences. We do not pass culture on through biological inheritance; we transmit culture from one generation or one social group to the next through the process of enculturation. There is no known human society that does not exhibit culture. However, as uniform as the culture may be, there may also be widespread variability within each. . Anthropology and sociology are both concerned with the similarities and differences within and among societies with respect to their cultures. Both of these disciplines lend themselves well to examining the military total institution in contrast to civilian life.

Anthropology gives us the opportunity to study how different cultures over time have recognized and dealt with the inherent problems of war, Posttraumatic Stress Disorder (PTSD), and moral injury and recovery. Sociology, combined with anthropology, informs psychology as to how the symptoms of PTSD will be shaped and accepted. For example, the military culture has great difficulty with PTSD, but accepts the concept better when it is called Posttraumatic Stress Injury (PTSI). Further these disciplines allow us to look at cross-cultural ways to manage the

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[7] This reference comes from a former client of one of our authors (Brown) who is now serving time in prison for an offense *indirectly* linked to his experiences as a U.S. Marine recruiter.

moral injury inherent in war. Examples include the rituals used to heal from war from Native American practices to re-visiting of battlefields from WWII by aging American veterans. These disciplines, through study over time and culture, also help us understand that veterans' involvement in criminal justice system is not new, but rather a chronic re-occurring problem over time and different cultures and has occurred in Roman time, post Civil War, post WWII, post Viet Nam, and into the modern era since Gulf War I.

Psychology helps us understand a broad variety of individual actions that include people's emotions, thought processes, learning abilities and performances, as well as behavior and human development.

Psychology has provided a tremendous amount of literature related to veteran behavior – particularly veteran behavior as it is related to their returning home from war. Titchener (1980) draws attention to self-imposed isolation among veterans with Posttraumatic Stress Disorder (PTSD) who feel out-of-place when they return home from war. He also addresses the fact that veterans returning home from war experience difficulty recalling the specific details of the traumatic events they have encountered. Other psychologists (Kulka, et al., 1990) found that, after more than a decade, over 25 percent of the 3.14 million veterans from the Vietnam War were suffering not only from some degree of PTSD, but that for many veterans PTSD contributed to health and family problems among these veterans. Psychologists, such as Edward Tick (2005) devoted much of his career to treating veterans with problems such as relationship disintegration and inability to maintain employment. Others, such as Charles W. Hoge (2010) have focused extensively on Iraq and Afghanistan veterans who experience difficulty transitioning from the military to the civilian community. Jonathan Shay (1994) addresses the relationship between war, PTSD, and moral injury.

While sociology and anthropology provide the foundation and backdrop for explaining culture-conflict between military and civilian cultures, psychology provides intricate details of human behavior that are necessary for a comprehensive understanding of veteran behavior and the problems they encounter when they become exposed to the civilian community after experiencing war.

Psychology has also evolved into using neuroscience to understand and explain human behavior. The field of neuropsychology addresses the issues of traumatic brain injury (TBI) effect on veterans' behavior. It also provides a scientific way to study the effect of toxic exposure to things like Agent Orange, gulf war syndrome, effects of depleted uranium, and anti-malarial medication on human behavior, including criminal behavior. (The authors have seen several cases of criminal

behavior associated with gulf war syndrome and anti-malarial medications for example, as well as adverse effects of medication leading to acts that were perceived as criminal acts.)

Erving Goffman introduced the term "Total Institution" to the discipline of sociology and the broader social sciences (1961). His primary focus on Total Institution environments was on asylums and prisons. Nevertheless, he did address the military setting by examining the military barracks. He found that the training cadre subjected recruits to extreme forms of harassment, degradation, and punishment in order to achieve cultural compliance from reluctant soldiers. The basic characteristics germane to any total institution include: (1) all components of an individual's life occur in the same place or setting; (2) large numbers of people are treated nearly or exactly the same; (3) all stages of the individual's day and night are tightly scheduled and monitored; and (4) all participants are required to accept and adapt to the total institution's cultural expectations and standards. These characteristics are prevalent in military institutions throughout the world resulting in the more specific category of Military Total Institution or MTI (Brown, 2010).

Goffman addressed many issues related to power and control, compliance with all formal and informal rules, manipulation of individuals to acquire desired results, and the virtual worshiping of regulations. Essentially, Goffman drew attention to the subsequent outcomes of settings where human beings are restricted within the confines of an environment where they had little or no input into the management, operation, information access and dissemination, or other broader forms of control within those environments.

Culture is implicit within the MTI. In fact cultural components can be identified through each of the MTI benchmarks (recruitment and selection, training, service, and re-acculturated into civilian life, which includes potential entanglement in the criminal justice system). Examination of the MTI through the lens of cultural beliefs reveals the discrepancies that exist between the MTI and life outside the MTI and ultimately will shed light on why the transition is not only difficult but too often results in more tragic afflictions like homelessness, domestic violence, and criminal justice entanglement.

Cultural anthropology provides a sound methodological framework for the analysis of military culture. Cultural anthropologists apply two general approaches to research aimed at understanding human behavior: emic and etic. The emic approach relies on the insider perspective. Lett (1990, p. 130) states, "emic constructs are accounts, description, and analyses expressed in terms of the conceptual schemes and categories regarded as meaningful and appropriate by the native members of the culture whose beliefs and behaviors are being studied." As

one of the authors (Weitzel) is an anthropologist who has never served in the military she respectfully relies on the experience of military personnel to inform her and, more importantly, to be able to do so without judgement. Also as an anthropologist – and outsider – she is positioned to provide unique insight. According to Lett (1990, p. 130), "etic constructs are accounts, description, and analysis expressed in terms of the conceptual schemes and categories regarded as meaningful and appropriate by the community of scientific observers." Merging both methods allows the anthropologist to compare across cultures (military and civilian) in ways are that are both comprehensive and integrated.

Military personnel are a distinct group existing within a larger group; that is, they are a subculture sharing some universal traits with those outside the military yet have common traits that bind them together and differentiate them from civilians. Likewise, military veterans are yet another subculture. Each of these subcultures exhibits, for example, their own communication and language, society, myth, ritual and aesthetics, and technology.[8]

Women in the Military

We now turn to a topic that is often ignored in discussions of the military and military culture – women. Women in the military add another layer to this as another subculture embedded within these groups – a subculture well worth examining given the larger objective of this paper. The culture identities of females in the military are socially constructed categories that teach and reinforce a way of being and include predictions about their thoughts and behaviors. This can be seen quite clearly through the cultural universals (for the sake of brevity we will use the example of communication and arts) revealed in the personal accounts of those who have served (Goodell and Hearn, 2011). Communication is behavior that affects the behavior of others by transmission of information (Cultural Anthropology, 2013). Cultures are created and transmitted through communication and language. Likewise communication is dictated by one's culture. While all humans have a form of communicating with each other, we don't all communicate in the same manner. There are obvious differences inherent in the languages we speak but not so obvious may be the way language is used.   The use of the terms brotherhood and band of brothers, and describing females as Marin-ettes, are not inclusive of females. But perhaps even more revealing are the cadences used to motivate and coordinate recruits marching and running in formation. Here's an example: (Goodell and Hearn, 2011)

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[8] Brown (2010) provides more detail about this.

See the lady dressed in black, she makes a living on her back,

See the lady dressed in red, she makes a living in her bed,

See the lady dressed in brown, she makes a living going up and down,

See the lady dressed in green, she gives out like a coke machine,

See the lady dressed in gray, she likes to make it in the hay,

See the lady dressed in white she knows how to do it right,

Another lady dressed in green, she goes down like a submarine.

The language is a vivid reflection of the patriarchal subculture of the U.S. Marine Corps. Female Marine Jess Goodell discusses her attempt to alter the words in order to transpose the genders. She changed the popular cadence:

Momma and poppa were lying in bed, poppa rolled over and this is what he said, "Give me some! PT!"

to:

Poppa and momma were lying in bed, Momma rolled over, this is what she said, Give me some, PT!

What followed was a Drill Instructor's reprimand citing it as disrespectful. Disrespect of the tradition of the Marines superseded sexual harassment conveyed through the language of the cadence.

Nonverbal communication likewise varies between genders in the MTI. Nonverbal communication is the process of communication through sending and receiving wordless messages (Cultural Anthropology, 2013). These messages can be transmitted through touch or gestures, facial expressions, and posture. Goodell and Hearn (2011) describe landing in Kuwait with their war face on. Men are described as having puffed out chests and positioned their arms in ways that made their biceps bulge. Smaller men held the M-16s in the same way they had seen Rambo hold his weapon in movies. Clothing and adornment, which also exists as a form of nonverbal communication, are used to convey meaning as well. Female Marines who are not interested in male advances may choose to keep her hair short, cover on, and avoid wearing make-up (Goodell and Hearn, 2011).

Play and arts are other examples of culture. Play is defined as something someone does voluntarily outside or inside the home, alone, or with family and friends, for enjoyment or practical purposes. Play is created by the players and is an important part of growth but play among adults is important too (Cultural

Anthropology, 2013).   Recreation, sports, and hobbies often serve to unite individuals within a culture but may also serve to divide groups within the MTI.

Goodell spent time in the mortuary unit listening to the music of singer-songwriter James Taylor (Goodell and Hearn, 2011) described as a warm baritone articulating moments of pain and joy and letting his listeners know that they are not alone (James Taylor, 2014). Males in Tent City listened to Drowning Pool, an American heavy metal band whose music has been used by the U.S. military to torture captured prisoners at Guantanamo Bay detention camps (CBS News, 2009).

Goodell and Hearn (2011) state that men watched movies that glorified war and hypermasculinity, while women watched romantic sitcoms like Sex and the City. Males and females watching movies together carries more meaning in the MTI than it normally might as a part of civilian life. If a female watches a movie in a male tent the assumption may be that they are sexually involved. Jen Hogg states, "In the military men and women are nearly never allowed to be just friends, they are almost always assumed to be 'fucking'" (Iraq Veterans Against the War and Glantz, 2008).

Ascribing status on the basis of one's gender is common in most societies; the MTI has not set a precedent for this. But when statistics demonstrate that post-military females show a decreased ability to develop and maintain relationships and an increased use of drugs and alcohol and drug and alcohol offenses (Brown, 2014), it's no wonder when given the gender differences and female subjugation inherent in these cultural universals of the MTI. Female discrimination in the military undoubtedly shows a strong correlation to the outcome of moral injury.

So, what's a "girl" to do? The military is coming up short in terms of cultural competence. The experience of females demonstrates widespread disregard and at times outright misogyny. Behaviors that have always been inappropriate, but deemed as acceptable by a majority, need to be – at a minimum –reexamined. This is also true for women accessing VA services where those with trauma histories and co-occurring substance abuse and mental health disorders are highly marginalized and stigmatized (Cheney, et al. 2014). New models are required to better meet the needs of the female minority population – a central tenet to reaching the final spectrum of cultural competency (Hanley 1999).

Frese (2013) states that

> *The U.S. military needs anthropologists to help understand diversity within and outside the military institution and the implications this understanding may have for successful military ventures, especially those that promote peace and understanding across national boundaries (p.149).*

Anthropology and sociology can help explain the culture of the MTI and use that information to assist veterans confronted with criminal charges but more importantly – to provide preventive measures that might assist veterans to avoid criminal justice entanglement. Psychology is able to offer explanations of human behavior in both the military and civilian setting.

War – See No Evil, Hear No Evil, Say No Evil

The question often surfaces when someone hears about a veteran who committed a crime – how can a veteran commit a crime? The bad apple theory is often employed – they must have been bad before they entered the military. Others say the veteran must have been a bad soldier or Marine when they were in the military. There is no evidence to prove or validate either of these suppositions (Brown, 2014). Seldom do people bother to ask whether the veteran served in a combat area, and if he or she did ask what experiences did they have. For some strange reason it seems as though we are reluctant to link veteran criminal behavior to war. Perhaps it is because the military and war have been embellished to the point where we feel compelled to find any other explanation for veterans becoming entangled in criminal justice.

Indoctrination into the military culture and Basic Training or Boot Camp has lasting effects on many veterans. These experiences often influence the ways in which veterans perceive cultural rules, customs, and expectations they are confronted with in the civilian culture. The manners in which veterans act and react to civilian social stimuli are often products of their military Indoctrination and training. Instantaneous reaction, often referred to as muscle memory, is an artifact of military training, which is reinforced throughout one's military service involvement. In war, learning and applying instantaneous reaction is crucial to not only the success of the military mission but also to the survival of self and others. These factors, particularly those experiences encountered by veterans during war, make it very difficult for many veterans as they navigate through act two of their civilian adventure – coming home from war. Veterans who have witnessed or participated in the causation of death and destruction in war will never return home as the person who left.

To understand veterans who have been deployed to war zones, and particularly those veterans who become entangled in criminal justice, it is imperative to understand experiences those veterans may have encountered during deployment(s).   The media rarely project the reality of war to the American public.

Actual filming or snapshots that reflect the gruesome reality of dead, twisted, and dismembered bodies are not broadcasted on television. Hamon (1918) once said that living through war educates people for war, not peace. Today, most Americans appear to have been shielded from the reality of war; hence, See No Evil, Hear No Evil, Say No Evil.

As a starting point for our discussion of war we begin with the official directive of the modern infantryman, often referred to as the rifleman or grunt, and the use of the military weapon. The 2007 FM (Field Manual) 3-21.8 outlines the responsibility of an infantryman and the use of a weapon in a war zone.

> Rifleman and Infantry leaders are currently armed with the M4 rifle. The M4 rifle is a direct fire weapon that fires ball and tracer 5.56-mm ammunition. The rifleman's primary role is to kill the enemy with precision fire. In this capacity, the rate of fire for the M4 rifle is not based on how fast the Soldier can pull the trigger. Rather, it is based on how fast the Soldier can accurately acquire and engage the enemy. The second role of the rifleman is to engage likely or suspected enemy targets with suppressive fire (The Infantry Rifle Platoon and Squad, 2007, p. 68).

We do not think that most people are completely unfamiliar with the concept of war, but most people have never really been exposed to war. There is a distinction between watching the Tet Offensive (1968) or events in Fallujah (2004) on television as opposed those who were physically present on site. Many people throughout America have been exposed to movies about war. A couple of our authors (Brown and Stanulis) are reminded of a Federal Judge, during a case involving a veteran defendant, where the judge revealed his comprehensive knowledge of the military and war by stating, on record, that he had already seen the movie Blackhawk Down.

War has probably been around, in one form or another, since the beginning of humankind. Our hominin ancestors probably threw rocks at one another in skirmishes related to acquiring food or protection of property. The reality of war today is often misrepresented as well as misunderstood. War appears to have become a combination of political blustering, Hollywood drama and adventurous productions, and media manipulation and misinformation. Andrew Bacevich (2005) points out that Americans have been seduced by war with political rhetoric that reaches back at least to the days of Woodrow Wilson and World War I – when America made the conscious decision to save the Old World.

Sun Tzu said the greatest strategy of waging war was to win without bloodshed. Written more than twenty-four hundred years ago, Sun Tzu understood that the

most rational way to engage in war was to hinder one's opponents psychologically, and convince them to physically surrender. He believed that such a strategy would likely result in victory with little or no bloodshed (Sun Tzu, 2010, Revised). Sun Tzu offered societies a new and perhaps more humane prescription for addressing/resolving conflicts. The problem of course is that most countries and empires, including those in modern times, failed to read, consider, adopt, or take Sun Tzu's suggestions seriously.

Americans who endured World War I and World War II appear to have been more educated when compared to present-day Americans regarding the topic of war. During those wars civilians were required to make individual, family, and community sacrifices through rationing laws. Over $185 billion of securities were collected from people through investments in programs such as War Bonds in an effort to fight World War II.   Over 85 million Americans invested in War Bonds. During World War II – and extending until the end of the Vietnam War – the draft meant that recruits for the military could be drawn from many social-strata factions of American society in very large numbers.

After World War II it appears that Americans became much less educated, and less interested, when it came to the topic of war. Very little is discussed about the Korean War, and most Americans stood by as the Vietnam War began. Younger people began protesting against the Vietnam War by 1967 – the protests grew larger and the Vietnam War officially ended in April 1975.

Looking back, one of our authors, Brown, while attending Ranger School in the 1960s, recalls a poster on the barracks door at Ft. Benning, GA that stated, "War is Killing and Killing is Fun." Another of our authors, Rodgers, who served in a Marine infantry unit during two deployments to Iraq, was asked to contribute a more present-day definition of war. He responded: "War is killing an enemy before they have a chance to kill you." He went on to say, "The Marine definition is basically that war is the use of violent force to break the will of an enemy." With much less formality he concluded, "as a grunt[9] it's important to emphasize that it (war) is all about killing."

The public's interest in war over the past decade has declined. Time along with the steady drum beat of war as sanitized and waged only by drones makes us all numb and bored. The small percentage of Americans at war, combined with the lack of need for the public at large to be inconvenienced by war bonds or funerals, also leads the public to be disinterested. Perhaps this diminished interest is also due to modern day definitions of war. The issue of morality, which is a human

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[9] A Grunt is a term that applies to someone who serves in an infantry unit.

element of war, has been extracted from today's definition and public perception of war. The human element of war has been replaced with political and speculative jargon. The prescribed definition of war is a replication of the work of Hardt and Negri (2004, p. 3), whereby war is defined and presented as an, "armed conflict between sovereign political entities, that is, during the modern period, between nation-states." Human life and death is noticeably omitted from modern-day formal definitions of war.

America and much of the world has ignored the advice of Sun Tzu in respect to curtailing bloodshed. The outcomes of war are often measured by either victory or defeat. The authors of this article prefer to measure the outcome of wars through body counts, which is certainly the antithesis to the subtitle of this section - See No Evil, Hear No Evil, Say No Evil.

The Civil War resulted in more than 600,000 deaths counting both the Union and Confederacy (Ward, et al., 1990). Another series of wars that were rampant throughout America prior to the Civil War and continued well after the Civil War were the Indian Wars. It has been estimated that approximately 20 million Native Americans occupied an area now recognized as the United States in 1492. In 1900 it was estimated that the Native American population had dwindled to 1 million (Churchill, 1997).

During WW I, including both the Allies (e.g., Russia, France, Great Britain, U.S., etc.) and the Central Powers (Germany, Austria, Turkey, etc.), there were an estimated 37 million deaths. American military deaths during this war exceeded 116,000. WW I was supposed to be the war that ended all wars. A few decades later WW II produced an estimated 60 million deaths, with China losing more than 23 million civilians and military personnel. The number of United States military deaths incurred during WW II was well over 400,000. In June 1950 more than 75,000 North Korean soldiers crossed the 38th Parallel into South Korea. America remained involved in the Korean War until July 1953. An estimated 3 million people died during that war – mostly civilians. Over 36,000 Americans died, and over 100,000 were wounded, during the Korean War. The Korean War is often referred to as the forgotten war because of its limited permanence (Fehrenbach, 2000). The numbers of Vietnamese deaths that occurred during the Vietnam War range from approximately one million (Hirschman, et al., 1995) to 1.2 million (Lewy, 1978) to 3.1 million (Associated Press, 1995). The Vietnam War produced over 300,000 wounded Americans and 58,209 American deaths – excluding thousands of Vietnam Veteran suicides following the end of that war.

Since the invasion of Afghanistan in 2001 more than 2,350 American military personnel have been killed and over 17,000 have been wounded in the ongoing

Afghanistan War (Icasualties.org, 2015). The number of civilians killed or wounded in the Afghanistan War increased by 22 percent in 2014 (Faiez, 2015). There are no precise total numbers of civilian deaths at this point. The Iraq War (2003-2015) has allegedly produced nearly one-half million war-related civilian deaths (Sheridan, 2013). In all honesty, we likely do not know how many Afghan or Iraq civilians have been killed to date. Nearly 4,500 American military personnel were killed in the Iraq War, and over 32,000 were wounded (Icasualties.org, 2015).

The relationship of See No Evil, Hear No Evil, Say No Evil to war is also demonstrated in the post-war effects of Agent Orange (Vietnam War) and Depleted Uranium (Gulf War I, Afghanistan War, and Iraq War). It has been estimated that tens of thousands of Vietnam veterans were contaminated with Agent Orange and other herbicides. Agent Orange became a government and corporate nightmare following the end of the Vietnam War. The end of that nightmare ended with a minimally settled class action lawsuit in 1984. Four decades after the U.S. left Vietnam a program was launched to begin cleanup of hot spots among the millions of acres contaminated with Agent Orange in that country. The U.S. government and Monsanto refused to accept responsibility for the hundreds of thousands of birth defects, illnesses, and deaths caused by America's use of Agent Orange throughout the Vietnam War in Vietnam, Cambodia, and Laos (Fuller, 2012). Vietnam veterans who were contaminated with Agent Orange wake up in the morning, look into the mirror, and relive the artifacts of that war each day. More recently, they must also confront the moral reality of the effects of Agent Orange on genetic defects in their children and grandchildren and on the people of Vietnam. As time goes by the moral injury and challenges of war can and do newly emerge, become more complex, and lead to greater difficulty in re-acculturation for the veteran.

It has been suggested that the problems resulting from Agent Orange may ultimately, according to one report, "be dwarfed by the forthcoming horrors caused by the depleted uranium weapons which the US began using in the 1991 Gulf War (300 tons), and which it has used much more extensively -- and in more urban, populated areas -- in the Iraq War and the now intensifying Afghanistan War" (Lindorff, 2011).

The United States and its allies were heavily criticized after their use of depleted uranium during Gulf War I and the Balkans. Nevertheless, the same ammunition was used during the outbreak of the Iraq War in 2003. In many battles such as those in Najaf, Al Samawa, Basrah, and Nasiriyah it has been established that depleted uranium was used in heavily populated areas (IKV Pax Christi, 2013). To truly appreciate the effects of depleted uranium, one news source reported:

One of the most horrific images that I've seen here in the war was the results of 25-millimeter depleted-uranium ammunition fired at a Nissan pickup truck with six Iraqi regular-army soldiers that were driving it straight at a U.S. position. These Iraqi regular-army soldiers had RPGs and fired two of these rocket-propelled grenades at the U.S. positions, when a U.S. Bradley troop carrier using this depleted-uranium ammunition opened fire on it from about 30 to 35 meters away. If you can imagine what a human being looks like melting when being hit by this ammunition, there wasn't much left of these people other than the charred remains of their skeletons. And the people that took the brunt of the attack, even their skeletons had multiple fractures all over them. One Iraqi soldier who was out of the vehicle at the time about 15 meters back from the vehicle was killed just from the concussion of the blast (Synovitz, 2003).

Since 2009 media reports have brought attention to the high rates of congenital birth defects in Fallujah (Chulov, 2009; Simpson, 2010; Jamall, 2013; Ahmed, 2013). Fallujah was the scene of intense urban warfare in 2004. While the U.S. denies the use of depleted uranium in Fallujah, major cleanup programs were implemented immediately after the dust settled to protect American troops against depleted uranium exposure. Contaminated scrap metal was removed and taken to storage areas near Baghdad and Basah (IKV Pax Christi, 2013). The long-term effects of depleted uranium used in Iraq and Afghanistan have yet to be fully admitted or addressed by the U.S. As time progresses, Iraq and Afghanistan veterans and their families will be able to provide us with more detailed information regarding the consequences of this contaminant.

As noted above, the practical and moral dilemma of war as a process is constant over time and place. Only the content has changed over time. While WWII vets dealt with the horrors of mass bombing and using nuclear weapons, Vietnam Veterans deal with Agent orange, Gulf War I vets with depleted uranium and Gulf war syndrome, and the current generation with drone strikes, these are simply matters of content. The process of dealing practically, personally, and morally with the effects of war affects every generation of veterans.

Crimes of War

Some activities in war can be considered war crimes, while other activities are best described as crimes of war. Veterans who experience (participate or witness) extreme traumatic events likely will carry the memories of those events throughout their lives. As veterans progress through life, many begin to become judgmental,

not only of the legitimacy/illegitimacy of war, but of their own behaviors during war. These veterans will often reflect on the past and ask themselves why did I do that or why didn't I do that. The reality is that, for many veterans, there is no answer. During mental health counseling, the provider will tell the veteran, that was another time and another situation or you were younger then but today you are different. These are logical and perhaps accurate statements but for many veterans – that still does not resolve the fact that I did or did not do it. These thoughts contribute to the post-war behavior of many vets. Often it is demonstrated through periods or instances of elevated anxiety, or depression, or self-isolation. In some cases, veterans engage in suicidal ideation, while in other cases completed suicide. In some cases the veteran's behavior turns to acts that are criminal. We now turn to back to the topic of war – war in the context of horrific acts committed during war. For the reader it is important for him or her to accept the reality that people automatically act differently in war and in peace. It is probably very difficult to play football using the rules of basketball. Critiquing the actions of a soldier or Marine in war and using civilian culture rules is simply ridiculous. War is a different game.

War may be the only option available for a country under the threat of being forcefully and brutally attacked by another country. War also may be instigated and/or initiated through a wide variety of political propaganda techniques (e.g., the Domino Theory and Vietnam) or mistaken/misrepresented information (e.g., Weapons of Mass Destruction and Iraq). War may also become a viable option to foster profits for various corporations (e.g., Eisenhower's reference to the Military Industrial Complex). Wars may be launched to acquire/protect scarce resources (e.g., Oil or scarce resources).

Howard Zinn, a World War II veteran, a historian, and staunch peace activist, wrote about his own participation in bombing raids over German, French, and other European towns and cities during World War II. He frequently noted that from 30,000 feet in the air he was shielded from the sight and smell of dismembered bodies and burning flesh. It was not until after the atomic bombing of Hiroshima and Nagasaki, where more than 200,000 men, women, and children were instantly disintegrated and at least 130,000 died from radiation exposure within the next few years, when Howard Zinn began to reflect on his own war experiences (Zinn, 2001; 2003; 2010). Up until that point he had simply been doing his job as a bombardier. Howard Zinn spent much of the remaining years opposing war, arguing for the most part that many wars, in and of themselves, are crimes. He described the Vietnam War as the theater of the absurd (Zinn, 1967).

Those with extreme power typically have the power to commit war crimes. However, they rarely, if ever, get their hands dirty. Historically, the definition of war

crimes is created by the victorious, and the defeated are most often the ones charged with the commission of war crimes. Generally, the individuals who have their hands soiled in the commission of war crimes are subordinates of the powerful. It is the subordinate who is confronted with the ethical/moral dilemma of acting, while simultaneously struggling with the requisite to follow orders given by a superior. Howard Zinn was not a war criminal – he was a subordinate. He was a bombardier. Yes, according to his own accountings civilians died as a result of his participation. However, these were not considered war crimes during World War II. Today, we refer to civilians who die in war as collateral damage – sort of like a broken lawn mower. We apologize and then we move on.

The International Criminal Court (ICC, 2015) defines war crimes as:

> *Grave breaches of the Geneva Conventions and other serious violations of the laws and customs applicable in international armed conflict and in conflicts "not of an international character" listed in the Rome Statute, when they are committed as part of a plan or policy or on a large scale. These prohibited acts include:*

- *Murder;*

- *Mutilation, cruel treatment and torture;*

- *Taking of hostages;*

- *Intentionally directing attacks against the civilian population;*

- *Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historical monuments or hospitals;*

- *Pillaging;*

- *Rape, sexual slavery, forced pregnancy or any other form of sexual violence;*

- *Conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities.*

One of the most repugnant war crimes of the 20th Century was the Holocaust, which occurred in Europe during World War II. Had Adolph Hitler survived WWII he may have adamantly defended his position to exterminate the millions of people who died in the Holocaust. Then again, had he taken a seat during the Nuremberg Trials he may not have uttered a word. Arno Mayer (1989), a historian, argued that

initially, there was no indication that Hitler had any intention of exterminating millions of Jews, and other human beings. Instead Hitler had intended to implement forced deportation of the Jews. It was not until 1941 that the Final Solution, as a specific strategy, was adopted and implemented. Japanese leaders who were responsible for mass killings in China may have defended their positions too. The destruction committed on innocents throughout Europe during WWII is well documented (Shirer, 1959; Rhodes, 2002). However, not so much is ever really said about the crimes committed by the Japanese during WWII – perhaps ethnicity makes these crimes less notable. Millions of innocent Chinese, died at the hands of the Japanese during World War II (Tanaka, 1996; Chang, 1997).

In 1945 the Nuremberg trial processes began, and they concluded in 1949. Justice Jackson, the lead prosecutor, was confronted with the responsibility of prosecuting Nazi war criminals. Justice Jackson was confronted with a problem that perhaps no other prosecutor has ever had to face. In a document he provided to the International Conference on Military Trials and the U.S. Department of State (released February 1949), Justice Jackson stated:

> The names of the chief German leaders are well known, and the proof of their guilt will not offer great difficulties. However, the crimes to be punished have been committed upon such a large scale that the problem of identification, trial and punishment of their perpetrators presents a situation without parallel in the administration of criminal justice. In thousands of cases, it will be impossible to establish the offender's identity or to connect him with the particular act charged. Witnesses will be dead, otherwise incapacitated and scattered. The gathering of proof will be laborious and costly, and the mechanical problems involved in uncovering and preparing proof of particular offenses one of appalling dimensions. It is evident that only a negligible minority of the offenders will be reached by attempting to try them on the basis of separate prosecutions for their individual offenses (Jackson, 1949, p. 25).

War crimes during the Korean War are well documented – specifically those pertaining to the crimes committed by the North Koreans and China. A Senate committee found that the North Koreans and Chinese were guilty of

> (a) Murder; (b) Attempted murder; (c) Malicious and aggravated assaults; (d) Various acts of torture, i.e., perforating flesh of prisoners with heated bamboo spears, burning prisoners with lighted cigarettes and inserting a can opener into a prisoner's wound; (e) Starvation; (f) Deliberate policy of fostering starvation; (g) Experimental medical operations; (h) Forced Communist indoctrination; (i) Bayonetting (Committee on Government Operations, 1954, p. 15).

The Senate subcommittee found China to be as culpable as North Korea in the commission of war crimes. The report noted that over 5,000 American prisoners of war died because of the aforementioned atrocities and more than 1,000 Americans who survived were officially classified as victim of war crimes.

In late July 1950 American units were rushed into the war to prevent the North Korean military from progressing into South Korea. Poorly trained, with inadequate equipment, American soldiers were placed into a situation where they were told to expect fighting with North Korean guerrillas. They were informed that the guerillas would be concealed amongst tens of thousands of South Korean civilians migrating to the south. One American unit was dug in near a bridge at No Gun Ri, where after opening fire American soldiers killed several hundred civilians. Numerous Korean War veterans were witness to the killing of women and children who were among the victims of those killed at No Gun Ri. Numerous other Korean War veterans have provided information of other incidents of refugees killed by American troops (Choe et al., 1999). In the village of Eui Ryung, another South Korean described events that occurred on August 20, 1950, when four U.S. fighter jets came in so low the people could see the pilots. They fired their guns and dropped six bombs. Nearly 100 people were hurt and 53 died. Fifty houses were burned (Griswold, 2000). Interestingly, but perhaps not surprisingly, the Senate subcommittee appeared to have no problem with the millions of dead Korean civilians produced by that war (Committee on Government Operations, 1954). The personal accountings of that war provided by Korean War veterans who were interviewed by Choe et al. (1999) indicted that they had significant problems in the aftermath of their participation in the killing of civilians.

We now turn to the Vietnam War. One of the most horrific events of the Vietnam War, today remembered by some, were the events that took place in My Lai. In many universities, where discussions about My Lai would be relevant, only a minority of today's students has ever heard of the events at My Lai. My Lai was the name of the village as it appeared on American military land navigation maps during the Vietnam War. Actually, the formal name of the village is Son My. Thus, we have not only erased the incident from the minds of most Americans; we have never been able to even refer to the village by its formal name.

March 2015 marked the 47th anniversary of what has been referred to as the My Lai Massacre. In the early morning hours (0730 Hours), on March 16, 1968, a unit of the American Division's 11th Infantry Brigade (Charlie Company) entered the hamlet of My Lai (Hersh, 1970; Bilton and Sim, 1992; Hammer, 1970). Charlie Company had lost 20 men in the preceding months to snipers, enemy mines, and

booby traps (Hersh, 1970; Hammer, 1970). The idea of revenge undoubtedly occupied the minds of many soldiers in Charlie Company (Bilton and Sim, 1992).

Minutes prior to the initial assemblage of helicopters taking off with the soldiers of Charlie Company, 105-mm artillery rounds were fired on strategic positions near My Lai to clear the landing area near the edge of that hamlet (Allison, 2012; Bilton and Sim, 1992). This was typically referred to in Vietnam as preparing an LZ (Landing Zone) for infantry units being inserted into areas throughout South Vietnam. When the 105-mm rounds hit the ground and detonated they had the capability of killing anything within a 35-meter radius. There were no spotters (individuals) on the ground monitoring or controlling the artillery rounds.[10] The intended LZ was about 400 meters northwest of the village. While the purpose of firing the artillery rounds was to clear and prepare the LZ, many of the 120 rounds that were fired hit areas on the edge of the village. Some of the rounds hit inside the village and sent shrapnel flying through the air – snapping trees like branches and leveling hootches or homes (Allison, 2012; Bilton and Sim, 1992).

When the artillery rounds began detonating, the people in the village (typically referred to as gooks) ran for their makeshift shelters and tunnels that were under their hootches. When the firing stopped, the helicopters carrying Charlie Company approached the LZ. The helicopter gunners fired their automatic weapons down on the LZ – making certain there were no VC (Viet Cong) near the LZ. Later, the Company Commander reported that the LZ was cold – the enemy was not on, nor firing toward, the LZ (Hammer, 1970). When the helicopters neared the ground many of the men in Charlie Company jumped out of the slicks,[11] and began moving toward the village. There was no enemy fire coming from the village or anywhere else.

As soldiers moved through the village they came across people inside their hootches. Shrapnel from the artillery rounds wounded some of the people. In one hootch they found a woman who had been seriously injured along with an older man who had been wounded in both legs. There were three children inside with the woman and the older man. One of the soldiers shot the man in the head with a .45 pistol. In another instance several soldiers saw a woman coming out of a hootch. One soldier shot her. A child was in her arms when she was shot. The child was shot and killed. The killing continued. At one point Lt. Calley (The Platoon Leader of Charlie Company's first platoon) ordered several soldiers to take care of a group of about 50 Vietnamese older men, women, and children. Calley left the

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[10] Typically, this was commonly referred to as blind firing. This method of firing was often used for harassing and/or interdiction fire.
[11] *Slicks* were helicopters commonly used to transport infantry units into areas of operation or LZs.

area. The soldiers misinterpreted Calley's order to take care of the group of Vietnamese – some of the soldiers gave candy to the children. When Calley returned he reprimanded his soldiers for not killing the 50 Vietnamese. Following Calley's newly worded direct order the soldiers began killing the men, women, and children. All 50 Vietnamese were killed. Other Vietnamese were killed in their hootches. One woman who came out of her hootch with two children, one in her arms, was shot and killed. Then the two children were shot and killed. Many grunts embraced the notion that Vietnamese kids would eventually get older and become VC (Viet Cong). Other residents of My Lai were forced to get into a ditch where they were shot and killed. In one incident a small child was crawling out of the ditch and Calley grabbed the child and threw him back into the ditch. He then shot and killed the child. Hundreds of Vietnamese were killed that morning. Many women and young girls were raped or assaulted – they were then killed.

At one point, a helicopter pilot, Warrant Officer Hugh Thompson, and two of his crewmembers, Lawrence Colburn and Glen Andreotta, saw what was happening in the village. Thompson landed his helicopter and he and his crew managed to save several Vietnamese inhabitants of My Lai.[12] Hundreds of men, women, and children were killed in My Lai on March 16, 1968. Even though superior officers were aware of what was taking place in My Lai on the morning of March 16, 1968, only Lieutenant Calley was convicted. Moreover, it was not until the story of My Lai was released through the media were any charges ever brought forward.

On November 17, 1970 Lt. Calley's court martial began, and on March 29, 1971 a military jury found Lt. Calley guilty of premeditated murder of at least 22 Vietnamese civilians and of assault to commit murder of a Vietnamese child. On March 31, 1971 Lt. Calley was sentenced to life in prison. On May 14, 1973 the Secretary of the Army denied Lt. Calley clemency. On February 27, 1974 the U.S. District Court for the Middle District of Georgia ordered Lt. Calley released on $1,000 personal bond. Calley was confined again following the ruling of an appellate court, but was ultimately granted parole on November 19, 1974. Today Calley resides in Columbus, GA. All other officers and enlisted personnel were exonerated. This was but only one incident where many Vietnamese civilians were killed (Nelson, 2008; Turse, 2013).

Fast-forwarding to the mid-1970s, almost immediately after the fall of Saigon in April 1975, millions of Cambodians were rounded up and died at the hands of the Khmer Rouge led by Pol Pot from 1975-1979 (Ung, 2000). Ironically, Cambodia had

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[12] Glenn Andreotta was killed three weeks after My Lai. Hugh Thompson and Lawrence Colburn returned to My Lai in 1998 to meet with the villagers they rescued. Hugh Thompson died from a heart attack at the age of 62.

been a devoted ally of the United States throughout much of the Vietnam War, and yet it was the Vietnamese, along with some pro Vietnamese Cambodian rebels, who forced the capitulation of the Khmer Rouge – not the United States. The irony lies in the fact that Cambodia was an ally of America throughout the Vietnam War, yet it was America's enemy, the Vietnamese, who defeated the Khmer Rouge. The U.S. initiated an embargo of Cambodia from 1975 through 1992. Vietnam, along with various international aid workers, provided assistance to the victims of the Khmer Rouge – not the U.S.[13]

In the early 1980s the U.S provided aid and assistance to the government of El Salvador, who was busy killing and torturing its thousands of citizens. We assisted the Contra in their efforts to reclaim Nicaragua through their use of tactics that resulted in thousands of civilian deaths.[14] Clearly it is the powerful and the victors of war who can define war crimes.

One incident during the Iraq War that parallels the My Lai massacre from the Vietnam era is the killing of 24 unarmed civilians in Haditha, Iraq on November 19, 2005 (McGirk, 2006). After a 20-year-old Marine, Miguel Terrazas, was killed by a roadside bomb on a military convey, Marines dismounted from their vehicles and began killing civilians that were in the immediate vicinity of the explosion. The deaths included a 76-year old man who was in a wheelchair, women, and children. The lead enlisted Marine, Staff Sergeant Frank Wuterich, was the only person convicted in the investigation that originally charged 8 Marines with wrongdoing. Wuterich was ultimately convicted of dereliction of duty. His sentence of 3 months in prison was suspended so he served no jail time, he was reduced in rank to Private, and his pay was reduced. The conviction did not happen until seven years after the initial incident. The minimal sentencing and extended litigation process highlight that this occasion was in no way an anomaly during the war, but rather was accepted practice. As explained by Marine Major General Steve Johnson, the commander of American forces in Anbar Province at the time, such an incident was understood to be "a cost of doing business" (Joyner, 2012).

Another Iraq War incident that fostered public outcry were the actions of soldiers at Abu Ghraib. What did take place at Abu Ghraib? Was the treatment of prisoners any different than other holding facilities in Iraq or Afghanistan? Was the

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[13] One of our authors, Brown, went to Cambodia several times beginning in 1990. The most prevalent question he was confronted with by Cambodians was, "Why did America abandon us?"
[14] One of our authors, Brown, worked with an international group for several months in the northeastern section of Nicaragua during this period, and witnessed civilians who were killed by the Contra. In one instance, a young girl had been decapitated. Her naked body was left alongside a dirt road.

treatment of prisoners that different from the treatment of prisoners processed through the CIAs rendition program that was launched in 2001? There were 54 countries that participated in the rendition program (Fisher 2013). What about the treatment of prisoners at Guantanamo? The news reports of Abu Ghraib depicted abuse, sadism, abandonment, torture, and other despicable forms of behavior initiated by military personnel. Were these forms of behavior any different than what occurred in other detainee holding facilities or was it simply because the photographs were released and shown throughout the mass media industry. How could these soldiers behave in such a depraved heart manner with complete disregard for human life? Perhaps, it was as Mestrovic (2007, p. 179) noted, they were real people who got trapped in a place that was consistently described by them as unreal in a terrible sort of way: hell on earth. On the other hand, these acts could have been a result of frustration.   Their interaction with prisoners is likely the only time they ever experienced contact with suspected enemy combatants. This may have been their only opportunity to get even with the enemy who had injured and killed Americans. Ironically, or not, only a handful of enlisted personnel were sentenced to prison. It seems rather unusual, however, that military officers, some of whom graduated from West Point, could not control the actions of PFC (Private First Class) Lynndie England, and the other enlisted personnel for their activities at Abu Ghraib. Apparently those officers were unable to lead, monitor, or supervise one female PFC.

Prior to opening Abu Ghraib, Guantanamo, and other detention facilities the U.S. military followed the directives of FM (Field Manual) 34-52, which complied with the Third Geneva Convention rules that laid out the guidelines for treatment of prisoners of war. FM 34-52 specifically prohibited the use of force (all acts of violence or intimidation), torture, threats, mental abuse, insults, etc. The rules changed and opened the door for the abuse of detainees after the Rumsfeld memo, White House counsel, the CIA, and other government legal offices rulings that bypassed FM 34-52 (Sands, 2008).

Whether we are talking about the events that occurred during World War II, Korea, Vietnam, Iraq, or Afghanistan one thing is clear – we are talking about the life and/or death of human beings. Beyond the numbers, is there a clear distinction between the activities of subordinates at the concentration camps in Europe and the killing of innocents at No Gun Ri, My Lai, Haditha, or Abu Ghraib? One thing is certain – the participants (both direct and indirect participants) of those incidences likely will struggle with moral issues for the remainder of their lives. Hence, the aggressors will become the victims of moral injury.

The point of all of the above discussion is to illustrate that anthropology, sociology, and psychology have identified processes in executing war that is constant over time. Each generation must deal with PTSD, moral injury, and the need to recover and re-acculturate from the unique content of each war. It is our contention that such a multi-disciplinary approach can provide this type of understanding.

Further we contend that the issue of veterans in the criminal justice system is not a new phenomenon. Rather it has occurred after every war, and that the failure to recognize this cultural fact of life results in both a lack of justice and failure to honor our commitment to assist in re-acculturation (Abbot, 1918; Casey, 1923). It also morally damages both the civilian and military culture. It is this failure that leads the justice system to use only incarceration as a means of rehabilitation, rather than find and embrace the methods that veterans require to avoid incarceration, or if incarcerated emerge rehabilitated. Unfortunately the criminal justice system has but one tool, which is incarceration, to apply to all problems. As has been said if all you have is a hammer everything looks like a nail. We contend that this approach must change, and to do so requires cultural competence.

Moral Injury and Posttraumatic Stress Disorder

One veteran, who said that he had entered the military a quite religious person, talked about his experiences in the Central Highlands of Vietnam. After briefly discussing his experiences the veteran offered his perception of the effects of war:

> *War changes you, changes you. Strips you, strips you of all your beliefs, your religion, takes your dignity away, you become an animal. I know animals don't– the animal in a sense of being evil. You know, it's unbelievable what humans can do to each other. I never in a million years thought I would be capable of doing that. Never, never, never (Shay 1994, p. 33).*

Moral injury is a violation of core values (Brock and Lettini, 2012). Core values may be acquired in both the civilian and military cultures. Posttraumatic Stress Disorder is a consequence of traumatic exposure that occurs following one's exposure to a traumatic event, which includes threats of or actual serious harm that was pending or actually occurred.

The new 2013 Diagnostic Statistical Manual of Mental Disorders (DSM 5, 2013) has also noted that the risk and severity of PTSD may very across cultural groups as a result of the variation in the type of traumatic exposure (e.g. genocide), the

impact on disorder severity of the meaning attributed to the traumatic event (e.g. inability to perform funerary rights after a mass killing), the on-going socio-cultural context (e.g. residing among unpunished perpetrators in post conflict settings), and other cultural factors (e.g. acculturative stress in immigrants.) The DSM 5 goes on to note that relative risk for PTSD and the clinical expression of symptoms or symptom clusters may vary culturally... The DSM 5 goes on to note that cultural syndromes and idioms of distress influence the expression of PTSD and the range of co-morbid disorders in different cultures by providing behavioral and cognitive templates that link traumatic exposure to specific symptoms (DSM 5, 2013, p. 278).

Of note, military culture is not addressed in the DSM 5. However if one applies the above template it is very clear that the MTI affects the risk, expression, and co-morbid diagnoses in veterans PTSD. MTI places the highest value on exposing oneself to combat and hence the type of trauma that causes PTSD. Posttraumatic Stress Disorder symptoms are molded by the military culture's insistence and tradition that reporting PTSD is a career killer. MTI endorsement of alcohol use not only molds alcohol abuse as a way to manage PTSD, but also molds and causes substance abuse as a co-morbid disorder of PTSD. Lastly, the MTI culture and customs deprive combat veterans of funerary rights, and the ability to assess them moral issues of war as it is fought through its follow orders and don't question cultural values.

The DSM 5 hints at the moral injury component of PTSD by noting that socio-cultural contexts and acculturative stress play a major role. The moral issues and cultural battle between civilian and military cultures are best illustrated by the least liked question that military veterans are asked: Did you kill anyone? This question illustrates the irreconcilable moral values between civilian and military culture. Civilian moral values agree that killing is the ultimate immoral act, while in military culture killing the enemy is the ultimate moral good. These values cannot be reconciled, and it is this fact that makes the returning veterans subject to culture shock (or as DSM 5 puts it acculturative stress) that greatly impacts the veterans' behavior. Already hyper-aroused and triggered by crowds, noises and everyday life, the veteran also now isolates to avoid dealing with this moral conflict that lives within him or her and between civilian and military culture. It is of little wonder that this leads the veteran to engage in alcohol abuse condoned by and valued in the military culture, carry weapons for security and to isolate. It is also easy to see that this can and does lead to involvement in the criminal justice system for many veterans. The fact that the civilian culture is blind to this culture leads to seeing the veteran in criminal justice as just a selection error by the military rather than a

readily understood, inevitably cultural expression of PTSD is simply what we meant in our title: You don't know who or what you are talking about.

It must also be noted that moral injury issues begin as soon as the soldier enlists. In the American Sniper discussion much debate has occurred over the de-humanizing of the enemy within the civilian culture. In the military culture, dehumanization of the enemy starts in basic training and is a necessary component to do the central mission of combat –kill the enemy. (As previously noted, the sign on a barracks door at ranger school read: "War is killing and killing is fun") The MTI also prizes and rewards not only individuals who put themselves at risk for trauma exposure, it also prizes and rewards those who place themselves at risk for moral injury.

Finally, we must point out that while the recognition and study of moral injury is a positive development, this field also suffers from a lack of cultural competence. The Moral Injury Scale of Nash et al (2013) avoids asking any questions about the differences between civilian moral values and military (the best example being the different views of killings described above), nor does it ask about moral conflict that is inherent in having been acculturated into two different moral systems. This observation is not meant to say that current approaches to moral injury have not been useful (in fact they have been invaluable for raising the issue as separate from PTSD), but rather that the issue of cultural differences in beliefs and values between civilian and military culture must be recognized and studied. As we have said before and will probably say again, this requires recognition of cultural differences and the interdisciplinary study of these differences and that inherent cultural clashes between civilian and military moral systems and values often can result in moral injury. Without this recognition, the re-acculturation of veterans will remain problematic at best.

Conclusion

One might assume that we are suggesting preferential treatment for veterans who become entangled in criminal justice. Well, that is not nor ever has been our intent. Rather, we are suggesting that veteran defendants, like all defendants, should be entitled to a just treatment in the courtroom. A just treatment can only be attained when all participants in the courtroom are culturally competent. Consider an inner-city youth, who is alleged to be gang affiliated, and is confronted with criminal charges. How difficult would it be to learn about the social reality of inner-city culture and poverty? Now take the case of a veteran, who served in a combat zone, and has been diagnosed with PTSD or TBI, war-related, by the Veterans

Administration. In addition, to the charge of assault, or attempted murder, or murder, the veteran defendant has a serious alcohol problem, which is certainly not unusual given the fact that the veteran has been formally diagnosed with war-related PTSD. Extensive research has confirmed the positive relationship between war, PTSD, and alcohol, which the latter is often used as a form of self-medication (McFarlane, 1998; Brown et al., 2013). Why do prosecutors continuously assert that the veteran defendant is malingering and that the PTSD diagnosis is not valid? It is a rare occasion when prosecutors do not contest a veteran defendant's formally diagnosed PTSD. Why do some judges rule that expert witness testimony related to military culture and the military experiences of a combat veteran is not relevant? The answer to these questions is quite simple – cultural incompetence coupled with a simple lack of interest in the topic of veterans entangled in criminal justice.

We have written much about moral injury and the affect it has on veterans. In closing, we have elected to briefly introduce the term betrayal and the role it has on moral injury. Betrayal trauma is defined as "physical, sexual, or emotional maltreatment perpetrated by someone to whom the victim is close, such as a parent or partner" (Goldsmith et al., 2013, p. 376). The military, and ultimately the Federal government, effectively adopts a similar level of intimacy due to the contractual relationship between the organization and the individual that can potentially require the individual to sacrifice his or her own life or take someone else's life in pursuit of the organization's goals. In order to agree to such a contract, the individual must bestow a great amount of trust and dependence in the organization, similar to that which a child grants their parent, or lovers grant each other. Betrayal in the emotional sense is also a "subjective appraisal, based on each individual's perception" (Kelley et al., 2012, p. 409). Betrayal trauma has already been shown to "correlate with higher levels of Post-Traumatic Stress Disorder symptoms, such as avoidance, re-experiencing, or hyper arousal" (Kelley et al., 2012, p. 413). Betrayal is likely to have an even greater effect on moral injury, which is defined as "perpetrating, failing to prevent, bearing witness to, or learning about acts that transgress deeply held moral beliefs and expectations" (Litz et al. 2009, p. 697). Betrayal, moral injury, and PTSD compound and combine to cause a great deal of damage to both the individual service member and society at large once the veteran attempts to transition from combat to civilian life. To prevent that damage in the future it would be moral if the American society in general, and the criminal justice system specifically, would invest in becoming culturally competent when it comes to veterans in general, and veteran defendants specifically.

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