



By CPT Kevin D. Anderson

To be effective in combat, units must maintain good order and discipline. Undisciplined units compromise mission effectiveness and readiness, putting soldiers at unnecessary risk. Good order and discipline is maintained through an efficient command philosophy and military justice process. A commander must provide clear standards of conduct, uphold those standards, and hold those who do not meet our standards accountable. Therefore, to effectively instill good order and discipline, commanders must leverage military justice in a firm, fair, consistent, and expeditious manner.

Firm: We are all members of a standards based organization. Those who fail to observe our ethical, moral, and legal standards jeopardize readiness. We are an all-volunteer force, therefore, if someone makes a conscious decision not to adhere to the oath they freely took, it is the commander's job to correct the behavior. Being firm does not necessarily mean "crushing" or "maxing" punishment. Firm means holding people accountable, all of the time, and not letting competence overshadow the importance of character. Soldiers are rightly held to a different set of standards and discipline than the rest of American society. Commanders must embrace that fact.

Fair: Each case will present unique challenges and circumstances. Use all available resources to gather as many facts as necessary to make an informed decision. However, recognize that you might not have everything you want to make your decision. Nonetheless, weigh the facts as you see them and make the best decision with the information you have.

Hiding behind the cloak of incomplete information will demoralize units and degrade confidence in the chain of command. Additionally, being fair is not the same as being nice. Your duty as the commander is to the organization, not to make an individual Soldier feel good about your decision. Listen to testimony, examine the evidence, and make your decision. Educate yourself and know the different levels of proof required for each action or process (i.e. the difference between proof by a preponderance of the evidence versus proof beyond a reasonable doubt). The following principles should inform a commander's view of fairness:

Judicial Ethic: Judicial Ethic is the innate belief of what constitutes right and wrong. Use your judicial ethic as a lens to view the actions of others; it is a subjective standard, and a starting point. Leaders need to take the time to identify their judicial ethic by making a list of the theories, doctrines, etc. that inform their core beliefs of justice. Dig deep, look to Scripture, political and ethical theory, or whatever is a guiding principle in your life to identify what ideas inform your view of vice and virtue. Simply answering how you plan to maintain good order and discipline can help drive your judicial ethic. In addition, it is critical to articulate your judicial philosophy and nest it within your command philosophy. Your unit will only be lethal and effective if it is disciplined and a unit's discipline is directly related to the commander's judicial ethic.

Prudence: Prudence is, essentially, why leaders are placed in command. Prudence is the experience, wisdom, and knowledge gained over a career as an officer and leader. As applied to military justice, prudence is the ability to view a situation and astutely apply previous experience. Judicial prudence is guided by knowing what will, and will not, affect readiness, morale, and trust in the command when adjudicating discipline issues. Commanders must make the call and determine which Soldiers can be rehabilitated and which Soldiers should be separated.

Every leader will have a different idea of what good order and discipline looks like, but you were selected for command by the Army because of your prudence. All your experiences up to this point and your ability to apply the lessons you have learned demonstrate an ability to lead.

The administration of military justice is no different. Bring the full weight of your knowledge to bear on the maintenance of good order and discipline as you approach each legal issue.

Judicial Temperament: Judicial temperament is critical for leaders. Temperament is the moderation of action, thought, and feeling. When units experience adversity, strife, or

peril they look to their leader for guidance. As a commander, it is critically important to maintain your composure and assess the facts as they are and draw a logical conclusion. Action without temperament is movement without a purpose and may ultimately jeopardize a just outcome. Strive not to overreact, make informed decisions, and employ the resources available to you.

Consistent: Consistency requires approaching each case similarly and making standards known across the formation. Consistency, however, is more than doing the same action repeatedly. Consistency is applying your judicial ethic and temperament as a process to each individual case. Being consistent in your approach to offenses will demonstrate standards to the unit and deter further infractions because Soldiers understand the consequences of their actions. To be consistent, leaders should look to the following principle:

Fortitude: Fortitude implies courage and being uncomfortable with a situation, but having the internal strength to complete the task at hand. Often times, you may end a career, take time or money from a Soldier and this is difficult, but necessary. Remember, when applying punishment, Soldiers are being held accountable for their actions. The Soldier's actions are the stimulus for the application of justice; as the commander, your overriding concern is for the well-being of the organization and the Army as an institution. Therefore, do not shy away from imposing tough punishments, but do so evenly across the spectrum of events, offenses, and more importantly, offenders.

When imposing punishment, focus on the misconduct and matters presented by the Soldier, not the rank of the individual or how the punishment will impact the unit's readiness; no one in this organization is indispensable or irreplaceable. The Army trains Soldiers every day, if you lose a section chief or a squad leader, someone else will step up. Be consistent in treating like offenses similarly to avoid the trap or perception of favoritism.

Expeditious: Simply put, justice delayed is justice denied. Move actions as expeditiously as possible for multiple reasons. First, to punish the wrong and maintain good order and discipline. Few things will demoralize a unit as much as seeing a Soldier being allowed to flaunt indiscipline and not have the command check the behavior. Second, speed allows the Soldier who committed the offense to either leave military service or attempt to move past the infraction. Most Soldiers want to move past their infraction and be better Soldiers. Those who don't will self-identify and be on the carpet again soon enough. Third, swift justice allows the unit to focus on more important matters such as training and operations.

If you are fortunate enough to command an Army unit, you owe it your soldiers to have the

best unit possible. Remember, you are not the first, or the last person to hold this position; seek out guidance from subordinate, peer, and superior commanders to see how other units have effectively established military justice programs. Most importantly, take the time to think through how you view military justice and how you want to instill good order and discipline within your units. Good order and discipline does not just happen, it is forged and fostered.

About the author: CPT Kevin D. Anderson currently serves as the Brigade Trial Counsel for 18th Field Artillery Brigade, XVIII Airborne Corps, Fort Bragg, NC. CPT Anderson consulted with his Brigade Judge Advocate, MAJ Katherine L. DePaul, to develop the foregoing judicial philosophy. The intent of the piece is to provide a judicial framework for all levels of command.

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