

# **Effective Engagement in the Public Opinion Arena: A Leadership Imperative in the Information Age**

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Historically, the military ranks as one of the most trusted institution in America. In an annual poll conducted by the Gallup Organization, the public consistently rates the military as the institution in which it has the highest level of confidence placing it well ahead of the President, Congress and the church.<sup>1</sup> Public confidence remains high despite questions about operations in Iraq, prisoner abuse allegations at military confinement facilities, the on-going hunt for al Qaida in Afghanistan, concerns about the anthrax vaccination program, headlines over sexual assault allegations within the Department of Defense and questions over business dealings with Haliburton and Boeing.

To maintain the public's trust and confidence, particularly considering today's age of instantaneous access to news and information, requires greater effort and more attention than ever before. The public, rightfully, has a strong interest in its military and the military has a duty to the public to be as transparent as possible, and to the extent practicable, to serve as an honest, straightforward source of information. Communicating effectively and openly with the public enables the military to keep the public informed while highlighting the positive aspects of military service and the nature of on-going military operations. This communication through the media serves the military's interest in staying connected with society and the public's interest in monitoring its military.

Leaders must recognize the communications process is a continuum that starts at the decision-making stage and ends with an effect on public opinion after the communication is accomplished. A coherent communications process and strategy saves time and effort, more consistently promotes the military's long-term interests and provides the public the information it needs to assess its trust and confidence in the military.

## **The Demands of Command**

From the newest airman in basic training to the Commander-in-Chief, everyone gets the same daily allotment of time. Demands dictate how each person allocates the time allotted, and "there just aren't enough hours in the day" is a universal complaint. Commanders face special challenges and demands on their time. Commanders start the day with at least a general notion of what they hope to accomplish, but one thing truly predictable is that the unpredictable will happen, forcing a reassessment of priorities and a reallocation of time and effort.

The essence of what a commander does, regardless of his or her level in the military hierarchy, can be distilled down to two words: make decisions. Every decision, whether a commander considers it trivial or monumental, affects someone, often in ways subordinates or other

observers perceive as negative if not unfair or illegal. A person that believes a decision is wrong can elevate the perceived grievance to the most senior levels of the military, other governmental agencies, members of Congress and to the media in a matter of seconds thanks to modern technology . . . and these responses can all be done simultaneously. If that happens, commanders may find themselves devoting significant amounts of time and effort justifying decisions made in the past rather than focusing on today's mission or tomorrow's potential requirements.

A complaint of the nature described above often takes on a life of its own and morphs in ways no one could imagine at the outset. The media want to attract interest, and nothing pulls in an audience like a scandalous headline. Politicians want publicity, and being perceived as someone who champions the cause of the little guy fighting a perceived flaw in the system has a natural appeal. All the while the public assimilates the information presented to them, often information presented in brief edited sound bites, and forms a collective opinion on the facts and the appropriateness of command action. Like Jason in the long series of Friday the 13th movies, a thorny issue seems to die off only to be resurrected when it is least expected, time and time again, resulting in a communications quagmire of indeterminate duration.

The military's reluctance to engage the media in the wake of a perceived scandal in many cases perpetuates the problem by allowing the complainant, the media and other interested parties to shape the battlefield in the struggle to influence public opinion. For better or worse, public opinion matters. Public opinion affects the political arena and can influence funding, oversight and direction to the Department of Defense. A number of headline examples, some to be examined in more detail later, demonstrate the military's historical approach to responding to controversy is inadequate in today's instantaneous information age. The military's rules of engagement in the competition for the public's opinion need to be reassessed. Senior leaders . . . commanders . . . must be more attuned to potential consequences of their decisions and more adept at identifying issues before they escalate, more skilled in shaping a response plan in the event of a controversy and more forthcoming in articulating why their decisions were proper and made sense.

### **First Lieutenant Kelly Flinn: A Lesson in Public Opinion**

No case better illustrates the weaknesses in the old approach to responding to controversy or the influence public opinion possesses over government institutions than the case of Kelly Flinn. Lauded as one of the growing number of female graduates of the Air Force Academy, Lieutenant Flinn became the Air Force's first female B-52 pilot in 1995. She represented the Air Force at events such as the May 1996 air show at Andrews Air Force outside Washington, DC, the biggest event of its kind in the United States.<sup>2</sup>

Unfortunately for the Air Force, the poster girl developed her own desires completely unconstrained by the public role in which the Air Force cast her. Lieutenant Flinn began a course of conduct shortly after the May 1996 air show that soon led to even greater notoriety. She began a sexual relationship with a single enlisted man at Minot Air Force Base, North Dakota, in June 1996. Later that same month, a female airman and the airman's civilian husband arrived at Minot, and within days Lieutenant Flinn developed a sexual relationship with the airman's

husband. The female airman discovered the affair in July and reported it to her noncommissioned officer first sergeant. The noncommissioned officer, in a gracious act that could have saved the young officer's career, warned Lieutenant Flinn to end the relationship. Lieutenant Flinn promised the noncommissioned officer the relationship would stop, but she continued the affair with the enlisted woman's husband.

In November 1996, a person under investigation by law enforcement authorities on an unrelated matter implicated Lieutenant Flinn and others for sexual misconduct. Lieutenant Flinn was questioned, chose to waive her right to remain silent and elected to provide a statement in her defense. She then made a false official statement to investigators (what is often characterized as obstruction of justice in civilian investigations) denying a sexual relationship with the airman's husband. The civilian husband, on the other hand, admitted to the authorities he was having a sexual relationship with Lieutenant Flinn. The story did not end there. By December 1996, Lieutenant Flinn and the airman's husband were living together in Lieutenant Flinn's off-base apartment. After the female airman complained again about the continuing relationship, Lieutenant Flinn's commander gave Flinn an order to have no further contact with the airman's husband. Lieutenant Flinn violated the order, traveled with the airman's husband on vacation and even wrote a personal check to pay his college tuition. It was only after she learned in January 1997 that the airman's husband admitted to law enforcement authorities he had an on-going sexual relationship with Lieutenant Flinn that she asked him to move out of her apartment. On January 28, 1997, Lieutenant Flinn's commander preferred court-martial charges against her for disobeying the no-contact order, making false official statements, violating a regulation by fraternizing with an airman and for adultery with the female airman's husband.<sup>3</sup> And that is where the Air Force's public relations "trial" really began.

While many would debate the propriety of the course of action Lieutenant Flinn elected to pursue after she was charged, few could argue about its effectiveness. Lieutenant Flinn retained civilian legal counsel as well as a media relations firm.<sup>4</sup> Within weeks of the charges, Lieutenant Flinn's defense team crafted a plan to plead her case to the public through the media in hopes of avoiding ever having to argue the case before a judge or jury in a court-martial. In April and May 1997, lengthy articles in *The New York Times* and *The Washington Post*, as well as an appearance on *60 Minutes*, conveyed the theme Lieutenant Flinn and her defenders wanted to sell the public: The Air Force was draconian and way out of step with modern society in persecuting a young woman for an affair of the heart.<sup>5</sup> Eventually more than one hundred media outlets were helping convey her message.<sup>6</sup> As an example of how effective her media campaign was, her story made the front page of *The New York Times* five times in less than two weeks.<sup>7</sup>

The Air Force's approach at the outset was the time honored "no comment" response that traditionally hamstrung both governmental agencies and prosecution teams, choosing instead to wait and present its case at trial.<sup>8</sup> The Air Force's reticence to speak out enabled Lieutenant Flinn and her team to frame the issue in terms favorable to her defense strategy with no opposition. By early May, just days before the case was set to go to trial, public opinion was clearly aligned with Lieutenant Flinn. Telephone calls to Air Force Public Affairs were seven to one that the Air Force was treating Lieutenant Flinn unfairly.<sup>9</sup> Equally as important, her ability to cast the issue in her own terms influenced political opinion on a bi-partisan basis. Senate Majority Leader Trent Lott, a Republican from Mississippi, said, "I think she is being badly abused. I'll tell you,

the Pentagon is not in touch with reality on this so-called question of fraternization. I mean, get real: You're still dealing with human beings."<sup>10</sup> Senator Lott said he intended to raise the issue with the Secretary of Defense and opined, "at a minimum she ought to get an honorable discharge."<sup>11</sup> Senator Tom Harkin, a Democrat from Iowa, said, "I think the Air Force is looking ridiculous on this, and I think the military is too."<sup>12</sup> Representative James Traficant, a Democrat from Ohio, in a statement dripping with sarcasm, said: "For years, GI Joe was given a condom and a slap on the wrist. But now GI Jane gets a court-martial, a slap in the face and, to boot, labeled a Jezebel for life. I ask, if this was Lieutenant Errol Flynn instead of Lieutenant Kelly Flinn, would there be a court-martial, Congress? Beam me up."<sup>13</sup>

The Air Force eventually chose to enter the fray and tell its side of the story, that this was not simply a case of love gone awry, but a case of an officer who disobeyed orders, lied and undermined respect for the officer corps. On May 21, 1997, Air Force Chief of Staff General Ronald Fogelman told a congressional panel: "In the end, this is not an issue of adultery. This is an issue about an officer who is entrusted to fly nuclear weapons, who disobeyed an order, who lied. That's what this is about."<sup>14</sup> But by then opinions were established and changing them would take time, something the Air Force wasted early on and by this point was running out of.

On May 22nd, Senator Slade Gorton, a Republican from Washington and a former Air Force judge advocate, highlighted the perils of fighting against such a public relations campaign if you are the institution. He sharply criticized General Fogelman's remarks saying, "we had the most outrageous statement on the part of the chief of staff of the Air Force, a four-star general, who, in effect, stated his belief in (Lieutenant Flinn's) guilt. He made a statement that is as outrageous an exercise of command influence as I can ever remember, and would have voided any possible court-martial conviction had this matter gone ahead."<sup>15</sup> Secretary of the Air Force Sheila Widnall brought the prosecution story to an end on May 22nd by accepting Lieutenant Flinn's request to resign in lieu of court-martial and the Secretary approved her separation with a general discharge.<sup>16</sup> Interestingly, by the time Secretary Widnall acted the Air Force's effort to tell its side of the story was already beginning to turn public opinion. Telephone calls to Air Force Public Affairs on May 21st were two to one in favor of prosecution, a dramatic shift from just a week earlier when callers opposed prosecution by a seven to one margin.<sup>17</sup>

### **Kelly Flinn: The Aftermath**

The controversy did not end with the Secretary's approval of Lieutenant Flinn's discharge. General Joseph Ralston withdrew his name from consideration for appointment as Chairman of the Joint Chiefs of Staff in June 1997 after questions surfaced in the media about an affair he had with a civilian classmate when they were students at the National War College thirteen years earlier. The link to the Flinn controversy was obvious. As one reporter stated, "(h)ad it not been for Kelly Flinn, (General) Joe Ralston probably would have been chairman of the Joint Chiefs today."<sup>18</sup> On July 28, 1997, Air Force Chief of Staff General Ronald Fogelman asked Secretary Widnall to be relieved of his duties and allowed to retire a year before completing his normal four-year term, in part because of Flinn. General Fogelman said he and Secretary Widnall, in his view, "had a good relationship right up to the Kelly Flinn controversy."<sup>19</sup> Because of the Flinn case and several other issues, General Fogelman said he decided that, "perhaps I was riding the wrong horse here. After a while, you look around and experience some serious doubts about

whether you can be right and everybody else wrong... In my heart, I concluded that my continued service was not in the best interest of the Air Force.”<sup>20</sup> General Fogelman in essence concluded he was out of step with his civilian leadership, Congress and perhaps even the American public. Lieutenant Flinn, on the other hand, seemed to fare much better. She wrote a book, “Proud to Be,” published by Random House in November 1997, and told People Magazine in December 1997, “(s)ome people have even suggested I run for Congress.”<sup>21</sup>

The Air Force learned some important lessons from the Flinn case. The Under Secretary of the Air Force at the time, Rudy de Leon, said, “I think they (the Flinn defense team) had a very sophisticated plan. They were able to frame the story early on.”<sup>22</sup> Clearly the Air Force was out maneuvered and caught unprepared to respond to the onslaught of public and political criticism Lieutenant Flinn’s public relations campaign generated. Not only because of the Flinn debacle, but in an effort to prevent such shortcomings in the future, Air Force Chief of Staff General Michael Ryan and Secretary of the Air Force Whitten Peters formed a “Communication SWAT Team” in early 1998 called the Air Force Executive Issues Team, or by its acronym, AFPAZ.<sup>23</sup> The team reported directly to the Secretary of the Air Force and the Chief of Staff of the Air Force, and consisted of select members from five Air Staff and three Secretariat offices.<sup>24</sup>

The AFPAZ mission was to look out on the horizon for potential issues, proactively develop a response plan, and formulate fact-based themes and messages to enhance the Air Force’s communications capabilities. The team was given unfettered access to meetings conducted by senior Air Force officials and the representatives from the functional areas received access to high-level meetings of and inputs from their counterparts in the field as issues appeared that might generate interest.<sup>25</sup>

Often the Privacy Act limited the Air Force’s ability to respond to questions about individual administrative and criminal justice cases, so AFPAZ developed a Privacy Act release in conjunction with the Air Force General Counsel and the Air Force Judge Advocate General.<sup>26</sup> The release, if signed by the individual concerned, allowed the Air Force to discuss the specifics of the case and tell its side of the story. If the individual elected not to sign the release, it was a signal to the outside interested party, most often a reporter, that perhaps the individual had something to hide and did not want to give the Air Force the opportunity to set the record straight.<sup>27</sup>

This more aggressive, proactive approach put the Air Force on better footing to respond effectively to controversial stories. Former Air Force judge advocate, Brigadier General (retired) Jim Swanson, in a May 2003 article in USA Today, attributed the military’s improved media posture in part to the lessons learned in the Kelly Flinn case.<sup>28</sup> General Swanson said senior leaders “now appear to clearly understand that it’s a military imperative in the Information Age to fully accommodate the media’s need for unfettered access to the truth. That being so, the military finally has something to thank Kelly Flinn for.”<sup>29</sup>

### **Even the Little Issues Can Lead to Big Headaches**

The Kelly Flinn case made headlines worldwide, affected the most senior levels of the Air Force, reverberated in the halls of Congress, and led to a rethinking of how the military engages with

the media, but its origins can be traced back to North Dakota and a warning from a first sergeant to cease and desist and a no-contact order from a squadron commander. Their objective was to get an officer to stop carrying on a sexual relationship with the civilian husband of an enlisted woman. At the time, the first sergeant and the squadron commander certainly had little idea what a sensational case it would become. But these routine unit-level type decisions leaders make, day in and day out, have the potential to mushroom into time consuming, course altering events.

In July 1999, a female staff sergeant in the communications squadron at Dyess Air Force Base sent an email to her husband, a staff sergeant in the transportation squadron. Attached to the email were photographs of nude females with tattoos of animals and insects, with the females' genitals incorporated as part of each tattoo's design. The husband opened the attachment and showed the photographs to subordinates in his unit. One of the subordinates was offended and told his first sergeant. The matter was reported to security forces and investigators interviewed the husband. The husband elected to waive his right to remain silent and made a sworn written statement denying he received the email or saw the photographs.<sup>30</sup>

The commanders of the communications squadron and the transportation squadron elected to offer nonjudicial punishment to the husband and wife. The husband was punished for using a government computer to display pornographic pictures to his subordinates and for the false official statement he made to security forces investigators. The wife was punished for misusing the government email system to send pornographic pictures, something specifically prohibited by Air Force regulations.<sup>31</sup> While the facts of these cases are unique, these are the types of minor disciplinary infractions commanders confront on a daily basis. At the time, no one would have imagined that the eight-inch spread on the front of the December 20, 1999, Air Force Times would read, "X-Rated Email, A Message Between Spouses: Whose Business is It?"<sup>32</sup>

The wife sent an email to the Air Force Times complaining that in the civilian sector what she and her husband did "wouldn't have even mattered" (a fact many labor law attorneys and corporate in-house counsel might strongly dispute) and claiming the Air Force overreacted.<sup>33</sup> The impression her description of the photographs created was far less explicit than what the pictures showed. When the Air Force Times reporter contacted officials at Dyess about the case, they provided him copies of the Privacy Act release developed by AFP AZ. The reporter presented the releases to both the husband and wife, and they signed giving consent for the Air Force to discuss their cases. This allowed base officials to set the record straight. They provided the reporter with a copy of the husband's second written statement to security forces, a statement he wrote after learning his wife confessed. In that statement the husband admitted showing the pictures to his subordinates and said his earlier sworn statement denying any knowledge was a "terrible mistake."<sup>34</sup> Base officials also offered to show the photographs to the reporter so he could see they were much more explicit than he had been led to believe. He declined the offer.

Dyess Air Force Base officials responded aggressively to the Air Force Times inquiry, secured Privacy Act releases, provided the written statements of the husband and wife to the reporter, offered to show him the pictures and provided him statistical information on disciplinary actions taken at the base for other misuses of government email. In the end, the story ran and was the lead article on the front page. Base officials would have preferred the story not run at all, but when it did appear on newsstands the overall tone was less critical and more balanced than it

likely would have been had they failed to respond. Also, the benign tone of the article did not generate broader media interest and the story died without much fanfare. There certainly was no outcry that spouses, and potentially friends or co-workers, should be allowed to use government computer systems to exchange pornographic images.

### **The Air Force Academy Sexual Assault Problem<sup>35</sup>**

A former Air Force Academy cadet sent an email on January 2, 2003, to the Secretary of the Air Force, members of Congress, media outlets and others alleging there was a pervasive sexual assault problem at the Academy and complaining that sexual assault victims were ignored and even mistreated when they reported their assaults to Academy officials.<sup>36</sup> By year's end, the email led to over 1,900 news stories, four separate investigations, five congressional hearings and an hour-long feature on The Oprah Winfrey Show.<sup>37</sup> The Air Force was sharply criticized, not just because of the alleged assaults, but because of the way it was perceived to have responded to the controversy.<sup>38</sup>

Investigations are on-going, so it is premature to assess right and wrong in the Academy's sexual assault controversy, but there are some public opinion and public relations issues to consider.

First, information was available within the halls of the Air Force Academy suggesting there was a sexual assault problem requiring attention;<sup>39</sup> however, it appeared much of that information was not conveyed to the Academy's senior leadership. Well-intentioned processes to give victims access to support services, while allowing them to control whether their sexual assaults were reported to law enforcement investigators, kept some information from reaching commanders. It is entirely speculative at this point, but an obvious concern is whether, armed with this information, leadership would have engaged earlier and more aggressively, and possibly have prevented the issue from spinning out of control. It also begs the question of what was the point of collecting information if it was not going to be provided to the Academy's leadership? Confronting an issue early and aggressively certainly increases the chances it can be resolved without becoming a national issue.

Second, the Secretary of the Air Force and the Chief of Staff released the Agenda for Change on March 26, 2003, nearly three months before the Working Group the Secretary established to investigate the problem submitted its report,<sup>40</sup> and announced that four of the Academy's senior leaders, including the Superintendent and the Commandant of Cadets, were being reassigned.<sup>41</sup> In the Air Force press release accompanying the Agenda for Change, the Secretary said the problems at the Academy predated the Superintendent and the Commandant, and "we do not hold (them) responsible."<sup>42</sup> This drew a quick and biting response from some members of Congress. Senator John McCain, a Republican from Arizona and a member of the Senate Armed Services Committee, said, "(i)t is abundantly clear the secretary of the Air Force has proven himself totally incapable of handling this issue" and he called the Air Force's response to the sexual assault allegations "some of the most incredible evasions I've seen in 40 years."<sup>43</sup> In a hearing before the Senate Armed Services Committee on March 31, 2003, senators criticized the Secretary and the Chief of Staff for reaching conclusions about responsibility before the investigations were finished and demanded a fourth investigation by an independent panel.<sup>44</sup> Regardless of who is or is not responsible for the problems at the Academy, releasing a statement

implying that conclusions on accountability had been reached, even as investigations were ongoing, created a perception that a fix was in and the Air Force was less than objective in confronting the issue. In hindsight, one could argue whether the statement on responsibility was necessary and, if it was, whether it could have been expressed in more preliminary, less conclusive terms. In the end, the positive impact the release of the Agenda for Change could have had on public opinion was overshadowed, to an extent, by the perceived negative implications drawn from the statement on responsibility.

Finally, the independent panel led by former Representative Tillie Fowler, a former Republican member of the House of Representatives from Florida, questioned whether the Air Force was capable of investigating itself. The Panel's report said:

The Panel is also concerned about the seeming inability of the Air Force to adequately investigate itself. While the Air Force General Counsel's Working Group conducted a thorough investigation of the Academy, it completely failed to address one of the most significant contributors to the current controversy — ineffective oversight by Air Force leadership. Members of the Working Group knew about the prior involvement of Air Force leadership since they or their offices were engaged in the issues over the past ten years. Yet the General Counsel apparently made a determination not to include any of this information in the Working Group Report.<sup>45</sup>

The report goes on to say, "(t)he Panel believes that the Air Force General Counsel attempted to shield Air Force Headquarters from public criticism by focusing exclusively on events at the Academy."<sup>46</sup>

The Secretary, the Chief of Staff and the Air Force General Counsel testified before the Senate Armed Services Committee on September 30, 2003, following the release of the independent panel's report and the appearance of Representative Fowler and other panel members before the Committee on September 24th.<sup>47</sup> They faced tough bi-partisan questioning, particularly questions on why the Working Group's Report did not address Headquarters Air Force involvement. The General Counsel told Senator McCain she did not remember if she removed findings about prior Headquarters Air Force involvement from the report prompting Senator McCain to comment, "(w)e're in the dog-ate-my-homework, not-on-my-watch defense."<sup>48</sup> The Secretary, the Chief of Staff and the General Counsel also told the Committee the Working Group's earlier conclusion that there was no systemic effort to ignore sexual assault at the Academy might have been different in light of new information developed during the independent panel's review. Following the hearing, the Committee wrote to the Department of Defense Inspector General requesting to expand an on-going Inspector General investigation to include potential responsibility at the Headquarters Air Force level.<sup>49</sup>

The lesson here is when the Air Force tells its side of the story it needs to be the complete story, or at a minimum a release with a caveat on the limits of what the story contains. In this case, the collateral issues associated with how the investigation was conducted and what was or was not included in the Working Group's report became a story almost equal in size and scope to the original sexual assault issue at the Academy. It took an untold amount of time and effort at the

most senior levels of the Service to respond, all in the midst of on-going combat operations in Iraq when attention and effort could have most effectively been focused on the war.<sup>50</sup>

## **Effective Engagement**

While the cases discussed above have a central theme . . . sex . . . sex is by no means the only topic that can lead to controversies and headlines. The aftermath of the April 2002 friendly fire incident in Afghanistan that claimed the lives of four Canadian soldiers and injured eight made headlines for months.<sup>51</sup> The on-again, off-again, on-again anthrax vaccination program, which resulted in courts-martial and other punitive actions for those who refused orders to take the vaccine, found its way into the federal court system and back into the headlines.<sup>52</sup> The Air Force's proposed multi-billion dollar tanker lease deal with Boeing generated a congressional firestorm and intense media attention.<sup>53</sup> Each controversy could serve as a case study in public and media relations, and the influence of public opinion on the military, but it is not the subject matter of cases that is central to the current discussion. The point is that the ability to communicate effectively with the public must be a core competency of every institution, to include the military services, in today's environment. That not only means honing the abilities of military leaders to engage effectively and forthrightly, but also transforming the military's underlying doctrine and practices on public opinion and media relations. Transparency and accuracy to the maximum extent possible should be primary objectives.<sup>54</sup>

A movement towards a more progressive stance began to take hold after the Flinn case, although it appears to have lost momentum over time. The military's approach to media relations and shaping public opinion were topics of a number of post-mortem analyses. A paper published by the University of Oklahoma Communications Department entitled "Proactive Media Communication: Changing Public Affairs Response Doctrine," used the Flinn case as the focal point for a review of the military's classical approach to engaging with the media.<sup>55</sup> The authors noted that military culture . . . its norms, rules and resources . . . at the time placed value on taking the high ground and not being drawn into Flinn's manipulative campaign.<sup>56</sup> Afterwards, the military, at least the Air Force, adopted new principles stressing being prepared to go on the offensive early and not allowing opposition groups or the media to shape the debate. The Public Affairs after action report in the Flinn case emphasized agenda setting and cultivation of themes consistent with the Air Force's interests as key components of an effective plan to better inform the media and the public.<sup>57</sup>

In today's environment, the public relies on the media for the bulk of the information it consumes.<sup>58</sup> Deputy Assistant General Counsel of the Department of Defense James Schwenk, a retired Marine Corps Brigadier General and former judge advocate, said, "(t)he people gain the information they need from an ever-increasing variety of sources, but there can be little doubt that they receive most of that information through the media."<sup>59</sup> General Schwenk argued that the military, as an agency of the federal government, serves the people and has a duty to provide the citizenry with information about its activities. Citing the oath military members, both uniformed and civilian, take to support and defend the constitution, he said, "(o)ne might well conclude that the military has a Constitutionally-based obligation to provide information to the American public."<sup>60</sup> He argued that "no comment" responses increase the risk an issue will be portrayed in a misleading or unbalanced light, and refusing to comment could create an inference

of “guilt by silence.”<sup>61</sup> General Schwenk concluded, “(d)ealing with the media is not an additional burden unrelated to normal work in the Department of Defense. Dealing with the media is an inherent and important obligation of normal government service, military or civilian.”<sup>62</sup>

The Flinn case highlighted a potential cultural divide separating the military and certain segments of the general public. Fewer members of the public, fewer elected representatives and fewer appointed officials than ever before have served in the military.<sup>63</sup> Fewer and fewer members of the public understand from personal experience the importance of good order and discipline in the heat of battle or a long, grueling campaign. This lack of military experience and comprehension of how the military operates leaves a void that can breed misunderstanding. It is incumbent upon the military, particularly with the public’s interest in military matters, to work to bridge the gap. The military has an obligation to ensure the public is informed and has a basic understanding of the military so the citizenry is equipped to put information into context. Dr. John Hillen, a former Army officer and a public policy scholar who specializes in military issues, said, “(a) concerted effort by the military to get out front of these trends in public consciousness would go a long way to alleviating the pressure to close the values gap and help manage the understanding and appreciation gaps.”<sup>64</sup>

The challenge is to meld all these considerations and craft a coherent, effective strategy that advances the military’s and the nation’s interests. Developing a strategy starts with recognizing the process as a continuum that begins with a risk management approach to decision making. Too often the focus is on how to respond after the controversy erupts. At the heart of every controversy is a decision or a number of related decisions, so the decision stage must be the starting point for considering a comprehensive strategy. The continuum ends with effective communication, when it is necessary, that influences public opinion consistent with the nation’s interest in the military. What may constitute an effective, proactive strategy for today will require constant monitoring and transformation to adapt to an evolving environment. While by no means all-inclusive, the considerations discussed below offer a framework for decision making, engaging the press and the public, affecting public opinion and hopefully advancing the public’s understanding of the military.

### 1. Assess the likely impact of a decision and weigh the potential consequences

Virtually every decision has an impact on someone. Think about it for a moment: selecting the squadron’s airman of the quarter, preparing the duty schedule to cover a holiday period, evaluating bids for award of a contract, deciding who gets a definitely promote recommendation and who gets a promote, choosing targets and picking who will fly the missions against those targets, selecting units from the reserve component to activate for an extended deployment . . . the outcome in each case is likely to create a perception that some were “winners” and some were “losers,” and the “losers” may not readily accept the decision.

That is not to say leaders should shy away from making decisions in hopes of avoiding controversies. Effective leaders are realists who recognize there are pros and cons to most every decision. The principles of Operational Risk Management (ORM)<sup>65</sup> provide a general framework for decision-making. Is a decision required? If so, what are the options? What are the potential

risks and benefits of each option? Are there any reasonable ways to mitigate the risks and maximize the benefits? Given the decision that has to be made and considering all the circumstances, which is the best option? If the decision is made and one of the risks comes true, what are the likely consequences and what is the appropriate response?

Leaders often ask their advisors, “can I do this?” In most cases the answer is yes. The more difficult question is not “may I do it,” it is “should I do it?” President Richard Nixon coined the expression, “how will it play in Peoria?” and made it his touchstone for decision-making.<sup>66</sup> Regardless of how history judges Nixon’s more infamous decisions, his “how will it play in Peoria?” analysis is simply another way of expressing the “should I do it?” assessment leaders ought to conduct. It recognizes there is more to weigh than just whether the decision is legal, moral and ethical, and takes into account both the impact the decision will have on the interested parties and the perception it will create. Even when the decision will not play well, it may still be the right decision. Leaders should weigh all the competing interests and make the best decisions they can, but they need to ensure they are not scoring Pyrrhic victories. Some decisions, no matter the potential risks or probable unpopularity, are unequivocally the right decisions and should be made. Others may allow for serious consideration of a second or third tier alternative. The end result is leaders need a realistic perspective that takes into account all factors, positive and negative, and leads to the best solution possible.

## 2. Memorialize the rationale for a decision

Anyone in a senior leadership position that has not been the subject of an investigation by an Inspector General, the object of adverse media attention or the recipient of a congressional inquiry need only wait . . . it is just a matter of time. In some cases it may be months, if not years, after the fact before a decision is called into question. When that happens, a record of how the decision was made, particularly if it involves what seemed to be an inconsequential decision for which the details have long since been forgotten, is invaluable. Obviously, the import of the decision has a significant impact on the level of documentation that would reasonably be expected. The deliberative process in a billion dollar procurement would likely have a more detailed history than picking the winner in the squadron’s airman of the quarter competition, but even a few words jotted in a day planner could be helpful later. A leader whose decision is challenged should be able to articulate his or her rationale for the decision, and a record not only serves to refresh the leader’s recollection, it also documents the various considerations at the time of the decision and negates the implication facts were recently recreated (or even fabricated) to justify a matter now under scrutiny.

Discussions are frequently conducted by email in today’s environment. Email is a useful tool and the information recorded there can be helpful in reconstructing the deliberative process; however, it can become destructive within the institution if leaders become too informal in their email discussions. Microsoft founder Bill Gates discovered that the hard way during the 1997 antitrust suit filed against his company by the Justice Department. Email traffic in which he discussed how Microsoft could undermine its competition provided a smoking gun for the government’s case and led to a settlement in 2002 on terms less favorable than Microsoft would have desired.<sup>67</sup> The author of a recent article provided sound email advice, “(n)ever say anything in an email you wouldn’t say in a memo, a letter, or in front of a large audience.”<sup>68</sup> It pays to

think twice before hitting send to prevent embarrassment later if an issue develops and the email traffic becomes discoverable or public knowledge.

A potential problem with documenting the basis for a decision is that after the rationale is revealed the aggrieved party may dispute the underlying facts. An extreme example is the dispute over the failure to uncover weapons of mass destruction (WMD) in Iraq. President Bush cited Iraq's stockpile of WMD as a principal basis for the preemptive military action launched against Saddam Hussein and the brutal Baath Party in March 2003.<sup>69</sup> The subsequent failure to find WMD led to questions of whether the President misled the public about why the nation was going to war or whether he based his decision on faulty intelligence. A special commission reviewed the pre-war collection and assessment of intelligence information, and the issue is a factor in the 2004 elections.<sup>70</sup>

Military leaders face similar scrutiny, although certainly of lesser magnitude, in any post-decision analysis of their decision-making processes. This potential for a later attack on the factual basis of a decision does not, however, outweigh the advantages of having a record of what went into the deliberative process. The factual basis should have been explored, considered and proven sound before the decision was made. What constitutes a reasonable level of certainty depends on the nature and significance of the decision. The earlier, "how will it play in Peoria?" analysis is a good rule of thumb. Would a reasonably prudent person make a decision of this magnitude given the character and weight of the evidence available? If the answer is no, then a leader should not expect it to play well if the decision is later challenged.

Obviously leaders cannot document every decision they make in the course of a day or little else would get accomplished. Likewise, determining how brief or how extensive a history is appropriate in cases where some amount of documentation is appropriate depends on the circumstances. In the end, it is an art and not a science. Deciding whether a decision should be documented and, if so, to what extent, is a decision in and of itself and like every other decision is subject to being criticized later. Leaders may find themselves in the proverbial, "damned if you do, damned if you don't" trap. It is a matter of discretion and judgment, and effective leaders must master the art of striking the right balance. As a final point on documenting a decision, if there are multiple bases for a decision, it often pays to list them all. If one of the bases is later shown to be erroneous the decision may still "play in Peoria" on the strength of the bases that remain.

### 3. Use the resources available to monitor the environment

A leader is generally insulated from the day-to-day environment of his or her organization making it difficult to accurately assess its overall health. Even those with a "management by walking around" approach to leadership are unlikely to get a true picture of how things are going at lower levels. There are, however, resources available to help leaders monitor their environments.

In a typical Air Force wing structure, the normal human tendency is to keep bad news from the wing commander whenever possible, instead presenting news in the best light. But a wing commander has the ability to stay informed by tapping members of his or her staff. For example,

the wing legal office is engaged with all the units on the installation and should have a good sense of trends and issues. The staff judge advocate can and should be expected to keep his or her wing commander informed of matters likely to have an impact on wing operations. The command chief master sergeant is engaged with the unit first sergeants and other enlisted organizations, and should have his or finger on the pulse of the enlisted force. Both security forces and the Office of Special Investigations are actively involved in law enforcement, and they can provide information on developing trends and potential threats. While these are wing level examples, leaders at other levels have comparable points of reference available to them to assist in maintaining an accurate sight picture of their organizational environments. At the most senior levels of the Air Force, AFP AZ was created in part to provide senior leaders situational awareness of potential issues that could affect the Air Force.<sup>71</sup>

Utilizing these resources enables leaders to make informed, well-reasoned decisions rather than operating in a vacuum. Using the Air Force wing scenario as an example, a wing commander faced with a decision on a typical disciplinary matter, such as an airman driving under the influence of alcohol, can use his or her staff advisors to help him or her reach the right decision, one that will “play in Peoria.” Law enforcement can provide advice on whether drunk driving is becoming a trend and brief the facts of the particular case. The staff judge advocate can provide advice on the normal range of punishment for such offenses and help ensure consistency. The command chief master sergeant can provide input on how a proposed punishment will be perceived by the enlisted force. Taking all of these inputs into account helps the commander get from the “could I?” query to the “should I?” decision, and is most likely to result in a decision that will withstand scrutiny and serve institutional interests.

#### 4. Consider a response plan

The time to think about how to respond to a controversy is before the controversy erupts, not afterwards. This principle was clearly recognized when AFP AZ was tasked to, “anticipate and monitor issues to ensure timely delivery of accurate and forthright Air Force messages.”<sup>72</sup> The same principle is true at every level of leadership. It is better to anticipate a problem could develop, have a plan to respond, and not need it, than to try and cobble a plan together after the problem erupts and the issue has already begun to take shape. Proof of this point is intuitive, but difficult to establish with empirical evidence: Success is based on a potential issue never evolving into an actual controversy. The Lieutenant Flinn case is illustrative of the problem with trying to engage too late, after the fight has begun. For all practical purposes, public opinion was swayed and the debate was over before the Air Force ever stepped up to the podium.

There is no single model for an effective response plan. The appropriate amount of time and effort, and the proper level of sophistication, depends upon the circumstances. A reasonable plan to address a controversy that might arise from a squadron airman of the quarter selection would be markedly different from a response plan to deal with disciplinary actions related to a fatal aircraft accident during combat. The point is leaders at all levels should, at the time they make decisions, think through the “what ifs” that might follow and have, at a minimum, a notion of how they will respond and what resources are available to assist them. Public Affairs officers are available at all levels to help develop and articulate the message in terms that support the military’s interests.

Leaders should consider what proactive steps they can take to mitigate the potential for a controversy to arise. For instance, after a decision is made on an airman of the quarter winner, the commander or the first sergeant might take a few minutes to meet with each of the non-selects individually to congratulate them on the accomplishments that led to their nominations for the award and to thank them for their contributions to the unit. The non-selects will still be disappointed they were not the winner, but some positive reinforcement could reduce the “why him or her and not me?” negative sentiment that can follow an award decision.

This principle was incorporated in the government procurement arena some years ago when the Federal Acquisition Regulation adopted procedures for the government to meet with and debrief unsuccessful offerors on why they were eliminated from competition for a contract or were not selected for the final award.<sup>73</sup> Explaining to an offeror where the weaknesses were in its proposal and discussing the rationale for the government’s award decision can, in many cases, prevent a protracted and disruptive procurement protest later.<sup>74</sup> Before these debriefing procedures were adopted, it often took a formal protest and initiation of the contentious litigation process for a disappointed offeror to “discover” where it fell short. It simply made sense to provide the information early and in a more informal, less adversarial manner. Not only does it satisfy the disappointed offeror’s desire for information, it also helps maintain the relationship between the government agency and a company that is either doing business with the government on other contracts or likely to compete again for future contracts.

## 5. Take the offensive

James Carville and Paul Begala, in their book, *Buck Up, Suck Up ... and Come Back When You Foul Up*, said it well:

Hearing bad news about someone from a third party often elicits *schadenfreude*, that wonderful German word that means taking pleasure in someone else’s pain. But when you hear it from the person directly, there’s a lot less *schadenfreude* and a lot more sympathy.<sup>75</sup>

While they were referring to bad news on an individual level, the same principle holds true for an organization. Too often the military waits for the bad news to hit the media, and then starts a defensive campaign to mitigate the damage. In appropriate cases it would be in the military’s interest to take the offensive and get in front of the news. Trial attorneys know that if there is dirt on a key witness it is best to bring that out early in direct examination and let the witness explain the circumstances. That takes the wind out of opposing counsel sails when he or she stands up and says, “isn’t it true that you ...”. Otherwise, the bad news can be the focal point of cross-examination, making it appear the other side was trying to hide the truth from the jury and putting the witness’ credibility in doubt. It has much less impact when the jury has already heard it during direct examination, so by the time it comes up again during cross-examination, the result is more of a “so what? I’ve already heard about that.”

The Air Force Academy sexual assault scandal offers an example of this point. The public relations damage caused by the allegations of indifference to victims of sexual assault was almost equaled by damaging allegations the Air Force attempted to shield senior leadership from

criticism for its role in the scandal. The Denver Post's September 24, 2003, front page headline read, "Charges Rebutted in AFA Abuses-Lawyer Didn't Shield Brass, Officials Say."<sup>76</sup> The article described testimony before the Senate Armed Services Committee on September 22, 2003, by Representative Tillie Fowler and other members of The Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy. The Panel told the Senate Armed Services Committee that information about the role of senior Air Force leaders in the sexual assault scandal was omitted from The Report of the Working Group Concerning the Deterrence of and Response to Sexual Assault at the U.S. Air Force Academy. Specifically, Representative Fowler alleged that the Air Force General Counsel "intentionally withheld information from her internal investigation to protect Air Force leaders."<sup>77</sup>

While the General Counsel vehemently denied the allegation and the Secretary and Chief of Staff defended their handling of the sexual assault issue, the damage was done.<sup>78</sup> The Chairman of the Senate Armed Services Committee announced that confirmation hearings on the Secretary's nomination to become Secretary of the Army would not be held until additional investigations were completed and the Inspector General for the Department of Defense was asked to investigate the role of Air Force senior leaders in the scandal.<sup>79</sup> On March 10, 2004, after his nomination for the Army post stalled in the Committee for over eight months, the Secretary asked the President to withdraw his name from consideration for the Army position in part because of lingering issues over the handling of the sexual assault scandal.<sup>80</sup>

The benefit of hindsight is undeniable and it suggests the Air Force's interests may have been better served had it acknowledged earlier that senior leaders knew of sexual assault issues at the Air Force Academy before the 2003 scandal hit.<sup>81</sup> Acknowledging the issue was known and addressing who knew about it and what actions they took or should have taken would not have stopped criticism, but the criticism would have been muted compared to the uproar that followed when it appeared there was a cover-up. Bad news does not get better with age and, as in this case, deferring telling the whole story can become a story in itself with significant consequences. The Air Force missed an opportunity to take the offensive and get out front of the issue and perhaps avoid the schadenfreude that followed.

The military cannot be the first one out of the chute every time for a variety of reasons. Many cases involve information on individuals that is protected by the Privacy Act.<sup>82</sup> In those cases, taking the offensive may not mean being first with the news, but being ready to respond when the news hits. Have the Privacy Act waiver ready and waiting. Have the relevant documents redacted, copied and ready to distribute. Have a spokesperson selected and prepared. If some information is classified, have it screened and any parts that are releasable ready for dissemination. In today's world, news organizations operate under tight deadlines and they will run with the story regardless of whether the military has had time to formulate a response. Being ready will not prevent bad news from happening, but it enables the military to be seen as forthcoming and allows it to help define the parameters of the issue.

## 6. Educate leaders on the art of public and media relations

Like it or not, it is simply a fact of life that the public is interested in the military and the media is its most prevalent conduit for information. The military recognizes that fact and has

incorporated it into military doctrine. Joint Publication 3-61, Doctrine for Public Affairs in Joint Operations, acknowledges that the speed of current operations and advances in technology “significantly complicate the challenges to both commanders and public affairs personnel in supporting news media efforts to keep the public, both internal and external, informed.”<sup>83</sup> The Joint Publication also acknowledges that an aggressive, coherent plan to facilitate the media’s need for information is imperative, saying, “(t)o do otherwise simply places the military in a defensive, catch-up role and fails to achieve one of its own very important missions—keeping the public informed.”<sup>84</sup>

Translating this doctrinal precept into an accepted practice is the challenge. A step in that direction is incorporating media awareness and public relations training into professional military education at all levels. Grooming leaders of today and tomorrow to appreciate the impact media attention and public opinion have on their ability to conduct operations with minimal unnecessary distractions logically belongs in the schoolhouse. The Air Force Public Affairs Center of Excellence (PACE), a part of the College of Aerospace Doctrine, Research and Education, directs and conducts formal training in various colleges and courses at Air University.

Students attending the Air War College complete “Engaging the Media,” a mandatory three-hour course that includes an hour and a half of lecture and an hour and a half of seminar discussion. PACE conducts a thirty-hour elective entitled “The Commander and the News Media,” leads two-hours of seminar discussion during “The Art of Command” and “Case Studies in Air Force Leadership” electives, and provides optional on-camera media training. PACE also participates in the Secretary of the Air Force’s National Security Forum and the Solo Challenge and Joint Land, Aerospace and Sea Simulation exercises at the Air War College.<sup>85</sup>

Students attending the Air Command and Staff College are required to complete “The Role of the Media and Leadership,” a one-hour lecture by a senior officer on the importance of understanding the role of the media; “The Military and the Media,” a two and a half hour panel discussion by media representatives on military-media relations; and “Media and the Leader,” a two and a half hour lecture on the power of the media and techniques for successful media interviews. PACE offers a thirteen-week long, thirty-nine academic hour elective entitled “The War for Public Opinion: Propaganda, Public Affairs and the Military-Media Relationship” and provides optional on-camera media training.<sup>86</sup>

PACE conducts public affairs and media training in many of the courses offered in the Ira C. Eaker College for Professional Development. This includes Wing Commander, Group Commander and On-Scene Commander courses offered by the Commanders’ Professional Development School; the Air Force First Sergeants’ Academy; the Staff Judge Advocate Course and Operations Law Course conducted by the Air Force Judge Advocate General School; and classes offered in the International Officer School.<sup>87</sup>

Public affairs and media training are included in enlisted professional military education. PACE developed core blocks of training included in Senior Noncommissioned Officer Academy, Noncommissioned Officer Academy and Airman Leadership School courses.<sup>88</sup> PACE also participates in the Information Warfare Applications Course and the Contingency Wartime Planning Course conducted by the College of Aerospace Doctrine, Research and Education,<sup>89</sup> the

Theater Campaign Warfare wargame conducted by the School for Advanced Air and Space Studies; the JAG FLAG exercise conducted by the Air Force Judge Advocate General School; and the Blue Thunder exercise conducted in the Air and Space Basic Course.<sup>90</sup>

Training should, and often does, focus on creating a mindset that transparency is desirable and the process starts with anticipating potential outcomes at the initial decision-making stage. In addition to traditional lectures focused on lessons learned in the past, training should include decision-making scenarios where students assess options and potential collateral consequences of each option, including issues likely to develop and a plan to respond to those issues. Additionally, training should include simulated interaction with the media; the type of preparatory training Public Affairs provides on an ad hoc basis now. The objective is not to develop leaders that make decision based upon their assessment of public opinion—doing the right thing should always be paramount—but to have them recognize and plan for potential fallout. Preparations through education and training, and forethought at early decision-making stages, can, in some instances, save considerable time, inconvenience and adverse publicity later.

### **Conclusion — Offensive Engagement in the Battle for Public Opinion**

The military, the media, the public and Congress are inextricably linked in an information loop. The military acts, the media reports, the public forms opinions that can influence their elected representatives, and Congress provides oversight and direction to the military through appropriations and statutory guidance . . . and the process flows in an unending circular pattern. The military is locked in the current and has a choice to either fight it or facilitate its flow. The public understands that it is necessary to protect some things: plans for future military operations, classified information, data that would intrude on personal privacy and things of that nature.<sup>91</sup> The military cannot, however, use the “it’s secret” card too often before it begins to appear as a subterfuge for hiding dirty laundry.

A commitment from senior leadership to promote the maximum transparency possible will facilitate change in attitudes at all levels. This attitude of openness and honesty promotes the military’s interests in the long run. Proactive engagement enables the military to help shape the debate and maximize or mitigate, as the case may be, its influence on public opinion. It is time to take the offensive and influence the story rather than wait until forced to go on the defensive. The impetus must start at the top, but the practice must be engrained from the bottom up. More times than not the military has a good story to tell. Even when bad news happens preparation can lessen the impact. Time spent early on in training current and future leaders, and time spent thinking through how decisions will “play in Peoria” before they are made, can save time and much embarrassment later. For the military to preserve its standing as a trusted institution it must show the public it is forthright and it does not hide the truth. The public has the right to expect when its military speaks they can trust “that’s the way it is.”<sup>92</sup>

### **Notes**

11. In the June 2003 survey, eighty-two percent of those polled expressed a great deal or quite a lot of confidence in the military, the military’s second highest rating ever. Frank Newton, Military, Police Top Gallup’s Annual Confidence in Institutions Poll, Gallup Poll News Service,

Jun. 19, 2003. The percentage decreased to seventy-five percent in the June 2004 survey, but the military still placed first, well ahead of other institutions. Poll Shows U.S. Optimism on the Rise, United Press International, Jun. 3, 2004.

2. Charles Babington, Picnics, Parachutists and Flights of Fancy; At Andrews Base, Air Show is the Hot Topic of the Day, Washington Post, May 29, 1996, at B1.

13. Colonel Jack L. Rives, The Case Against Lieutenant Kelly Flinn, The Reporter, Dec. 1997, at 5-6.

14. Patricia A. Lang, Jon N. Nylander, Rhonda K. Paige, Jef Reilly, and William T. Wadsworth, Proactive Media Communication: Changing Public Affairs Response Doctrine, Defense Public Affairs Electronic Lyceum, Dec. 1997, available at [www.ou.edu/deptcomm/dodjcc/groups/98A4/Flinndoc.htm](http://www.ou.edu/deptcomm/dodjcc/groups/98A4/Flinndoc.htm).

15. Tony Capaccio, Pilot Errors, American Journalism Review, Oct. 1997, at 18-20.

16. Lang, *supra*, at 5.

17. *Id.*

18. Colonel Jack L. Rives, The Case Against Lieutenant Kelly Flinn, The Reporter, Dec. 1997, at 5-6.

9. Patricia A. Lang, Jon N. Nylander, Rhonda K. Paige, Jef Reilly, and William T. Wadsworth, Proactive Media Communication: Changing Public Affairs Response Doctrine, Defense Public Affairs Electronic Lyceum, Dec. 1997, available at [www.ou.edu/deptcomm/dodjcc/groups/98A4/Flinndoc.htm](http://www.ou.edu/deptcomm/dodjcc/groups/98A4/Flinndoc.htm).

110. Pilot's Trial Stalled While Pentagon Awaits Go-Ahead; Senate Majority Leader Lashes Out at Pentagon, Chicago Tribune, May 20, 1997, at 1.

111. *Id.* A poll released the week the case was set to go to trial showed the public supported an honorable discharge as well. According to a nationwide survey, sixty-five percent thought the Air Force should accept Lieutenant Flinn's resignation and give her an honorable discharge while twenty-four percent disagreed. Ron Martz, Strong Feelings Riding on Case, Atlanta Journal-Constitution, May 22, 1997, at 18A.

12. Incidental Adultery?, Jim Lehrer interview of Senator Tom Harkin and General Ronald Fogleman, Online News Hour, May 21, 1997, available at [www.pbs.org/newshour/bb/military/may97/flinn\\_5-21.html](http://www.pbs.org/newshour/bb/military/may97/flinn_5-21.html).

113. Ron Martz, Strong Feelings Riding on Case, Atlanta Journal-Constitution, May 22, 1997, at 18A.

114. The NewsHour with Jim Lehrer, May 21, 1997, Transcript Number 5833.

115. The NewsHour with Jim Lehrer, May 22, 1997, Transcript Number 5834. Article 37 of the Uniform Code of Military Justice, 10 U.S. Code §837, prohibits unlawful command influence, which is an attempt to coerce or influence the findings, sentence or disposition in a military criminal proceeding.

116. Id.

117. Patricia A. Lang, Jon N. Nylander, Rhonda K. Paige, Jef Reilly, and William T. Wadsworth, Proactive Media Communication: Changing Public Affairs Response Doctrine, Defense Public Affairs Electronic Lyceum, Dec. 1997, available at [www.ou.edu/deptcomm/dodjcc/groups/98A4/Flinndoc.htm](http://www.ou.edu/deptcomm/dodjcc/groups/98A4/Flinndoc.htm). The Air Force's late May effort to correct the record included releasing a letter from the forgotten victim in the case, Airman Gayla Zigo, the wife of Lieutenant Flinn's paramour. The letter described the airman coming home to find Lieutenant Flinn, dressed in her flight suit, with the airman's husband. Newsweek described the letter as portraying Lieutenant Flinn as "an arrogant husband stealer." Gregory L. Vistica and Evan Thomas, Sex and Lies, Newsweek, Jun. 2, 1997, at 26.

118. Tony Capaccio, Pilot Errors, American Journalism Review, Oct. 1997, at 18.

119. Dr. Richard H. Kohn, The Early Retirement of Gen Ronald R. Fogelman, Chief of Staff, United States Air Force, Aerospace Power Journal, Spring 2001.

20. Id. General Fogelman said when he heard Secretary Widnall was considering giving Lieutenant Flinn an honorable discharge he told her, "Madame Secretary, if you give her an honorable discharge, you can also select a new chief of staff." General Fogelman said he had never spoken so directly to a superior before, but he felt that strongly about the issue. Id.

21. A Disgraced Pilot Airs Her Side of the Story; Kelly Flinn is Fighting to Win Back Her Reputation - and Her Wings, People Magazine, Dec. 29, 1997, at 152.

22. Tony Capaccio, The Kelly Flinn Spin Patrol, American Journalism Review, Sep. 1997, at 12.

23. Colonel Jack L. Rives, Who You Gonna Call? AFPAZ! An Overview of the Air Force Executive Issues Team, The Reporter, Dec. 1999, at 17. See Secretary of the Air Force Order 128.1, The Air Force Executive Issues Team, Nov. 12, 1999. On March 15, 2002, AFPAZ consolidated with several related functions in a new Communications Directorate under Special Assistant to the Secretary of the Air Force William C. Bodie. See Air Force News, Mar. 12, 2002, available at [www.af.mil/news/Mar2002/n20020312\\_0388.shtml](http://www.af.mil/news/Mar2002/n20020312_0388.shtml).

24. Id. Colonel Jack L. Rives, an Air Force judge advocate, headed the team from March 1998 to February 2000. He is now a Major General and currently serves as the Deputy Judge Advocate General of the Air Force. See [www.af.mil/bios/bio\\_6920.shtml](http://www.af.mil/bios/bio_6920.shtml). Other team members were drawn from Personnel (AF/DP), Installations and Logistics (AF/IL), Air and Space Operations (AF/XO), Plans and Programs (AF/XP), Acquisitions (SAF/AQ), Legislative Liaison (SAF/LL) and Public Affairs (SAF/PA). Colonel Jack L. Rives, Who You Gonna Call? AFPAZ! An Overview of the Air Force Executive Issues Team, The Reporter, Dec. 1999, at 17.

25. Id.

26. For a brief overview of potential legal obstacles to the military releasing information, including the Uniform Code of Military Justice, the Privacy Act and the Freedom of Information Act, see, Patricia A. Lang, Jon N. Nylander, Rhonda K. Paige, Jef Reilly and Williams T. Wadsworth, Proactive Media Communication: Changing Public Affairs Response Doctrine, Defense Public Affairs electronic Lyceum, Dec. 11, 1997, available at [www.ou.edu/deptcomm/dodjcc/groups/98A4/Flinndoc.htm](http://www.ou.edu/deptcomm/dodjcc/groups/98A4/Flinndoc.htm).

27. Id.

28. Jim Swanson, Media Access Helps Military, USA Today, May 15, 2003, at 13A.

29. Id.

30. Mike Glenn, X-Rated Email, A Message Between Spouses: Whose Business is It?, Air Force Times, Dec. 20, 1999, at 1, 8. The author was the staff judge advocate at Dyess Air Force Base at the time and was involved in the case, including the response to the Air Force Times inquiry.

31. Id.

32. Id.

33. Id.

34. Id.

35. The authored served as the senior military member on the 2003 staff team that supported the Working Group Concerning the Deterrence of and Response to Sexual Assaults at the U.S. Air Force Academy.

36. Pam Zubeck, Colorado Springs Gazette, Despite Criticism, Leaders Say Culture is Changing, Dec. 28, 2003, at 1.

37. Id. Dusty Sanders, 7News Earning Recognition, Rocky Mountain News, Dec. 8, 2003, at 2D. The Oprah Winfrey Show, Harpo Productions, Inc., Dec. 8, 2003. A search of news sources on LexisNexis using the search terms "Air Force Academy" within 100 words of "sexual assault" during the period Jan. 1, 2003, and Dec. 31, 2003, returned 1,926 hits.

38. Vernon Loeb, Senators Fault Air Force on Abuse Scandal; Service's Leaders Defend Their Record at Contentious Hearing, Washington Post, Oct. 1, 2003, at A21.

39. For instance, in Academic Year 2001-2002, twenty-three sexual assaults were reported to the Cadet Counseling Center, the highest number in seventeen years. Likewise, a survey of cadets conducted in 2002 returned eighty positive responses (out of 1,948 total respondents) to the

question whether the cadet had been sexual assaulted. See The Report of the Working Group Concerning the Deterrence of and Response to Sexual Assault at the U.S. Air Force Academy, Jun. 2003, at 150. (Available at [www.af.mil/usafa\\_report/usafa\\_report.pdf](http://www.af.mil/usafa_report/usafa_report.pdf)).

40. The Agenda for Change, Mar. 26, 2003 (Available at [www.af.mil/news/change\\_agenda.pdf](http://www.af.mil/news/change_agenda.pdf)).

41. Associated Press, Senators Fault Air Force, Seek Probe at Academy, Apr. 1, 2003, at A3.

42. Air Force Leaders Direct Agenda for Change at Academy, Air Force Press News, Mar. 26, 2003, (Available at [www.af.mil/media\\_center/Jan-Mar2003/0326034.shtml](http://www.af.mil/media_center/Jan-Mar2003/0326034.shtml)).

43. Associated Press, Senators Fault Air Force, Seek Probe at Academy, Apr. 1, 2003, at A3.

44. Id.

45. Report of the Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy, Sep. 22, 2003 (Available at [www.defenselink.mil/news/Sep2003/d20030922usafareport.pdf](http://www.defenselink.mil/news/Sep2003/d20030922usafareport.pdf)).

46. Id., at 4.

47. Vernon Loeb, Senators Fault Air Force on Abuse Scandal; Service's Leaders Defend Their Record at Contentious Hearing, Washington Post, Oct. 1, 2003, at A21.1

48. Id.

49. Anne C. Mulkern, Allard: Probe Prior Leaders of AF, Academy, Denver Post, Oct. 23, 2003, at A6; M.E. Sprengelmeyer, Retreating from AFA Report; Findings on Assault No Longer Supported by Pentagon Brass, Rocky Mountain News, Oct. 1, 2003, at 5A.

50. Diana Jean Schemo, Air Force Secretary Says Academy's Leaders Could Be Punished in Rape Scandal, New York Times, Apr. 2, 2003, at A18.

51. Editorial, Illinois Airman Not Getting a Fair Shake, Chicago Sun-Times, Feb. 5, 2004, at 36. Harry Levin, Attorney for Friendly-Fire Pilots Tries Again for Classified Data, St. Louis Post-Dispatch, Jan. 9, 2004, at A5. The case was eventually resolved through nonjudicial punishment. Ariel Hart, Pilot Loses Appeal in Death of Canadians, The New York Times, Aug. 5, 2004, at A16.

52. Ron Martz, Legal Fight Puts Marine in Limbo; Cobb Man Drummed Out of Corps for Refusing Anthrax Vaccine Finds His Life on Hold While Appealing Bad Conduct Conviction, Atlanta Journal-Constitution, Jan. 25, 2004, at 4A.

53. Susan Chandler, Rumsfeld Reviewing Tanker Deal; Air Force-Boeing Contract on Hold, Chicago Tribune, Feb. 5, 2004, at C1. A former senior Air Force procurement official was convicted in federal court and sentenced to nine months in prison for improper dealings with

Boeing while she served in the Pentagon and the nominee for the position of Commander of Pacific Command asked to withdraw his name from consideration after enduring sharp criticism during a hearing before the Senate Armed Services Committee over his role as Commander of Air Force Materiel Command and close ties with the convicted former official. Leslie Wayne, A Growing Military Contract Scandal, *The New York Times*, Oct. 8, 2004, at C1.

54. The desirability of these objectives is recognized in Air Force Public Affairs policy. Air Force Instruction 35-101, Public Affairs Policies and Procedures, Jul. 26, 2001, states: “Public Affairs strengthens the bonds between the Air Force and the public through open, timely and honest dialogue and programs targeted to communities, opinion leaders and the media.”

55. Patricia A. Lang, Jon N. Nylander, Rhonda K. Paige, Jef Reilly and Williams T. Wadsworth, Proactive Media Communication: Changing Public Affairs Response Doctrine, Defense Public Affairs electronic Lyceum, Dec. 11, 1997, available at [www.ou.edu/deptcomm/dodjcc/groups/98A4/Flinndoc.htm](http://www.ou.edu/deptcomm/dodjcc/groups/98A4/Flinndoc.htm).

56. *Id.*

57. *Id.*

58. The internet is an ever-increasing source of news and information. A survey conducted in May 2004 found that eighty percent of those surveyed said they had gone online to read the news within seven days of the survey. The Harris Poll, May 19, 2004, available at [www.harrisinteractive.com/harris\\_poll/index.asp?PID=464](http://www.harrisinteractive.com/harris_poll/index.asp?PID=464).

59. James Schwenk, Military Justice and the Media: The Media Interview, *Journal of Legal Studies*, United States Air Force Academy, Vol. 12, 2002/2003, at 19.

60. *Id.*, at 20.

61. *Id.*, at 25.

62. *Id.*, at 32.

63. Dr. John Hillen, The Gap Between American Society and its Military: Keep It, Defend It, Mange It, 4 *Journal of National Security Law* 151, Dec. 2000, at note 18.

64. *Id.*, at 165.

65. Air Force Policy Directive 90-9, Operational Risk Management, Apr. 1, 2000.

66. George J. Church, How Reagan Decides; Intense Beliefs, Eternal Optimism and Precious Little Adaptability, *Time Magazine*, Dec. 13, 1982, at 12.

167. L. Stuart Ditzen, You’ve Got Evidence; E-Mails Sent as Casually as Water-Cooler Chatter Never Truly Die, *Philadelphia Inquirer*, Jan. 11, 2004, at D1.

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169. Rajiv Chandrasekaran and Susan B. Glasser, Ground War Starts, Air Strikes Continue as U.S. Keeps Focus on Iraq's Leaders, Mar. 21, 2003, Washington Post, at A1.

70. Walter Pincus, Study of Rhetoric on Iraq is Urged; Kay: Panel Should Check for Distortion, Washington Post, Feb. 11, 2004, at A25. Report on Iraqi Weapons, The Kansas City Star, Oct. 13, 2004, at B6.

71. Secretary of the Air Force Order 128.1, The Air Force Executive Issues Team, Nov. 12, 1999, at para. 1.a.

172. Id., at para. 1.b.

173. Federal Acquisition Regulation, Subpart 15.505 (authorizing a debriefing for offerors eliminated from the competitive range during competition for a contract) and Subpart 15.506 (authorizing a debriefing for unsuccessful offerors after an award decision is reached).

174. Before debriefings were authorized, the only way a disappointed offeror could discover why it was not selected for award was to file a formal protest.

175. James Carville and Paul Begala, Buck Up, Such Up . . . and Come Back When You Foul Up, Simon & Schuster, 2002, at pg. 101.

176. Mike Soraghan and Anne C. Mulkern, Charges Rebutted in AFA Abuses-Lawyer Didn't Shield Brass, Officials Say, Denver Post, Sep. 24, 2003, at A1.

177. Id.

178. Vernon Loeb, Senators Fault Air Force on Abuse Scandal; Service's Leaders Defend Their Record at Contentious Hearing, Washington Post, Oct. 1, 2003, at A-21.

179. Id. See also, Mike Soraghan, U.S. Cadets Could Face 5 Years of Sex Surveys, Denver Post, Nov. 9, 2003, at B-4.

180. Bradley Graham, Nominee to Head Army Withdraws; Roche's Air Force Leadership Criticized, Washington Post, Mar. 11, 2004, at A4.

181. The Report of the Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy said the earlier report prepared after the Air Force initiated investigation did not address responsibility at senior leadership levels despite such information being available during the Air Force investigation. Report of the Panel to Review Sexual Misconduct Allegations at the U.S. Air Force Academy, Sep. 2003, at 4.