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Public Law and the Military Commander: Responsibility and Authority

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Too often the commander overly concerns himself with the secondary and tertiary rules and regulations of middle management and overlooks the primary authority on which to base his actions and responsibilities—the PUBLIC LAW. Here a senior naval commander provides a perspective of responsibility, authority, and public trust that goes to the very core of our system of government.

PUBLIC LAW AND THE MILITARY COMMANDER: RESPONSIBILITY AND AUTHORITY

An address by Vice Admiral Gerald E. Miller, U.S. Navy
at Patrol Squadron 26 Change of Command

We are gathered here today to witness the passing of the baton of responsibility from one commanding officer to another. Commander Porter has been the commanding officer of Patrol Squadron 26. Commander Blaine is about to assume that responsibility.

Commander Blaine will accept all of the responsibilities embodied in the words, “*the commanding officer*.” He will be responsible for the aircraft in this organization, the supporting equipment, the operations of the squadron. Most importantly, he will be responsible for the people and their dependents. He is responsible for their morale, their welfare, their sense of satisfaction.

There is no question that being a commanding officer of a squadron of this nature is a big job. The task is enormous. Fortunately, Commander Blaine will not have to do this job all by

himself, and will have two things going for him.

- First, he has people who are volunteers in the armed services of their country.

- Second, he has authority—*authority* over the people who volunteered. He is the supreme authority in the squadron. The authority is vested in him by the law of the land and the President of the United States.

I would like to discuss the volunteers and the authority this morning.

Another thing Commander Blaine has going for him is advice. Much of the advice will be unsolicited, and some will come from older types who have been around awhile—admirals like me. Since Commander Blaine invited me here today to speak, I will take advantage of the opportunity and give him some advice.

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My first advice to Commander Blaine is "obey the law." When I say "the law," I am *not* talking about the rules and the regulations that have been promulgated by the many middle management organizations we have created in the Defense Department. I am *not* talking about the newly published Z-grams. I *am* talking about the basic law of the land—the law that was passed by the Congress of the United States, the elected representatives of the people. The law spells out, in very clear terms, what a commanding officer must do. Just to make sure that Commander Blaine understands that law, I am going to read it to him.

In article 5947 of Title 10, the U.S. Code, there is a requirement for exemplary conduct on the part of commanding officers. The specific words read as follows,

All commanding officers and others of authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their commands; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and to take all necessary and proper measures under the laws, regulations, and customs of the naval service to promote and safeguard the morale, the physical well being, and the general welfare of the officers and enlisted persons under their command or charge.

Now that is a pretty significant requirement for a commanding officer. If he can meet that requirement, he will be responding to all of the amplifying rules and regulations that have been promulgated since that basic law was written. You may be interested in knowing,

incidentally, that particular article was updated on 10 August 1956. It has been on the books for quite a while.

Another bit of the law that might be of interest to Commander Blaine, and particularly to the people that have agreed to obey his orders and serve under him is a statement regarding the policy for leave and liberty. Article 5949 of the Code states as follows, "The commanding officer of a vessel shall favor the faithful and obedient in granting of leave and liberty." Simple, straightforward, to the point. Obey and you will be rewarded by the commanding officer.

The significant thing about both articles 5947 and 5949 is that they contain the authority that goes with the responsibility Commander Blaine assumes when he picks up the baton as it is passed to him by Commander Porter. He will need that authority.

And that brings forward my second bit of advice. "Guard your authority." Fight for it. Be jealous of it. Commander Blaine, if I or your wing commander or Commander ASW Force Atlantic or even Admiral Zumwalt tries to take that authority away from you—authority which has come from the law of the land—you protect it. Call us on our actions. Do not let us get away with it.

There is a saying from the old Navy which may still apply today. Certainly the principle still applies.

We have had commanding officers of ships at sea who often question and heckle the officer of the deck—the officer of the watch on the bridge—the one responsible for the conduct of the ship during his period on watch. It has been standard procedure that anytime a commanding officer heckles an officer of the deck too much, that officer is most proper and correct in asking the commanding officer, "Are you relieving me, sir?" The "sir" is always important, of course, and enables you to get away with a lot. But the point is that the

authority is vested by law. Whether or not you have the authority must not be questioned. Guard your authority. You are going to need it to meet the responsibility you are about to assume.

My third bit of advice has to do with people, the people who have volunteered to serve with you. You must know these people. But also you must know the law and how it applies to these people. Know, for example, that they are volunteers. Refresh yourself on the conditions of their volunteer status. Know what they have agreed to do and your responsibility relative to that agreement.

Just to be sure you are up to date on the volunteer status of your people, I will refresh you on some of the documents involved in their status.

Let us start with the Oath of Enlistment for the enlisted man. What have the enlisted men that are going to work for you agreed to do? What is contained in their work contract? Let us take a look at some of the words.

All of these men who are going to help you carry out your responsibility and respond to your authority have signed a statement that reads as follows, "I () do solemnly swear (or affirm) that I will support and defend the Constitution of the United States." Now there is a most significant statement. They will "defend the *Constitution*." Not the land, not the United States, not the property, not even the people, but rather the Constitution—the law—words on a piece of paper. That is what they have volunteered to defend.

It is fitting and appropriate that they should defend words—defend the law. That is how it all started in this country. A group of men got together; people like Thomas Jefferson, John Hancock, Benjamin Franklin, and several others. They convened in a meeting hall, and they put some words on a piece of paper. They called it the Declaration of Independence. That declaration was merely words on paper until those men

went forth and made sacrifices, giving of their time, their property, even their lives, in order to turn those words into something of validity, something of truth, something of value.

Once having accomplished that, another group convened around another table and put more words on another piece of paper. They called it the Constitution. Ever since that time, young men have been enlisting in our armed services in order to defend those words. It is most appropriate that we defend the law, because in so doing we guarantee the continuance of our form of government and our country.

Now, the enlisted contract contains some additional words that are significant. For example, these same men have also agreed to obey the orders of the President of the United States and the orders of the officers appointed over them. Their voluntary agreement, under oath, to obey your orders, is where you gain your real strength.

And in return for that agreement on their part, they are entitled to your respect. They are entitled to be led by you with honor and dignity—in order that they may enjoy the satisfaction of having served their country with pride.

Finally, these men have made one last significant statement which has become rather important these days. They have all stated that they swear that the information in their contract has been correctly recorded and is true in all respects—that they fully understand the conditions under which they are enlisting. Each of them has voluntarily signed that statement.

Now it is significant that these men are volunteers. This volunteer status is what entitles them to be called servicemen. They are people who have agreed to give of themselves to protect the law, to protect the rights and benefits guaranteed in the law, so that others may take advantage of those rights and benefits. Consequently, you will have working for you true servicemen—men who

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are giving in order that others may take.

Now Commander Blaine, what about your commissioned officers? What about those who have accepted commissions from the President of the United States? What is their status? What kind of men are they? What is a commission? Who grants it? For what purpose?

I recommend that you study those questions well. To make sure you do, let me read to you the words that are in the commission of an officer in the U.S. armed services. Men with these commissions are going to help you fulfill your responsibility.

To start, a commission comes from the President. The words read: "The President of the United States, to all who shall see these presents greeting: know ye that reposing special trust and confidence in the *patriotism, valor, fidelity* and *abilities* of (the individual) I do appoint him an officer in the grade of (_____) in the United States Navy."

Those are very significant words. The President of the United States has chosen to repose *special trust* and *confidence* in the patriotism of your officers. What is patriotism? It has been defined by some as love, loyalty, zealous support of one's country.

Then how about valor? Here the President is addressing courage or fearlessness. And next is fidelity. Fidelity is faithful devotion to duty. And lastly, the President has special trust and confidence in abilities, the particular talents of the men he has chosen to commission.

Reposing special trust and confidence in patriotism, valor, fidelity, and abilities, the President has offered commissions to some young men that have been assigned under your leadership.

Further, the commission goes on to state: "This officer will therefore carefully and diligently discharge the duties of the office to which appointed by doing and performing *all manner of things.*" A very significant statement.

"All manner of things." Those are pretty inclusive words and represent a rather significant charge.

The President goes on: "I do strictly charge and require those officers and other personnel of *lesser* rank to render such obedience as is due an officer of this grade and position." Here is a statement in which these officers obtain their authority to carry out orders. It gives them authority over people of lesser rank and requires such people to render obedience. It is also the phrase which places considerable responsibility on the officers themselves.

Then the commission continues: "and this officer is to observe and follow such orders and directions from time to time as may be given by me or the future President of the United States or other superior officers acting in accordance with laws of the United States of America." Those are the words which charge your commissioned officers with an obligation to observe and follow orders and directions from time to time as may emanate from the President or other superior officers. By accepting that charge, they have agreed to obey.

Finally, the commission goes on to state that it is to continue in force during "the pleasure" of the President of the United States. A very significant term, "the pleasure of the President of the United States, for the time being under the provisions of those public laws relating to the officers of the armed forces of the United States of America." And those are the last of the words in the commission which you hold as a commander and which your commissioned officers possess in the same or lesser grades.

Having been *offered* a commission by virtue of the special trust and confidence which the President has chosen to place in them, these officers have then faced the option of either accepting or rejecting the commission. It was up to

them. It was their decision. They accepted the offer.

The act of accepting is significant because of the words contained in the oath of acceptance. These words warrant study and examination. Let me read them and discuss them with you in some degree.

The oath of acceptance of a commission is in the form of a letter to the Secretary of the Navy. It reads: "I, (_____), having been appointed an (_____) in the U.S. Navy under the conditions indicated in this document, do accept such appointment and do solemnly swear (or affirm)," (and the individual is given an option to either swear or affirm), "that I will support and defend the Constitution of the United States."

Here again we find the same words about the Constitution that were in the enlisted contract. Defense of the law is the task assumed when accepting a commission.

Further, in executing the oath of acceptance, your commissioned officers agreed to bear true faith and allegiance to the same. They swore to take that obligation "freely and without any mental reservation or purpose of evasion."

Now in these days of questioning, those are significant words that you should recognize and understand. Your commissioned officers have taken their commissioned obligations "freely, without any mental reservation or purpose of evasion."

Their oath of acceptance finally states that they will well and faithfully discharge the duties of the office they have entered.

So now we have reviewed three very significant documents; the enlistment contract, the commission from the President of the United States, and the oath of acceptance of the commission.

Commander Blaine, you have a commission. You have commissioned officers in your squadron. Further, you have a group of enlisted personnel who

are all volunteers. All are influenced by these documents.

These documents, plus articles 5947 and 5949 that I read to you, have given you authority from the President and from the people of the United States to act for them in carrying out your responsibilities. And, of course, you have my advice.

My last bit of advice has to do with Admiral Zumwalt, our new CNO, frequently referred to as the "Big Z." My advice is that you replace the term "Big Z" in this squadron with the term "Big B." Let it be "B" for Blaine, not "Z" for Zumwalt. You be the "Big Z" for Patrol Squadron 26.

And I know of no one who would want it more that way than Admiral Zumwalt himself. He is fighting to give authority back to commanding officers. He wants you to use your authority and use it wisely. He is trying to give to you what middle management has taken

BIOGRAPHIC SUMMARY



Vice Adm. Gerald E. Miller, U.S. Navy, is a graduate of the U.S. Naval Academy (Class of 1942) and earned a master's degree in personnel administration from Stanford University.

Following a tour of duty in the U.S.S. *Richmond* in World War II, he concentrated on the fields of aviation and personnel administration, and in the latter field directed the project which introduced computers into the Navy's personnel administration. His aviation career has included commanding officer of a jet fighter squadron in the Korean campaign, Air Wing Commander, Commanding Officer of the U.S.S. *Franklin D. Roosevelt*, Commander Carrier Division 3 in the Western Pacific, and Assistant Deputy Chief of Naval Operations (Air). More recently he has served as Commander 2d Fleet/Commander Striking Fleet Atlantic and is currently serving as Commander, U.S. 6th Fleet.

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away over the years. Take advantage of his work. Be the "Big B."

And so in summary, my advice is simple:

- Obey the law,
- Know your people, and
- Be the "Big B."

In closing I offer congratulations to Commander Porter for the outstanding manner in which he has served as the commanding officer of this squadron. He has defended the Constitution. He has utilized his volunteers well. He has

lived up to the special trust and confidence which was vested in him by the President. I wish him well.

Commander Blaine, I offer my congratulations to you on having achieved this status in life and wish you well as you take over the baton of responsibility.

Finally, may we all give thanks to a profession that is composed of volunteers and men in whom the President has chosen to repose special trust and confidence.

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... To specialize in Command means to be a student of command in all its implications and aspects, not merely to be a student of ship handling and tactics.

ADM R.L. Conolly, USN (1892-1962)