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CHAPTER 7

Ethics in Dangerous Situations

C. Anthony Pfaff, Ted Reich, Walter Redman, and Michael Hurley

To protect soldiers repairing a vehicle on a road, a platoon leader in Iraq provided protection for them by positioning two manned vehicles along possible routes that other vehicles, potentially laden with explosives, could use. In doing so, he decided not to follow the platoon's standard operating procedure (SOP), which called for controlling traffic along the road by separating nonthreatening Iraqi vehicles from suspicious ones. He believed that he was being "paid to exercise judgment," so he broke from routine. Because he knew the enemy had used snipers against soldiers on this road in the past, he calculated that the risk of them doing so again far outweighed the potential of firing on nonthreatening Iraqi vehicles because of a failure to control the traffic.[1]

Soon after getting their vehicles in position, the soldiers saw a sedan speeding toward their position. As it got closer, the platoon leader ordered one of his soldiers to fire a warning shot, after which the sedan sped up. Thinking they were in imminent danger, the soldiers trained their fire on the sedan and braced for an explosion. The sedan skidded to a stop less than five meters from the soldiers, and they soon discovered that they had killed an elderly man with thick glasses and hearing aids in both ears. When the battalion executive officer reviewed the platoon's actions, he agreed with the lieutenant's decision to deviate from routine and not put soldiers on the road, affirmed that the soldiers "did the right thing," and called the killing of the elderly man a "terrible tragedy of war."[2]

ACCOMPLISHING MISSIONS WHILE MINIMIZING HARM

For the most part, the reason soldiers, police, and other crisis responders operate in dangerous situations is to make those situations safer or to neutralize the danger altogether. Soldiers fight enemies, police combat crime, and emergency workers rescue the distressed. Doing so ethically requires them to balance the competing demands of accomplishing their mission, preserving lives, and minimizing harm to others and preserving personal safety. These competing needs can be categorized by levels of risk: risk to mission, risk to others, and risk to self. Most societies create and empower certain professional organizations—in particular, the military, law enforcement, and emergency response outfits—to take risks, and in some cases, even do harm in the name of protecting or restoring peace or order. In doing so, they bestow a unique level of responsibility on the members of these professions to manage the harm done in the course of their professional duties. This dispensation is not afforded citizens at large.

In the military professions, whose purpose it is to fight and win wars, members consciously accept the ultimate personal risk—death in battle—along with the weighty responsibility of doing the ultimate harm—killing others—if necessary to achieve victory. Law enforcement officers may face death or injury in apprehending those who disrupt domestic peace by breaking the law, and they may use force, even lethal force under certain conditions, in trying to make an arrest.[3] Unlike soldiers, however, law enforcement officers are not typically permitted to risk harm to bystanders while carrying out their duties.[4]

The obligation to prevent harm significantly affects law-enforcement operations. For example, when New York City police responded to a call regarding a disturbed person at a homeless shelter, the suspect confronted an officer with a knife. The officer tried to convince the man to drop the weapon, and while talking to him, inched closer to get into a position to disarm the man. Suddenly, the man lunged forward, stabbing the officer in the chest. The officer fatally shot the disturbed man before dying himself.

This example, together with that of the platoon leader, illustrates the difference between military and law enforcement approaches to ethics in dangerous situations. In both cases, neither the soldiers nor the police were in immediate danger, but both perceived differently the risks to themselves and the corresponding permissibility of risks to others. In common, however, are the respective decisions they made that affected to varying degrees the lives and well-being of others, making this integral part of their professional duties ethical decisions.[5]

To ensure that members act ethically in dangerous situations, their professions must educate and inspire them in understanding their codes of ethics and committing to upholding them. Doing the right thing in dangerous situations is more than simply following rules; it also requires sound judgment in order to understand and balance the competing risks involved. Such judgment stems from character, which is best developed through institutions and programs created and maintained by the professions. Strong character is a tremendous tonic in the face of the chaotic danger that these professionals often face, and it fosters resiliency in the face of the tension that comes from balancing competing ethical demands. (See Chapter 9 for a discussion on character traits of leaders who earn trust.) An understanding of the character required for professional emergency responders, soldiers, and police begins with an understanding of the common ethical principles each of their professions shares.

SETTING THE TERMS

The professional organizations that recruit, train, and deploy soldiers, police, and emergency responders, though their operating environments are often dramatically different, may all be called defenders, or in domestic situations, protectors of the peace because of the charters they are given by the institutions that empower them with these responsibilities. Since they willingly serve in these professions and accept their principles by virtue of oath and long-term membership, they are crisis professionals.

Respect as the Common Foundation

Concepts like necessary force, proportionality, human rights, and immunity from harm underpin the basic principles at play in moral arguments and subsequent judgments about crisis professionals' actions in dangerous situations. These concepts inform the principle of respect for basic human rights and the humanity of others (including potential and actual adversaries) that is foundational to the professional ethics of crisis professionals that guide them in their daily duties. Although the context of dangerous situations will vary, the common moral grounding for all of them is the basic respect for human rights that all of them engender. When crisis professionals are forced to make tough decisions about balancing risks, and those decisions result in harm, it is hoped that they can find strength in the power of these imperatives anchored in the moral worth of humanity.

Dangerous Situations Defined

Dangerous situations are essentially those that involve threats to the peace that are tantamount to actual or potential violations of rights. Their degree defines their meaning and prompts a contemplation of force as a response. At the international level, external threats are commonly referred to as acts of aggression, whereby nations or entities threaten the collective rights of others by actual or implied military force against an adversary's territory, people, or resources.[6] Domestic or internal threats occur when the aggression is personal rather than collective, with a personal rights violation at the heart of the wrong.[7] Here, the rights of individual persons are intentionally violated, often through personal coercion, for varying selfish motives, resulting in crime or the disruption of the common civic peace, which demands that police intervene, apprehend the suspected criminals, and restore a state of safety.

Though crimes might be isolated events, their frequent occurrence can create an uneasiness in a community that if left unaddressed could lead to reduced confidence in the rule of law and, over time, to increasing lawlessness. A central principle of law enforcement is that all citizens in a society bound by the rule of law are entitled to a peaceful existence, and most law enforcement departments' foundational codes begin with this basic premise. For example, the Los Angeles Police Department's (LAPD) vision statement begins with a commitment to serving the community while protecting the rights of all persons, and fundamental to these rights is the basic right to live in peace.[8]

Naturally occurring phenomena can also be dangerous and put citizens at risk. A natural disaster, like Hurricane Katrina in 2005, is an example of a situation where people's lives are in jeopardy, but without human aggressors. Other examples include traffic accidents or infrastructure fires, both potentially but not always caused by humans but not necessarily from aggressive motives.[9] Emergency responders, like firefighters and paramedics, restore peace by mitigating disruptive conditions through quick response and aid to those affected.

Fighting wars is different from fighting crime, and fighting crime is different from saving lives. The military defends states; police and other first responders defend individuals. Despite such differences, the desired result is a shared intent to restore the rights of those affected, whether they are a collection of individual rights in a state or the basic rights of individuals to life and freedom that civic violence, crime, or accident threatens. The perspectives of those who are professionally bound to face danger are varied, but the ethics behind their professional obligations are linked by their common inspiration from basic human rights.

MORAL STATUS OF ADVERSARIES AND NON-ADVERSARIES

Dangerous situations are most often made so by adversaries, who may be individuals or collections of individuals with motives to commit or threaten aggression. Crisis professionals are empowered to respond with deadly force, but the degree of response varies by their office, or alternatively, by the moral status of their respective adversaries. Comparing opposing soldiers in a war against criminals on the street yields some observations about the differences in moral status that exist between them.

In combat, when soldiers ambush opposing soldiers and kill them, they are not commonly judged as murderers. The label perhaps does not fit since killing for the sake of their nation's cause—and accepting that they could ultimately be killed while doing so—is what soldiers agree to do when they freely join the military. (From another perspective, one could argue that these soldiers knowingly surrender their rights to personal safety when they opt to become soldiers.) Change soldiers in the ambush example to police and opposing soldiers to suspected criminals, and one's intuition may not be so clear-cut. Ambushing and killing suspected lawbreakers seems harder to morally justify because somehow the tactic of ambushing does not seem to fit what police are supposed to do. Rather, it is beyond the scope of what society expects, and empowers, police to do. Ambushing is hunting with the goal of killing on sight, without questions. Soldiers expect to do this and to be targets of it in the course of their combat duties. It seems unlikely that police as well as the citizens they serve would share these expectations for law enforcement agents.

Why are expectations for soldiers and police different? The answer involves rights. Prominent military ethicist Michael Walzer puts it this way: Soldiers, if they serve freely, and they fight for a just cause, consciously accept that their basic rights to personal safety are secondary to their duty to risk their lives in fighting their nation's battles. Governments tacitly affirm this through the convention of supplying their militaries with weapons and personnel, all of whom swear an oath of allegiance as part of their entry into service. This process legitimizes the killing soldiers do in the course of battle, making it state-sanctioned, justified killing rather than murder.

Law enforcement officers on the other hand are not charged with fighting their state's wars; their scope is much narrower. They are empowered by regional and local governments to keep the domestic peace and safeguard the citizenry. This is a morally important difference. While soldiers typically fight to establish or reestablish order on a large scale, law enforcers preserve order on a much smaller one. They operate under a civil code ingrained with the basic concepts of rights-based rule of law and are bound to honor it even

while apprehending those who are attempting to break it. This leads them to greatly restrain their lethality in order to maximize their chances of bringing suspected criminals to face justice. One can see these notions in the policies of law enforcement agencies, like the New York Police Department's (NYPD) imperative for its officers to use force to stop rather than kill.

The Management Principles of the LAPD further illustrate this point by prescribing the appropriate mind-set for its officers in the course of their duties: "a peace officer's enforcement should not be done in grudging adherence to the legal rights of the accused, but in a sincere spirit of seeking that every accused person is given all of his rights as far as it is within the powers of the police."[10] By urging its officers to be mindful of the principles that empower them, the LAPD seeks to maximize the preservation of the rights of those it also seeks to apprehend, as well as reinforce the ethics of its profession.

CHALLENGES TO THE WAR–LAW ENFORCEMENT PARADIGM

Terrorism and insurgency pose difficult challenges for crisis professionals because the tactics used by terrorists and insurgents often blur the distinction between criminals and enemy combatants. For military professionals, counterinsurgency doctrine overlays traditional combat tactics. For example, a unit might assume nontraditional tasks, like agricultural crop management and construction, while continuing to fight pitched battles against hostiles whose actions classify them as classic combatants one day but common criminals the next.

Law enforcement agents face similar challenges as terrorism and insurgency change the scope of their operations, often dramatically. On city streets, police increasingly find themselves "out-gunned" by drug traffickers and gangs. Overseas deployments are now a possibility for law enforcers, as national governments tap them to train foreign police agencies, often from scratch. In extreme cases, in regions like East Timor, where there is no commonly accepted rule of law, police trainers must assume full policing duties until a law enforcement system can be established, from the ground up. More and more, these types of situations are becoming the norm with soldiers policing and police officers soldiering.[11] Any ethical approach that seeks common ground for all types of crisis professionals must consider the ways in which their lines of duty continue to blur and blend.

COMMITTING HARM, DISCRIMINATION IN USE OF FORCE AND TARGETS, NECESSITY, AND PROPORTIONALITY

As noted earlier, soldiers killing other soldiers in war or police killing suspected lawbreakers in self-defense or defense of others is not considered murder. Though societies might later view such deaths as unfortunate, it is unlikely that minds will change about the moral justification if it is affirmed that the soldiers and police were acting in accordance with their duties. What grounds thinking, or moral intuition, here is the notion that in dangerous situations those who can defend against a threat should do so, even if it results in someone's death or injury, and it would be wrong if they did not act.[12]

Justified defense of self or others has limits, however. Both soldiers and police are obligated to discriminate in their use of force, selection of targets, and means of applying force. Just as soldiers may not intentionally kill or harm noncombatants, police must avoid incidental harm to bystanders and make every effort to warn suspects before they use deadly force against them. International laws as well as internal military regulations prohibit certain weapons and restrict the excessive use of force in conflicts just as domestic law and internal police policies prescribe limits on the use of force.

The crisis professionals' need to show restraint leads to a pronounced sense of tension when faced with the competing demand to accomplish whatever mission is required. Resolving this tension is the central ethical problem in dangerous situations. Perhaps the most common approach to this tension—and one that poses serious challenges to any principle-based professional ethic—is that of classic ends–means, or utilitarian, reasoning. Simply put, this line of thinking holds that the best decision is the one that results in the most good and the least bad for the most people. For those empowered to respond in times of crisis, the most good comes from accomplishing their profession's mission, even if it means in extreme cases committing some harm in order to do so, which in turn flies in the face of professional duties to minimize risk to themselves and others. The greater the perceived "good" or worth of the outcome, the lesser the value of the individual rights of persons affected by the crisis, and the stronger the pressure to violate them in order to secure the best outcome.

A natural offshoot of this reasoning is the concept of necessity and its cousin military necessity. Necessity is a powerful aspect of ends–means reasoning, and crisis professionals need to consider its entire scope and to what it commits them as they make decisions in dangerous situations. It follows from this line of thinking that the more good one thinks can be achieved, the more harm one should be willing to cause or accept in order to do it. Taken to

extremes, this reasoning can lead to troubling actions by leaders under pressure to produce good outcomes.[13] A contemporary instance of this is illustrated in Lieutenant William Calley's closing remarks at his court-martial, where he was found guilty of orchestrating and participating in the murder of more than five hundred unarmed civilians in the village of My Lai in 1968 during the Vietnam War:

> If I have committed a crime, the only crime that I have committed is in judgment of my values. Apparently, I valued my troop's lives more than I did that of the enemy. When my troops were getting massacred and mauled by an enemy I couldn't see, I couldn't feel, and I couldn't touch, that nobody in the military system ever described as anything other than communism—they didn't give it a race, they didn't give it a sex, they didn't give it an age, they never let me believe it was just a philosophy in a man's mind and that was my enemy out there, and when it became between me and that enemy, I had to value the lives of my troops, and I feel that is the only crime I have committed.[14]

Calley's assertion that his troops' lives were worth more than his enemys' is clearly an attempted value-based justification for the murders in the village; coupled with his claim about the difficulty of identifying the enemy, his rationale for the slaughter becomes more apparent. Though killing a large number of people who appeared to be innocent was a near-term bad, there was a chance they could actually be or turn out to be the enemy, so killing them was in fact a larger good because it would prevent them from killing his soldiers. The duty for Calley to discriminate between friend or foe had less overall worth to him than the need to protect his soldiers. His actions reflect professional as well as ethical failures; he felt no tension because he perceived no boundaries to his judgment. As his example proves, such unrestrained reasoning in crisis can be extremely dangerous.

Central to the constraints inherent in the ethical codes of crisis response professions is the concept of proportionality, which translates in ends–means reasoning that prohibits actions whose outcomes result in more harm than good.[15] Thus, permissible actions are those in which the good achieved is proportional to or in balance with the bad incurred.[16] For example, professional military organizations must ensure their weapons are appropriate to the target type and avoid "squashing a squirrel with a tank,"[17] because doing so clearly overvalues destruction and undervalues the good produced by it. From a long-term perspective, protracted "squashing" or excessive use of force will threaten any claims of intentions to fight a just war, given that a primary objective of a

just war is the establishment of a better state of peace. The wanton pulveriza-
tion of an adversary seems hardly likely to produce such a goal.

Proportionality is also a critical component of law enforcement's profes-
sional ethic, as evident in the tenets of the Law Enforcement Code of Ethics,
an oath that every new law enforcement officer recites during graduation cer-
emonies or signs when joining a police department.[18] This oath, like all pro-
fessional oaths, is thought to be morally binding throughout one's career of
service. The Law Enforcement Code of Ethics is particularly insightful in its
acknowledgment of the powerful emotions and tensions officers experience
in dangerous situations as they make decisions about risk and the use of
deadly force. Just as philosophers and religious thinkers have railed through-
out the ages against rage, bloodlust, and "revengeful cruelty as unjust inspira-
tions for battle,"[19] the law enforcement code likewise implores its officers to
restrain their personal feelings and prevent them from influencing their deci-
sions about risk and deadly force amid their pursuit of criminals. They must
enforce the law "courageously and appropriately without fear or favor, malice,
or ill will, [and] never employ unnecessary force or violence" in the process.[20]

Unnecessary force is understood here as force disproportionate to the
harm potentially being done. Such a use of force would be unprofessional and
unethical because it would violate the rights of those against whom the force
is directed. Even though a person or persons may be actively disrupting the
civic peace, they do not lose the right to be treated humanely as they are being
apprehended. Common ground on this point seems clear for both law enforc-
ers and military professionals; force without constraint and discrimination is
unprofessional, unethical, and in the broadest sense, greatly undermines their
most common collective goal: a stable peace at any level.[21]

Proportionality properly considered at each level guides necessity in each
context; often, what's necessary for police in terms of violence is differ-
ent from what's necessary for the military. The following example illustrates
this point: During the 1992 Los Angeles riots, a joint Marine–police patrol
responded to a domestic disturbance. The police readied to enter the room and
yelled to the Marines to provide them cover. The Marines responded by firing
approximately two hundred rounds through the door, the minimum volume
of fire necessary in their professional world to "suppress" a target and provide
cover for others moving forward in an assault. Fortunately for all, no one was
injured.[22] Though military and law enforcement organizations instruct their
members to use the least force necessary, this example shows they have very
different conceptions of what this means. In the policemen's view here, "cover"
probably meant aiming weapons at the door, and yelling "come out or we'll

shoot!" in order to gain time to understand the situation and consider whether nonviolent means could resolve the situation. As far as the Marines were concerned, however, "cover" meant suppressing the target even at the risk of others in the area.

These different reactions result in part from the way each profession perceives threats and trains to deal with them. For police, the threat is a lawbreaker who requires apprehension but still has a full complement of basic rights. Police emotions might run high, especially if the lawbreaker's offense is a horrible one, but their professional code demands apprehension and delivery to justice first, and deadly force only as a last resort. Members of the military on the other hand are professionally bound to defeat enemies. The focus of their training, resourced by their states, envisions the most extreme scenarios, in which all dimensions of military force (land power, sea power, air power) are brought to bear to completely destroy an enemy or cause it to surrender in order to restore peace. Thus, military professionals' first consideration is and must be the most force permissible.[23] This distinction means that any set of principles of necessity and proportionality meant to address all crisis professionals must be mindful of the rights that their professions are charged to respect and protect.

IMMUNITY FROM HARM AND THE ETHICS OF RISK

While the principles of necessity and proportionality restrain the use of force, they provide no guidance on how crisis professionals should aim or direct force. There are no restrictions on whom one may or may not target with force; rather, it is only important that the act be required to achieve success. In the absence of boundaries, these principles clash head-on with the notion of universal human rights, and for crisis professionals, represent clear contradictions to the codes they are sworn to follow.

A victory-at-all-costs mentality in a military context, for example, presents a clear challenge to the principles of human rights that most nations subscribe to either through their constitutions or through membership in the United Nations, whose charter clearly articulates human rights principles. In terms of killing, then, if all persons have a basic right to life, killing them would appear to be wrong or unjust unless they have done something to forfeit that right. As Walzer and others have pointed out, when conflicts occur, merely living near or within a group of aggressors does not automatically constitute a forfeiture of rights.[24] In a similar vein, just because one happens to be in the same building as a criminal, it does not mean he or she ought to be subjected to the

same loss of rights that the criminal faces in the course of his apprehension. One could object to this by posing this question: When faced with a choice between defending myself and my colleagues or the members of a hostile population who also have rights, whom should I protect? Put another way, is it ever permissible to violate or even abandon the rights of others when the rights of your own people are also in jeopardy? These are fair questions.

Placing restrictions on the use of force can put friendly and innocent lives at risk as well as impede mission accomplishment. Thus, if such restraints exist, there need to be compelling reasons for them. Answers to the above questions begin by noting that while the ethics of dangerous situations center on balancing risks, the balancing process rests upon the fundamental and universal principle that all persons deserve to live their lives freely, not under threat of violence or oppression by others.[25] Because individuals have these rights, they are considered immune from harm and remain so unless they do something to warrant a loss of immunity. In the context of dangerous situations, this typically happens when persons threaten to harm or otherwise violate the universal rights of others.

Immunity protects non-harming persons from being intentionally targeted by lethal force during crisis response operations. If it can be thought of as morally enabling war fighting and policing, then it stands to reason that these same rights must also be preserved during the course of those activities, otherwise responders would undermine the moral purpose of taking action in the first place. In the United States, crisis professions draw inspiration and affirm allegiance to the Constitution, which codifies the universality of these rights and demands their defense. The UN Charter also serves the same function.

It follows then that to establish the principle of immunity, which states generally that a crisis professional when considering the use of lethal force must attempt to discriminate between legitimate and illegitimate targets as well as minimize the spillover of the effects of force on those not involved in the situation, law-enforcement professionals engaging criminals must avoid such spillover entirely because of their obligation to protect civilians from harm.[26]

Although the immunity principle obligates regular soldiers and police to refrain from directly targeting noncombatants or bystanders, what role, if any, does it play in today's complex "irregular" conflicts? Fights that pit combatants against combatants within clearly defined battle lines occur rarely in the context of the kinds of irregular wars U.S. forces find themselves in, thus introducing higher probabilities of noncombatant casualties. Moreover, as noted above, the roles of crisis professionals are increasingly becoming blended or blurred as some adversaries seek cover within noncombatant environments.

In these as well as domestic policing situations, crisis responders often find that their best and often only way to stop a violent act is by placing bystanders at risk, directly or indirectly. Imagine, for example, a police sniper tracking a person who is threatening to kill someone he is holding hostage. The officer sees him through a window of the building, but knows there are other people inside. A shot, if it ricochets, could injure or kill others, but it is the only way to stop the man from murdering his hostage. Does the sniper have an obligation to minimize or even avoid those casualties? If the commitment to the right to life is a serious one, the answer would appear to be yes. It is a truism about rights that if someone has a right, others should generally avoid violating it unless there is a compelling overriding reason. Dangerous situations do not override immunity so much as they recognize that because some situations make it impossible to avoid noncombatant casualties, it is similarly impossible to hold crisis professionals generally morally responsible for causing casualties if they do their reasonable best to avoid them. The best that can be done is to prescribe general limits, like proportionality and immunity, and hold these professionals responsible for complying with their oaths and charters.

MANAGING RISK

The more complex a dangerous environment is, the more difficult ethical decision making becomes. For crisis professionals to succeed in their missions in such environments, they must find and engage the enemy or criminal element discriminately within the population. To do so, they must delve into the population and find their targets, increasing their own vulnerability to attack as well as the probability of casualties, which would not only affect their units, but also potentially the overall popular will to carry on the fight.[27]

An alternative option to exacerbating vulnerabilities is to opt for weapons of greater standoff range, but these often decrease the ability to discriminate combatants from noncombatants. Adversaries who show no regard for the principle of immunity, and who kill wantonly, raise the pressure on principled leaders. Perhaps the truest test of leadership during crisis is for those in charge to inspire their subordinates to place themselves at great risk to preserve the rights and lives of innocents when their adversaries lack compunction about killing or harming in other ways. Yet, the subordinates must act, because doing so is part of the fiber of their professional lives. Moreover, because they receive training, equipment, and other resources to reduce their risk when fighting, it follows that they must accept some additional risk if it means preserving the lives of noncombatants, who by definition do not have these resources.[28]

Michael Ignatieff's *Virtual War,* about NATO's air campaign in its 1999 intervention in Kosovo, offers a good example of the extent of risk that crisis professionals are sometimes obliged to take. Describing this campaign as one with "high moral language of the cause" but "limited character," Ignatieff criticizes NATO's tactic of bombing from high altitudes to eliminate the risk of successful surface-to-air missile (SAM) attacks by Serbians.[29] By flying so high, the pilots could not clearly identify friend from foe as they searched for targets below. They made several widely publicized target identification errors that resulted in noncombatant casualties.[30]

Ignatieff's problem with this kind of "warfare of minimum risk" is that it willfully avoids personal combat risk while increasing the risk to innocents. He considers it patently immoral and unethical.[31] What makes this willingness to kill, but not risk dying unethical is that by transferring all the risk of combat to noncombatants, pilots—as well as their leaders who established their rules of engagement—completely void their moral responsibility to take due care in discriminating between combatants and noncombatants.[32]

As noted previously, rescue workers may take only limited risks when performing their duties, but this does not mean that they have no obligation to manage that risk. For them, managing risk is manifest in the investment in training and equipment for them so they are as well prepared as possible to conduct rescue operations as safely as possible. A parent is wrong to rush into a building to save his or her child in the presence of firefighters. It is right for the firefighters to do it because of their training and equipment, which greatly minimizes harm to them as well as to others. This does not suggest that rescue workers must eliminate the possibility of harm in dangerous situations; rather, they must eliminate the necessity of harm. Just as police may only undertake certain courses of action, like a high-speed chase, when harming bystanders is not a certain outcome, rescue workers may only attempt a rescue if they know that its success will not require harm to themselves or others not already at risk.

The requirement to eliminate the necessity of harm in large part distinguishes rescue workers from soldiers and police. Mission accomplishment usually entails soldiers and police employing force to defeat human adversaries who are also using force (and thus making the situation dangerous). The role of rescue workers, on the other hand, is to reduce the danger for everyone affected. Thus they do not accept the same risk experienced by the people they intend to rescue. For this reason, risk management for them entails reducing the overall harm possible rather than shifting the harm to the adversary.

FINDING COMMON GROUND

Though crisis professions vary in many ways, from the context of situations faced to the nature of adversaries, the generalized formulations below illustrate common ground between them with an eye toward the formulation of a unified crisis professional ethic:

- *Necessity:* Use lethal force and create risk for others and yourself only when there is no other way to accomplish your mission and restore peace or domestic order.

- *Proportionality:* Use as much force as is required to accomplish your professional mission but also preserve the rights of those affected by your mission. Accept a degree of risk to yourself and others that is commensurate with your professional obligations.

- *Immunity:* Those persons not directly engaged in threatening you, your colleagues, and others not involved in the situation in any meaningful way have the right to not be intentionally harmed as a result of your direct or indirect actions.

- *Discrimination:* When considering the use of deadly force, make every reasonable effort to distinguish those who threaten from those who do not, even if doing so means you and those who follow you must put yourselves at risk.

- *Respect:* Honor the basic human rights of all those affected by your professional mission and always consider them when making decisions in crisis situations.

CONCLUSION

Revisiting the introductory discussion of the decision made by the platoon leader, some judgments can be made from the perspective of the ethics of dangerous situations and some thoughts offered by way of judgment. First consider the professional identity of the platoon leader. It is clearly one of a crisis professional, commissioned by oath to his nation to lead soldiers to fight its battles. His oath commits him to assume risk to himself and his soldiers in the course of their duties, which include taking reasonable steps to distinguish friend from foe in battle. By forgoing his unit's SOP, one could argue that he fails to take those steps largely out of concern of putting his soldiers at risk of sniper attack. Yet, this failure somehow seems to discount the lieutenant's credibility in judging threats to his soldiers, which clearly matters in this case;

after all, he was there, so who better to decide what dangers really existed? Another objection, to the lieutenant's decision to open fire on the sedan, might be linked to the nature of the platoon's mission, arguing that it more closely resembles a law enforcement operation than a military mission, and therefore requires decision making about force and risk similar to those police officers make. (See Chapter 6 for a discussion on personal responsibility.)

One might then conclude that judgment might be better served by a consideration of this lieutenant's character. Is he honest? Does he truly embrace, through his words and demonstrated actions, the values of his profession? Does he truly care for his soldiers? Answers to these questions offer insight into what kind of person he is, which in turn could reveal something about his motivations for his decision to fire on the sedan and ultimately reveal the overall moral quality of his decisions.

From this admittedly brief analysis, the difficulty of ethical decision making for crisis professionals is apparent. These responders are required to win wars or keep the peace, protect the people they work with, and make every effort to protect those involved in the situations they respond to. This is difficult enough in clear-cut situations, where danger manifests itself in obvious ways, but the emergence of asymmetric enemy and criminal adversaries increases the complexity of these environments and inevitably raises pressure to make good decisions about harm and risk. Certain qualities unify crisis professionals across the spectrum of dangers that they face. Courage and resiliency will continue to underscore their collective character as they stand against the myriad of threats that exist to all levels of peace in society.

KEY TAKE-AWAY POINTS

1. Professions are organizations or groups whose members freely choose to serve through swearing or affirming acceptance to their codes of conduct or duties. In crisis professions, members' duties involve facing risk, often to extreme degrees, to protect others from danger or harm.

2. Though crisis professions vary by type and scope of duties, their individual codes of ethical conduct share certain general principles. The most fundamental of these principles is a respect for humanity and the basic rights to life and freedom.

3. Judgments about the ethical conduct of crisis professionals in complex and dangerous situations may rely on such principles as discrimination and proportionality, depending on the complexity of the situation, but in

the end they may come down to judgments about basic virtues like character and integrity.

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NOTES

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1. Peter Kilner, Nate Allen, and Nate Self, eds., *A Platoon Leader's Tour* (New York: West Point Center for the Advancement of Leader Development and Organizational Learning, 2009), 66–67.

2. Ibid., 68.

3. New York City Police Department policy states, "Police officers shall not discharge their firearms to subdue a fleeing felon who presents no threat of imminent death or serious physical injury to themselves or another person present." *Manual of Use of Deadly Physical Force,* section 203–12.

4. The authors owe this point to Dr. Michael Matthews.

5. Louis P. Pojman, *Ethics: Discovering Right and Wrong* (Belmont, Calif.: Wadsworth Publishing, 1995), 1–3.

6. Brian Orend, *The Morality of War* (Petersborough, Ontario: Broadview Press, 2006), 3; and Michael Walzer, *Just and Unjust Wars*, 2nd ed. (New York: Basic Books, 1992), 51.

7. See Walzer, *Just and Unjust Wars*, 58–59.

8. LAPD, "Motto, Mission Statement, and Core Values," http://www.lapdonline.org/search_results/content_basic_view/842.

9. Aggressively motivated humans are those who intentionally seek to inflict harm on others or others' possessions. In the domestic sense, these are obviously criminals with motives like armed robbery, murder, arson, and so on. Accidental harm in the domestic sense would include instances where systems or conveyances fail for non-intentional reasons, like when an electrical appliance shorts and causes a fire or brakes fail on a car and cause a collision.

10. LAPD, "Management Principles of the LAPD," http://www.lapdonline.org/inside_the_lapd/content_basic_view/846.

11. Contracted security forces complicate this idea further because they are not bound to any kind of professional ethic in the same way crisis professionals are. Rather,

they are obligated to provide services only to the extent their contract identifies. With respect to risk, this causes them to differ from crisis professionals in morally significant ways.

12. Police may be liable legally as well as morally if they fail to make an arrest. For example, an officer who ignores a drunk driver may be held responsible for any harm later committed by the driver. The authors owe this point to Dr. Michael Matthews.

13. Walzer, *Just and Unjust Wars*, 130–132.

14. "Remember My Lai," PBS *Frontline*, transcript of original broadcast, May 23, 1989, http://www.pbs.org/wgbh/pages/frontline/programs/transcripts/714.html.

15. For an explanation of differing views of utility, see William Shaw, "The Consequentialist Perspective," in *Contemporary Debates in Moral Theory*, ed. James Dreier (Malden, Mass.: Blackwell Publishing, 2006), 10.

16. Proportionality is a notoriously difficult requirement to calculate, as one must measure harms that are not always commensurate as well as calculate the future harms one is trying to avoid.

17. Orend, *The Morality of War*, 119.

18. Kevin J. Grant, "Ethics and Law Enforcement," *FBI Law Enforcement Bulletin*, December 2002, 2, http://findarticles.com/p/articles/mi_m2194/is_12_71/ai_96453523/pg_2/?tag =content;col1.

19. See Orend, *The Morality of War*, 9–12.

20. Law Enforcement Code of Ethics, University of North Carolina Department of Public Safety, http://www.dps.unc.edu/DPS%20Policies%20&%20Procedures/Appe ndix/3LawEnforcementCodeofEthics.pdf.

21. The NYPD employs a concept known as the "scale of escalating force, force continuum" to manage the proportionality of force. This continuum identifies several levels of force, the lowest being an officer's mere presence and the highest being deadly physical force. The levels of force are based on the situation and can change as circumstances change. Officers are not required to start the application of force at the lowest level and exhaust all alternatives before progressing to the next level; where they start depends on the level of force a suspect employs. Officers in all instances are required to use the minimum amount of force, consistent with their personal safety, to accomplish the mission at hand. NYPD officers will often say based on this that the suspect determines what kind of force the officer will use; the officer merely reacts and responds.

22. James D. Delk, *Fires and Furies: The LA Riots* (Palm Springs, Calif.: ETC Publications, 1995), quoted in Christopher M. Schnaubelt, "Lessons in Command and Control from the Los Angeles Riots," *Parameters* 27 (1997): 88–109.

23. Tony Pfaff, "Military Ethics in Complex Contingencies," in *The Future of the Army Profession*, ed. Don M. Snider and Lloyd J. Matthews, 2nd ed. (New York: McGraw Hill, 2005), 412–414.

24. Walzer, *Just and Unjust Wars*, 146.

25. Walzer, *Just and Unjust Wars*, 53–54; also see Paul Christopher, *The Ethics of War and Peace: An Introduction to Legal and Moral Issues*, 2nd ed. (Trenton, N.J.: Prentice Hall, 1999), 164–166.

26. Paolo Tripoldi, "Peacekeepers, Moral Autonomy, and the Use of Force," *Journal of Military Ethics* 5, no. 3 (2006): 217.

27. Martin Shaw, *The Western Way of War* (Cambridge: Polity Press, 2005), 35.

28. James M. Dubik, "Human Rights, Command Responsibility, and Walzer's Just War Theory," *Philosophy and Public Affairs* 11, no. 4 (1982): 355.

29. Michael Ignatieff, *Virtual War: Kosovo and Beyond* (Toronto: Viking Inc., 2000), 110.

30. Their targeting mistakes included strikes on a refugee convoy, the home of an elderly Serb couple, a civilian train crossing a bridge, and the Chinese embassy in Belgrade. See Ignatieff, *Virtual War*, 103, 107.

31. Ignatieff, *Virtual War*, 110.

32. For a more complete discussion of obligations of combatants to take risks, see Don M. Snider, John A. Nagl, and Tony Pfaff, *Army Professionalism, Military Ethics, and Officership in the 21st Century* (Carlisle Barracks, Pa.: Army War College Strategic Studies Institute, 1999).