

SALVE REGINA UNIVERSITY

FROM PILLAR TO PILLORY

U.S. NAVY CRIMES OF COMMAND 1945-2015

A DISSERTATION SUBMITTED TO  
THE FACULTY OF THE HUMANITIES PROGRAM  
IN CANDIDACY FOR THE DEGREE OF  
DOCTOR OF PHILOSOPHY

BY

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NEWPORT, RHODE ISLAND  
MARCH 19, 2018

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SALVE REGINA UNIVERSITY

GRADUATE STUDIES

This dissertation of Michael Junge entitled "From Pillar to Pillory - U.S. Navy Crimes of Command 1945-2015" submitted to the Ph.D. Program in partial fulfillment of the requirements for the degree of Doctor of Philosophy at Salve Regina University has been read and approved by the following individuals:

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PREVIEW

## Acknowledgements

I would like to thank my committee members, Dr. Dan Cowdin, Dr. William Leeman, and Dr. Jayme Hennesy for their advice and counsel of the past three years. I would also like to thank Dr. Ivan Luke, Dr. Paul Povlock, and Steven Forand for their advice and encouragement in this program. Proofreading assistance from Michael Boucher, Commander, United States Navy (Retired) and argument honing with the folks at SailorBob.com was invaluable.

Great thanks to Commander Douglas D. Henry, United States Navy (Retired) for use of his father's letters and files in chapter 2 and to Commander Reo Beaulieu, United States Navy (Retired) for use of his letters and files in chapter 3. If only more officers were as good at keeping, and sharing, history as these two are.

Thank you to the crew of USS *Whidbey Island* (LSD 41) from 2007 to 2009 for helping me keep the bottom wet and not scratching the paint.

Thank you to Lenny, Vinnie, Hank, and Buttercup for not caring that I was working and reminding me there was more to life than books and the computer.

Thank you to Ella, Eva, and Paulette, for caring that I was working and still reminding me there was more to life than books and the computer.

And thank you to dog father, friend, confidant, philosopher, and life-long saint Dr. Eric Shaw, Captain, US Coast Guard (retired)...everybody's boon companion. You are missed.

Begin at the beginning and go on until you come to the end; then...

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## **Abstract**

Since the beginning of the 21st century, the Navy has announced almost every removal of an officer from command. Before 2000, some removals were announced, most were not. Quite often official command histories don't address when a commanding officer is removed. Sometimes discussion of a removal is suppressed. Some commanding officers are ordered to never discuss their removal. Some will not discuss the removal out of personal shame. For those not involved, spectators, there is a combination of schadenfreude and learning. And even, for some, a level of glee when karma catches up with someone in a particularly expected or deserved manner. In 2011 the senior Navy officer issued a letter to all prospective commanding officers. In it he wrote that command is based on three principles: authority, responsibility, and accountability. He calls the relationship between authority, responsibility, and accountability an "immutable truth [that] has been the foundation of our Navy since 1775." This paper shows that accountability, at least in that context, is a modern creation. Looking at writings through the 20th and into the 21<sup>st</sup>-century one can trace the creation of this "immutable truth" through two major events of the 20th century – the U.S. Navy's worst peacetime disaster and a national sex scandal.

This dissertation explores post-World War II United States Navy culture and how this culture addresses officers who have excelled sufficiently enough to rise to the pinnacle of professional assignment, the pillar of command of a U.S. Navy warship but also committed a 'crime of command.' A crime of command is an idea unique and special to military command, and even more unique to naval command. Crime of

command is a specific term of art, a combination of words with meaning distinct and separate from individual value and presentation. However, to understand the concept of ‘crime of command’ we must first understand the individual meaning of the words.

Once the words are understood they must be studied within the context of naval operations, commanders identified, and the Navy’s actions towards them determined. Since behavior is learned, understanding not only the ethical dilemmas of command but also the process by which commanders learn to decide is important. Not just for the commander who erred, but also for the commander who must decide how to adjudicate the crime of command as the officers travel from pillar to pillory.

Over the last seventy years Navy leaders first learned and now teach a concept of accountability that has not only deviated from its original meaning, but has morphed into something else; something corrupted in its understanding. The Navy must relearn the ideas of responsibility, culpability, accounting, and forgiveness if it is to prevail in the future.

## **Introduction**

The United States of America is a maritime nation; her modern inhabitants arrived by sea. Using technology, they left Europe and transported culture, beliefs, and society across the ocean. Today the United States, in fact, the world, relies on the oceans for food and commerce. While today fewer people travel via the sea, almost 90 percent of the world's commerce travels the oceans.

Since World War II these oceans are relatively safe from man's predations. While there remain areas where resources are exploited in violation of international law, there are no wars at sea, rather some battles few and very far between. Piracy remains but is statistically inconsequential. Even nature, while not tamed, is well enough understood that even the simplest seaman can avoid storms. This modern regime of maritime safety is a result of the post-World War II global order instituted by the victorious Allies. Even the Soviet Union was not an immediate threat to global shipping and commerce. Their demise has, as in all things, simply made the seas safer.

However, even though the United States is the world's greatest consumer, the country also has no national merchant shipping of consequence and is entirely reliant on other countries for the transportation of American exports and desirous imports. Part of the bargain intrinsic with this reliance is the global security provided by an American navy, the largest navy in the world. This navy, and its capabilities for power projection, in almost any weather and at almost any time, exceed the capabilities of not only the next ranked navies of the world but the next five navies combined.

The United States Navy, while greater in relative proportion to all others, has also

declined since World War II. Ending that war with over 6000 ships the Navy now fields less than 300. Inherently technological, the Navy is, and always has been, a natural nexus of man and machine. Many individual human beings crew each navy ship, but a single person leads those ships in a historical hierarchical manner: the Captain. If the global order relies on America and her Navy, then her Navy relies on leadership from her captains. Admirals make and set policy, but on the seas, the lieutenants, lieutenant commanders, commanders and captains in command of ships are the ones providing and enforcing security.

Historically commanding officers are the sole word of authority aboard ship. Every decision rests squarely on the Captain's shoulders; they are metaphorical pillars of leadership and integrity. Even with instantaneous communication, the Navy advocates a culture of autonomous operation. "Command by Negation," a concept unique to navies, allows a subordinate commander the freedom of judicious operation. While subordinates inform superiors of decisions taken, those decisions are the default action unless, and only if, the senior clearly and positively overrides it. The United States Navy is the only service with the acronym UNODIR (UNless Otherwise DIRected) by which a commanding officer informs superiors of a proposed course of action that will occur unless overridden. The subordinate is informing the boss, not asking permission. This concept dates to the age of sail when ship captains were dispatched throughout the world and given simple, yet clear, orders to act in the best interests of the king, or of the country. UNODIR provides a firm foundation for naval command; a firm foundation for the pillar that is a commanding officer.

Since modern communications technology allows seniors to reach ever deeper

past the chain of command to issue, approve, or countermand the banalest order, the concept of command by negation is eroding. This erosion creates a commensurate decay in the traditional authority of command. At the same time, increased scrutiny allows for an increase in the accountability of command. Technology is aiding that scrutiny but is not alone in causing the erosion. Captains are still pillars, but are standing on less firm foundations than they once did.

While a Captain's specific powers have declined over the centuries, the idea that a commanding officer is 'the closest thing to God on earth' remains. Public myth, the press, and even Navy publications, portray Captains as solely responsible for everything within their command. Where a captain's authority once equaled this responsibility, the authority has eroded, but the responsibility remains. This divergence, great responsibility without equal authority, engenders problems. Every few months there is a national news story about the U.S. Navy removing a commanding officer from command for one reason or another. A common question raised in these instances is "why?". Why was that commanding officer removed? What incident led to the removal? Was it a personal failing? An operational accident? Something in between?

The Navy does not ease the understanding. Citing privacy concerns, Navy leaders rarely provide a full accounting of why a commander was removed. This lack of transparency or openness leads to conjecture and rumor. Conventional wisdom holds that society changed and the Navy was slow to catch up. This is not the entire story. Many of the actions in these firings are common in society. Alcohol abuse, adultery, and theft occur with regularity and rarely lead to automatic dismissal in the civilian workforce. When an officer is removed it is normally public, open, and announced, while also

shrouded in secrecy. The now former commander is pilloried between the shame of open censure and the Navy's insistence that privacy concerns for the disgraced officer override transparency. Rumors fly, stories are told, but the whole truth rarely comes out.

For almost every removal, especially those involving personal indiscretion, two competing narratives devolve down to the same phrase: *what was he thinking?* What was the fired officer thinking when he committed the act, and what was the senior thinking when he removed that officer for committing the act? These competing narratives indicate the societal change impacting the Navy is not complete, and likely that society does not fully comprehend the rules under which military officers operate.

Motivation plus action equals behavior and while some behavior is based on conscious reasoning some may result from unconscious drives. When unconscious drives combine with action we find it difficult to assign moral attributes to the result.<sup>1</sup> This provides a second challenge. We know the behavior, sometimes we know the action. What was the motivation? Modern rules are steeped in tradition and modified by a changing society. Civilian societal norms are not the only changes that affect perceptions of leadership and authority. Civilian ideals of military life also play a significant part.

There is a different way to ask this question: *Why does the Navy remove commanding officers?* In a non-military job few, if any, of these incidents result in job termination, especially for a subset of transgressions known as *crimes of command*. Crimes of command are specific violations of law, such as hazarding a ship through

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<sup>1</sup> Harold F. Gortner, "Values and Ethics," in Handbook of Administrative Ethics, ed. Terry L. Cooper, 2nd ed. (New York, NY: Dekker, 2001). 513.

collision or grounding, which have no real counterpart outside naval command.<sup>2</sup> The two most common – collision and grounding – have specific definitions and understanding within maritime law. A *collision* is any time two ships strike each other, and both are underway (not anchored, moored, or grounded). Essentially, two moving ships strike one another. Collisions may be glancing blows, generally with little damage. Or, they can occur perpendicularly where the bow of one ship strikes the other in the side – commonly called a broadside or “t-bone.” Collision contrasts *allision* wherein a moving ship strikes a non-moving object, a moored ship, pier, piling or buoy. A *grounding* is when a ship strikes the bottom of the ocean, intentionally or not. While some landing craft intentionally ground themselves as part of their mission, they are designed to do so; most ships are not. Likewise, some submarines might ground themselves as part of their mission, or seek to blend with the ocean floor and escape detection. However, any unintentional grounding, or grounding outside of mission requirements, is a crime of command. In both cases, collision or grounding, contact may range from slight and glancing to catastrophic. The level of damage is not a factor in deciding whether a grounding occurred, though often the level of damage is tied to the severity of punishment. In all cases, the commanding officer is called to account for the actions of his ship – whether he had control at the moment of impact, or not. There are no clear civilian analogies to crimes of command; the closest lies in parental responsibility for children or vicarious responsibility within a corporation. However, even these analogies fall short when applied to crimes of command.

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<sup>2</sup> See Fidell, Eugene R., and Jay M. Fidell. "Loss of numbers." *Naval Law Review* 48 (2001): 202.

Even without direct analog, the U.S. military is a reflection of the society it draws from and as American society has changed, so has the Navy. And to some degree, as the Navy changes it also changes society. Today there are actions, once condoned, or even celebrated, which lead to removal from command but do not lead to dismissal in civilian society. Has the Navy always removed commanding officers for drinking too much, for adultery, for striking their subordinates, for running a ship aground or into another ship?

One way to address these questions is a close examination of individual removals. Journalist and author Tom Ricks' 2012 book, *The Generals*, looks at specific U.S. Army leaders from World War II through Vietnam. His writings focus solely on individual general officers and he provides a qualitative discussion of removal, near removal, and some successes. Ricks mentions some lower level removals, but he does not delve into the rationale for a removal, and does not look at the larger culture behind or evolving from those removals. Benjamin Persons' 2001 book *Court of Inquiry: "Neglecting the possible" – U.S. Navy mistakes* examines a series of post-war courts of inquiry. Using primary source material Persons explains what happened, and in some cases, what happened after each court, but his focus is on the incident and he draws no linkage between cases.

The Navy has officially examined command removals, twice; once in 2004 and again in 2010. Two naval officers, Captains Mark Light and Jason Vogt, wrote monographs in 2011 and 2014 respectively and examined the issue from a moral perspective. Each report, 2004, then 2010, then 2011 and finally 2014 built from each other but also to varying degrees used essentially the same data sets of officers removed from command between 1999 and 2013. The data were the officially tabulated numbers

from the U.S. Navy Bureau of Personnel. Essentially, all four studies came to similar conclusions - removals are rare, largely for individual behavioral problems, and there are no links related to race, gender, age, naval community or career path. Each report assessed that all 300 reliefs might be cast as anomalous. Given an overall data set of almost 2,500 command positions with the record removal rate in 2011 of 26, the transgressors number 1% of all commanding officers. Why would anyone spend time concerned about 1%?

In short, because the United States is a maritime nation. The world relies on the security provided by the United States, and the United States Navy, and Navy commanding officers. All officers are commissioned by the President on behalf of the nation because of a “special trust and confidence in the Integrity and Ability” of the officer. Even 1%, in a modern world of nuclear weapons and guided missiles, is worth study.

However, this 1% number loses luster when one moves back further in history. Of today’s 2,500 command positions, only 300 are ships. At the end of World War II, the Navy had over 6,000 ships - 20 times as many as today. If the ratio of ships to overall commands held true, then in 1945 one would expect a potential removal rate of 500 captains. If 26 removals make headlines today, would not 500 have made headlines as well?

This raises the next part of the question. First, *Why does the Navy remove commanding officers?* Then, *Has the Navy always removed as many commanding officers as it does today?* Clearly, the 1999 and onward dataset cannot address this question. Only an examination of all possible removals from the beginning of the Navy until today might

provide such an answer. Might. For even a cursory review of history shows that many naval heroes lost their ships to war or nature. In 1803, Commodore William Bainbridge grounded USS *Philadelphia* off Tripoli, was captured and imprisoned. Today, USS *Bainbridge* (DDG 96), an *Arleigh Burke*-class destroyer, is the fifth U.S. Navy ship named for him. In 1778, Commodore John Barry ran USS *Raleigh* aground during combat action and then abandoned the ship. The British captured and refloated her. John Barry, because he possessed the first United States government commission as a naval officer, is considered the “Father of the Navy” and USS *Barry* (DDG 52), also an *Arleigh Burke*-class destroyer, is the fourth U.S. Navy ship in his honor. In 1908, Ensign Chester W. Nimitz was court-martialed and removed from command after running USS *Decatur* (DD 5) aground in the Philippines. In 1944, this same Nimitz became the Navy’s third Fleet Admiral, supervised the Pacific Theater of World War II, became Chief of Naval Officers and the aircraft carrier USS *Nimitz* (CVN 68) is named in his honor. In some cases, officers were removed from command, but quietly, without public notification and without censure.<sup>3</sup> Obviously not every commanding officer is either removed from command, or the U.S. Navy, for crimes of command.

An examination of all incidents over 242 years is unrealistic. Using just a few would provide insufficient data to draw any real conclusions. If one looks at the Navy’s historical size, World War II is a clear anomaly. In 1940 the Navy had less than 500 ships. By 1942, just under 2000 ships. By 1945 - 6,768 ships. Since 1945 the U.S. Navy

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<sup>3</sup> Gregory L. Vistica, *Fall from glory: the men who sank the U.S. Navy* (New York: Simon & Schuster, 1995).11.

has experienced a slow, sometimes steady sometimes precipitous reduction in naval forces. This steady decline, when combined with the technological and administrative changes after World War II, provides a likely starting point.

A way to address the question: *Why does the Navy remove commanding officers and has the Navy always removed as many commanding officers as it does today?* is by taking all U.S. Navy incidents and accidents between 1945 and 2015 and then determining what impact, if any, that presumed crime of command had upon the commanding officer and his subsequent career. Research ultimately provided over 1,500 discrete incidents for quantitative analysis. From there fourteen case studies were drawn for qualitative analysis. The sinking of USS *Indianapolis* in the closing days of World War II and USS *Queenfish*'s tragic, and illegal, sinking of a Japanese mercy ship earlier that year; the investigations into fires aboard USS *Bennington*, and USS *Ranger*; collisions involving USS *Brownson* and USS *Charles H Roan*, USS *Wasp* and USS *Hobson*, USS *Hartley* and Motor Vessel *Blue Master*, USS *Frank E Evans* and HMAS *Melbourne*, USS *John F Kennedy* and USS *Belknap*, and USS *McFaul* and USS *Winston S Churchill*; the attacks on USS *Stark* and USS *Cole*; and an aircraft accident aboard USS *William P. Lawrence* provide insight into how the Navy handles crimes of command, and how today's actions differ from past years.

The data shows that the Navy acts differently than before. The change is identifiable, but not discreet. While there are some who place the onus for change on American society, or the introduction of women to the Navy, or the great and terrible weight of nuclear weapons, and still others who ignore change insisting on a "tradition older even than the traditions of the country itself," the clear and irrefutable fact is the

modern Navy removes, and discards, commanding officers more than any other time in the past seventy years. Why? Because a lack of naval war experience combined with a technocratic concept of responsibility and accountability warped Navy culture from one capable of understanding and practicing the *art* of leadership into one that worships the *science*, and infallibility, of technology. The paradox of great responsibility without equal authority now combines with a false ethical binary of only one right answer, which is at odds with a world where ethical decisions are as gray as the ships these officers command. The Navy's own writings, shown in the fourteen cases highlighted here, show that change. That very language traces back to the Navy's greatest technocrat, Admiral Hyman Rickover, the father of the nuclear navy, who in 63 years of naval service commanded at sea for three months, in 1937.

Acknowledging change is only part of the overall analysis. Even if Admiral Rickover provided the impetus, why has the Navy changed? What traditions or processes propelled the Navy towards a deviant form of accountability? What can the Navy do to return to the original form? Here we must look to the disciplines of ethics and psychology, specifically virtue ethics and moral development. Using the teachings of Barry Schwartz, Alasdair MacIntyre, Lawrence Kohlberg, and Dan Ariely we can chart a path back to a clear and full understanding of not just accountability, but also responsibility, culpability, ethics, forgiveness and redemption. There is an opportunity to bring the Navy back to the art of leadership, the art of command, and it lies within a simple concept - returning forgiveness to the Navy's list of virtues.

## 1: The United States Navy and Command

This chapter provides a basic lexicon explaining naval command and crimes of command. The chapter also introduces and explains the study's methodology.

In leadership circles, there are few myths as strong as that of a ship captain. From explorers Christopher Columbus and Vasco De Gama to warriors John Paul Jones and Francis Drake, diplomat Matthew Perry or even starship captains Jean Luc Picard and James Tiberius Kirk, the myth pervades life and art. Aphorisms like “women and children first” combine with the historical understanding that a ship captain is the sole word of authority aboard ship and every decision, large or small, rests squarely on the Captain's shoulders. A captain's impact lasts long after a command tour is complete. Promotions, evaluations, special selection programs, officer and enlisted retention are all impacted by the commanding officer. Every sailor keeps something of the captain for the rest of that sailor's life. Knowingly or unknowingly a captain's strengths and weaknesses are eventually spread into other commands.<sup>1</sup>

Within the Navy commanding officers are seen, known, and conceptually understood, however, there are still very few of them. In the modern Navy there are fewer than 300 ships – and commensurately fewer than 300 commanding officers of ships - commonly called ‘Captain’ regardless of rank and sometimes more informally called ‘Skipper.’ In a country of over 300 million, Navy ship commanding officers make up

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<sup>1</sup> Robert B. Hunt, "Monsarrat Was Wrong," *Proceedings*, February 1997.

roughly .0001% of the population. Captains are in command for roughly two years, are in their early forties and live at least 30 years after leaving their command tours, which means that the overall population of former commanding officers is still only .001% of the U.S. population. In other words, of every 100,000 people, there is one current or former Navy ship captain. Yet, everyone has a concept of a ship's captain, a general knowledge of their existence, their power and their responsibility. Some from history books, but far more from fiction – both literary and theatrical; book, play, and film. While one may debate the accuracy of a Kirk, Picard or even Sparrow we cannot escape the reality that most Americans never meet, much less know, a ship captain and those fictional portrayals are what shape their opinions and those opinions end up shaping culture and law.

### **Navy Culture**

Navy culture builds on traditions of the sea and seafaring in a nearly unbroken line from the British Empire through today's modern ships of steel and nuclear weapons. One common saying is that the United States Navy is "over 240 years of tradition, unaffected by progress;" clearly not fully true, however, tradition is a such a cornerstone of naval life that the word is an unofficial fourth core value and the single most common rationale for any action. "Tradition" is used in many ways and forms and often interchangeably with custom and routine.

However, tradition is not the bedrock historical habit commonly believed. In reality, cultures usually invent traditions, consciously creating and adapting them for unique and specific reasons. "The term 'invented tradition' is used in a broad, but not

imprecise sense...[and].. includes both 'traditions' actually invented, constructed and formally instituted and those emerging in a less easily traceable manner within a brief and dateable period..." The purposes of these "invented traditions" are to "inculcate certain values and norms of behaviour [sic] by repetition, which automatically implies continuity with the past."<sup>2</sup> These creations are "responses to novel situations which take the form of reference to old situations"<sup>3</sup> where tradition differs from convention or routine (lacking significant ritual or symbolic function) and custom (which is flexible where tradition is not).<sup>4</sup>

This created tradition appears and reappears in naval thinking. The most commonly cited form comes from one of the cases later discussed. Following a 1952 collision at sea in which an aircraft carrier cut USS *Hobson* in half killing 176 sailors, including her captain, the *Wall Street Journal* published an editorial which reads in part:

On the sea there is a tradition older even than the traditions of the country itself and wiser in its age than this new custom. It is the tradition that with responsibility goes authority and with them both goes accountability. This accountability is not for the intentions but for the deed. The captain of a ship, like the captain of a state, is given honor and privileges and trust beyond other men. But let him set the wrong course, let him touch ground, let him bring disaster to his ship or to his men, and he must answer for what he has done. No matter what, he cannot escape...<sup>5</sup>

This article has been reproduced and repeated so often that the lessons within are

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<sup>2</sup> Hobsbawm, E. J., and T. O. Ranger. *The Invention of Tradition* (Cambridge Cambridgeshire: Cambridge University Press, 1983). 1.

<sup>3</sup> *ibid* 2.

<sup>4</sup> *ibid* 2-3.

<sup>5</sup> "Hobson's Choice." *Wall Street Journal* (1923 - Current file): 10. May 14, 1952. ProQuest. Web. 10 Dec. 2013.

now mythic in nature and scope. Adherents, especially those with limited understanding of history, are unaware that the lessons are more modern than mythic. The lessons are relevant, but they are not as clear as some profess, or even as well understood as some interpret. In fact, in “Hobson’s Choice” we have the first mention of “a tradition older even than the traditions of the country”- the origination of “with responsibility goes authority and with them both goes accountability;” two ideals firmly embedded in today’s Navy.

Modern Navy culture is largely affected by two concepts - women and World War II. World War II looms large over modern naval thinking. At the United States Naval War College, Pacific battles against the Japanese are studied and dissected. Novels of the war, including *Mister Roberts*, *The Caine Mutiny*, *Winds of War*, and *War and Remembrance*, are favorites among officers and sailors alike. Women are the modern impact, with female service at sea allowed in two periods - aboard non-combatant ships in the early 1970s, aboard combatant surface ships since 1995, and submarines since 2015. The period between women first embarking ships in the 1970s and embarking surface combatants in 1995 was one of Navy leadership’s most turbulent times, and a time oft written about.

The 1991 Tailhook Scandal provides a central core of writings. More than 100 women, both civilian and active duty, were assaulted at a naval aviation convention in Las Vegas, Nevada. The incident was a social watershed, not only for what happened in Las Vegas, but what happened afterward. The scandal and botched investigation directly claimed the careers of a Secretary of the Navy, a Chief of Naval Operations, at least three admirals, and almost a dozen other officers. The scandal tarnished the reputations of