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IMMEDIATE RELEASE

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SECRETARY OF DEFENSE RUMSFELD HONORS LIBERTY DAY

To recognize Liberty Day, Secretary of Defense Donald H. Rumsfeld today issued a compilation of key U.S. documents -- the Declaration of Independence and the Constitution -- for use by servicemembers and employees of the Department of Defense. This collection also includes excerpts from significant legislation calling for exemplary conduct by all military leaders and avoidance of fraud, waste and abuse of authority within the Department.

In his statement, Rumsfeld indicated the document is to encourage all who serve in the Department of Defense to examine these words "which together form the basis for our freedom and prosperity."

The Secretary expressed his hope this compilation will serve as a constant reminder of the sacred oath required by Congress for every individual elected or appointed to office in the civil or uniformed services:

"that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

Rumsfeld's Liberty Day proclamation and the combined Declaration of Independence/U.S. Constitution document are on the worldwide web at <http://www.defenselink.mil/pubs/liberty.pdf>.

The U.S. Congress designated March 16 as Liberty Day, the birthday of James Madison, fourth president of the United States. According to the October 2000 Congressional Joint Resolution, Madison was the major author of the Virginia Plan, "model and the basis for that United States Constitution that emerged from the Constitutional Convention in 1787."

IN HONOR OF LIBERTY DAY

James Madison, the fourth President of the United States and the "Father of our Constitution," was born on March 16, 1751. It is therefore fitting and proper that Congress has proclaimed that each year, on the 16th of March, we should pause and recognize "Liberty Day" as a "celebration of the Declaration of Independence and the United States Constitution, where our unalienable rights and liberties are enumerated."

I encourage all to examine the words of the Declaration of Independence and of the Constitution, which together form the basis for our freedom and prosperity. These documents serve as a constant reminder of the oath that Congress has ordained for every "individual elected or appointed to an office of honor or profit in the civil service or uniformed services":

"that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

A handwritten signature in black ink, appearing to read "Donald H. Rumsfeld". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Donald H. Rumsfeld

The
Declaration of Independence
and the
Constitution
of the
United States of America



including selected appendices of historical documents relating to the duty of all who serve within the Department of Defense to honor and to uphold the law

INTRODUCTION

Two centuries and two years before the 106th Congress established "Liberty Day" as an annual "celebration of the Declaration of Independence and the United States Constitution, where our unalienable rights and liberties are enumerated," President John Adams admonished American military officers that "Oaths in this country are as yet universally considered as sacred obligations." For all of us who have sworn to support and defend this Constitution, therefore, it behooves us to familiarize ourselves with its text and historical context.

It might appear to some that Congress requiring every "individual elected or appointed to an office of honor or profit in the civil service or uniformed services" to take an oath of office concluding with "So help me God" (5 U.S.C. § 3331) would violate the First Amendment's prohibition against "an establishment of religion." To the contrary, oaths have always been an essential element of our constitutional system. In his 1796 Farewell Address, President George Washington described the fundamentally religious nature of oaths: "Of all the dispositions and habits which lead to national prosperity, Religion and morality are indispensable supports. . . . [W]here is the security for property, for reputation, for life, if the sense of religious obligation *desert* the Oaths, which are the instruments of investigation in Courts of Justice?"

The Constitution itself requires that "a regular Statement and Account of the Receipts and Expenditure of all public Money shall be published from time to time." Moreover, as explained in the 1789 Preamble to the Bill of Rights (reproduced in this booklet), the first ten Amendments were designed "to prevent misconstructions or abuse of its power," *i.e.*, to prevent abuses of "powers . . . delegated to the United States by the Constitution." U.S. Const., amend X.

The financial accountability of federal officers and the prevention of fraud, waste, and abuse of authority by those officers are thus core constitutional functions. When the Secretary of Defense "declared war" on bureaucratic waste within the Pentagon – the day before the September 11, 2001, terrorist attacks – he anchored his remarks in a constitutionally-based notion of accountability: "Every dollar squandered on waste is one denied to the warfighter. . . . Every dollar we spend was entrusted to us by a taxpayer who earned it"

According to 1998 congressional testimony by retired Admiral Thomas H. Moorer, former Chief of Naval Operations and Chairman of the Joint Chiefs of Staff, "Responsibility without accountability 'according to law' undermines the core foundation of the Constitution, the principle known as the Rule of Law (as opposed to the rule of men), without which our Constitution is no more than a piece of paper."

All those who serve within this Department can be proud of our military's historical commitment to the principles underlying our Constitution, which require above all a firm commitment to personal integrity and leadership. Former Secretary of the Navy and then President Theodore Roosevelt reminded us of the profound role of personal integrity and leadership in the American republic:

The stream will not permanently rise higher than the main source; and the main source of national power and national greatness is found in the average citizenship of the nation. Therefore it behooves us to do our best to see that the standard of

the average citizen is kept high; and the average cannot be kept high unless the standard of the leaders is very much higher.

The first Article of the 1775 "Rules for the Regulation of the Navy of the United Colonies of North-America" (Appendix A), mandated exemplary conduct by Naval leaders:

The Commanders of all ships and vessels belonging to the THIRTEEN UNITED COLONIES, are strictly required to shew in themselves a good example of honor and virtue to their officers and men, and to be very vigilant in inspecting the behaviour of all such as are under them, and to discountenance and suppress all dissolute, immoral and disorderly practices;

Likewise, the current statutory mandate that officers of all services comport to a higher standard of personal behavior -- both on and off duty (10 U.S.C. § 933) -- traces to the 1775 "American Articles of War" (Appendix B). Article XLVII of the 1775 Articles of War forbade officers from "behaving in a scandalous, infamous manner." A November 1775 Amendment required not only that an officer found guilty of fraud "be *ipso facto* cashiered, and deemed unfit for further service as an officer," but also that "it be added in the punishment, that the crime, name, place of abode, and punishment of the delinquent be published in the news papers, in and about the camp, and of that colony from which the offender came, or usually resides: after which it shall be deemed scandalous in any officer to associate with him."

These 1775 first principles were recodified by Congress in 1956, almost verbatim, into federal statutory law for the Navy and Marine Corps: "All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant inspecting the conduct of all persons who are placed under their command; 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;" 10 U.S.C. § 5947. In 1997, when Congress adapted and legislated these same first principles for the Army and the Air Force (10 U.S.C. §§ 3583 & 8583), the accompanying Senate Report "note[d] that these standards have applied to Naval and Marine Corps officers since they were first drafted by John Adams and approved by the Continental Congress in 1775." The Senate Armed Services Committee explained the purpose of the 1997 legislation:

This provision will not prevent an officer from shunning responsibility or accountability for an action or event. It does, however, establish a very clear standard by which Congress and the nation can measure officers of our military services. The committee holds military officers to a higher standard than other members of society. The nation entrusts its greatest resource, our young men and women, to our military officers. In return, the nation deserves complete integrity, moral courage, and the highest moral and ethical conduct.

All who serve within this Department should familiarize themselves with the Declaration of Independence and the Constitution, as well as with the historical documents reproduced in the appendices.*

* The Secretary of Defense would like to express his gratitude to the Historian of the Navy, Dr. William S. Dudley, and to his staff, for proofreading and verifying the historical accuracy of documents reproduced in this compilation.



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

DEC 20 2005

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
COMMANDERS OF THE COMBATANT COMMANDS
DIRECTORS OF DEFENSE AGENCIES

SUBJECT: Exemplary Conduct Leadership Standards

As we are about to start a new year, it is most appropriate to renew our commitment to the core values that are the foundation of our military. The Exemplary Conduct Leadership Standards, codified in Title 10, require all commanding officers and others in authority to:

- Lead by example;
- Be vigilant in inspecting the conduct of all persons who are placed under their command;
- Guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Service, all persons who violate the standards; and
- Take all necessary and proper measures, under the laws, regulations, and customs of the respective Services, to promote and safeguard the morale, physical well-being, and general welfare of the officers and enlisted persons under their command or charge.

It is important that all Services, Commands and Agencies take positive steps annually to reinforce these Standards. As such, you should formally incorporate Exemplary Conduct Leadership Standards into existing training programs such that all personnel under your responsibility receive annual training. Ensure all new personnel receive this training promptly after accession.

My expectation is that all components will continue to emphasize commitment to these standards and ensure they are fully implemented through regulations, training and, most importantly, by your personal example. Thanks.

Andrew England
ACTING





THOMAS H. MOORER
ADMIRAL, U. S. NAVY (RETIRED)

Testimony of Admiral Thomas H. Moorer, U.S. Navy (retired),
Former Chairman of the Joint Chiefs of Staff,
submitted to the House Judiciary Committee
1 December 1998

I appreciate the Judiciary Committee's invitation to submit these comments on the corrosive effects on the military's code of honor of having a Commander-in-Chief who has admitted misleading the nation. The President, by his own poor choices, has created a crisis of constitutional proportion within the same Armed Forces he is duty-bound to lead. It is now up to Congress to solve this crisis by holding the President accountable.

When I had the honor to serve as Chairman of the Joint Chiefs of Staff in the early 1970's, I was the senior uniformed member of the United States Armed Forces. As such, like every other commissioned officer, I served "during the pleasure of the President." Like every other officer, I also swore to "support and defend the Constitution of the United States against all enemies foreign and domestic," and to "bear true faith and allegiance to the same. . . . So help me God."

The Committee is addressing today a critical problem within the Armed Forces that many civilians do not fully appreciate. The President is the Commander-in-Chief. Although he does not wear a military uniform, he is a military leader. In this regard, I urge the Committee to address two fundamental issues of military leadership: honor and accountability. Within the leadership of the United States Armed Forces, these virtues are indispensable. Without them, soldiers, sailors, airmen, Marines, and civilians die unnecessarily.

If the Committee finds that the Commander-in-Chief has engaged in conduct that undermines the standards Congress has set for military leadership -- to which the President has already indisputably admitted -- I urge Congress to hold the Commander-in-Chief accountable not only for the good order and discipline of the United States Armed Forces, but also, more fundamentally, for the survival of the American Rule of Law.

When a military leader chooses to engage in dishonorable conduct, he either resigns or is removed from any position of responsibility, *i.e.* cashiered, by those to whom he is accountable. In any event, military leaders are accountable for poor choices. Military leaders also serve as role models for honorable and virtuous conduct. Their troops expect no less. When the troops know a leader is not being held accountable for dishonorable conduct, the "corrosive effect" is devastating on the good order and discipline of the Armed Forces.

President Theodore Roosevelt, who served as Assistant Secretary of the Navy, leader of the "Rough Riders" in the Spanish-American War of 1898, as Vice President, and then as President and Commander-in-Chief, said this about American national greatness and leadership:

The stream will not permanently rise higher than the main source; and the main source of national power and national greatness is found in the

average citizenship of the nation. Therefore it behooves us to do our best to see that the standard of the average citizen is kept high; and the average cannot be kept high unless the standard of the leaders is very much higher.

Congress is responsible for setting these "very much higher" standards of leadership for the United States Armed Services. Section 8 of Article I empowers Congress to "make Rules for the Government and Regulation of the land and naval Forces." Congress is also responsible for holding the Commander-in-Chief accountable for "high crimes and misdemeanors."

Technical legal arguments that the Uniform Code of Military Justice may not apply to the Commander-in-Chief miss the point. At issue are some of the first principles upon which our colonial forefathers pledged their "sacred honor."

The First Article of the 1775 "Rules for the Regulation of the Navy of the United Colonies of North-America," which is still public law (10 U.S.C. 5947), mandates that: "All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; . . . 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." Likewise, the current congressional mandate that all commissioned officers comport to a higher standard of personal behavior -- both on and off duty -- traces to the 1775 "American Articles of War," which forbade officers from "behaving in a scandalous, infamous manner," and required that any officer found guilty "of any fraud . . . be *ipso facto* cashiered, and deemed unfit for further service as an officer."

A crisis of military discipline looms if any commander, by his words and actions, promotes an adage that "you can engage in whatever behavior you get away with, and even if you're caught, it's OK to evade accountability if you can get away with that"; a constitutional crisis looms if Congress does not hold all officers with full responsibility to a standard of full accountability. Responsibility without accountability "according to law" undermines the core foundation of the Constitution, the principle known as the Rule of Law (as opposed to the rule of men), without which our Constitution is no more than a piece of paper. By definition, the Rule of Law cannot be influenced by public opinion, whether through public opinion polls or otherwise.

The United States Armed Forces now have a more fundamental challenge to leadership training than simply instilling character traits adverse to lying, cheating, and stealing: How do we instill in young leaders the moral courage to admit when they are wrong and to accept accountability for poor choices? Personal example by senior leaders, up to and including the Commander-in-Chief, is an essential starting point -- and risk to personal ambitions is no excuse for any officer of the United States Armed Forces to fail in this regard.

I urge Congress to consider the high standards of personal conduct it has set for leaders of the American military, and to hold the Commander-in-Chief accountable to *at least* those standards -- for the good order and discipline of the United States Armed Forces and for the survival of the American Rule of Law.


Thomas H. Moorer