

F I F T H E D I T I O N

ADVICE FOR CONSCIENTIOUS OBJECTORS IN THE ARMED FORCES

by Robert A. Seeley

- A comprehensive, step-by-step guide to applying for conscientious objector status.
- Find out whether applying for conscientious objector status is right for you.
- Published by CCCO, an organization with fifty years of experience counseling conscientious objectors.



Central Committee for Conscientious Objectors

1948 CCCO founded in Philadelphia by the National Service Board for Religious Objectors (now NISBCO), the American Friends Service Committee, The Brethren Service Commission, the Friends Service Committee on National Legislation, the War Resisters League and the Fellowship of Reconciliation, with the help of Ray Newton, Caleb Foote, AJ Muste, Jim Bristol, David and Betty Dellinger, and others. **1951** Under pressure from CCCO, the Army stops assigning non-combatant conscientious objectors to mine-laying. **1952** First editions of *Handbook for*

50 *Conscientious Objectors and Conscientious Objectors in the Armed Forces* published. **1953** *Chapter 16: Guide to Conscientious Objection in the Armed Forces* published. **1954** After years of pressure from CCCO and other groups, Department of Defense Directive 1300.6 allows COs to be discharged or probably from the military. **1955** CCCO holds a 513 month. **1966** CCCO opens office in San Francisco. **1968** New monthly record of 833 cases set. The *Draft Counselors' Manual* and the *Draft Counselors' Newsletter* published. CCCO helps found Prisoner Visitation and Support as a result of visits to conscientious objectors in prison. **1969** Midwest Committee for Draft Counseling opens a CO office in Chicago. **1970** *Advice for Conscientious Objectors in the Armed Forces: The Military Counselors' Manual and Newsletter on Military Discharge and Counseling* (MCMAC) published. Pete Seeger holds a concert for CCCO. **1971** CCCO opens office in Atlanta. **1972** Office opened in Denver. House of Representatives places

Central Committee for Conscientious Objectors

YEARS

on the "suggested subversive" list. **1975** With help from CCCO, first woman CO discharged. Atlanta CCCO office closes. **1980** Thousands return "CO Cards" to CCCO with the resumption of draft registration. **1981** *The Objector* begins publication. Thirteenth edition of *Handbook for Conscientious Objectors* published. **1985** Fund for Education and Training (FEAT) founded by CCCO and other groups to assist non-registrants denied financial aid. **1986** CCCO testimony helps persuade Congress to declare Selective Service proposed rule changes null and void. **1987** Comic book *Real War Stories* published and becomes a comics best seller. First *Interview a Vet* contest held. **1988** Youth, Militarism and Alternatives conference held in Chicago. **1993** First *Report of AWOL/UA Policies* published. **1994** GI Rights Hotline begins taking calls. *Choosing Peace*, the successor to *Handbook for Conscientious Objectors*, published. **1996** Student Coalition Resisting Enlistment and Militarism (SCREAM) founded. **1997** Survivors Take Action Against Abuse by Military Personnel (STAMP) founded to assist those who have survived abuse or mistreatment at the hands of military personnel. **1998** *Helping Out: A Guide to Military Discharges and GI Rights*, the fifth edition of CCCO's *Military Counselors' Manual*, published.

1998

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Central Committee for Conscientious Objectors

Philadelphia ♦ San Francisco

KEEPING UP TO DATE

Military regulations change. We do our best to keep up with such changes and issue periodical updates to this book. To receive those updates, please fill out the registration form at the back of the book. However, the only way to be sure you have the most up to date information is to obtain a current copy of the conscientious objector regulation for your Service.

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Who We Are

THE CENTRAL COMMITTEE FOR CONSCIENTIOUS OBJECTORS

The Central Committee for Conscientious Objectors (CCCO) supports conscientious objectors and promotes individual and collective resistance to war and preparations for war. We seek to provide full and accurate information about military life and war to individuals affected by military service, conscription, and recruitment. Since our founding in 1948, CCCO's counselor network has helped tens of thousands of people serving in the military or facing conscription. Most of CCCO's income is from individual contributions; all donations are fully tax-deductible.

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THE GI RIGHTS HOTLINE

The GI Rights Hotline is answered by the GI Rights Network, a coalition of nonprofit, non-governmental counseling agencies who provide information to members of the military about discharges, grievance and complaint procedures, and other civil rights. A trained counselor can be reached at (800) FYI-95GI (or (800) 394-9544). Outside the United States, call (215) 563-8787 or email ccco@libertynet.org.

The members of the network include:

- The Central Committee for Conscientious Objectors, San Francisco, CA and Philadelphia, PA
- The National Lawyers Guild Military Law Task Force, San Diego, CA
- Quaker House, Fayetteville, NC
- Norfolk Quaker House, Norfolk, VA
- National Interreligious Service Board for Conscientious Objectors, Washington, DC
- American Friends Service Committee, Philadelphia, PA
- Resource Center for NonViolence, Santa Cruz, CA
- War Resisters League, New York, NY

Foreword

This edition of *Advice for Conscientious Objectors in the Armed Forces* builds upon a tradition which began in 1970 with the First Edition. *Advice* has since reached over 40,000 military men and women who had decided that they could no longer in good conscience remain in the military.

The 1970 *Advice* spoke to a generation troubled by the war in Vietnam. This generation of conscientious objectors, too, has seen war—most recently in the Persian Gulf, and before that in Panama. It has experienced the end of the Cold War and the flowering of hopes for peace; and it has watched as those hopes turned to disappointment in the chaotic, dangerous post-Cold War world.

The US military has changed since 1970. It has become smaller, yet in many ways more destructive. It remains the most powerful on earth, and its essential mission—to make war—has not altered. As long as that mission remains, as it must do if the US military is not abolished, conscientious objectors in the military will face complex and exacting choices. This book is designed to help with those choices.

Readers of previous Editions will notice a number of changes in this edition. Material on thinking about conscientious objection, including new chapters on Hitler and on modern warfare, is now grouped with material on preparing a CO claim. This reflects our belief that one cannot

prepare a good CO claim without thinking about what it means to be a conscientious objector. A new appendix discusses the events of the Gulf War and how to guard against a repetition. It is important that COs be aware that things will be different and unpredictable in a mobilization—and that they take steps to protect themselves.

Few books are the product entirely of one mind, and certainly not this one. Many people helped in its creation. James Feldman, Jr., and Peter Goldberger gave invaluable help with the chapters on resistance in the military and the material on habeas corpus; they also reviewed the other chapters and made many helpful suggestions. CCCO staff, particularly Sam Diener, Alex Doty, Karen Jewett, Carlos Lezama, Terry Kessel, and Bill Galvin, reviewed the manuscript and galleys. I am grateful for their many thoughtful suggestions. Jim Crichton, formerly Director of Friends Military Counseling, provided invaluable insights into the military CO procedures; nearly all of them are incorporated into the text. Anne Toensmeier proofread several drafts. The Anna H. and Elizabeth M. Chace Fund provided a grant to cover the cost of printing. Finally, this book would have been impossible without the work of previous editors Mike Wittels and Jerry Kinchy. Thanks to all of these people, and to others whom I may inadvertently have omitted.

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Conscientious Objectors in the Military

It was 1944. The Allied strategic bombing campaign against Germany was at its height. Every day, Allied bombers poured tons of high explosives not only on military targets, but on cities of no military importance. Every week the bombers destroyed one or even two German cities.

George Wilson was part of an American bomber crew in 1944. One night the pilot called the crew together and told them he planned to refuse to fly missions against non-military targets. He would do so, he said, even if the military threatened to court-martial him. After a discussion that lasted almost until dawn, the crew decided to join the pilot in his refusal.

For George Wilson, and probably for most of the other crew members, it was a new experience. He had never thought about whether what he was doing was right; he had just followed orders. Now he had seen that there were some things he couldn't do, even if the military ordered him to.

George Wilson never faced a court-martial. A few days after the crew made its decision, their plane was shot down, and they became prisoners of war until they were liberated in 1945. But Wilson and the rest of the crew were never the same. All of them had drawn a line and said, "There are some things my conscience won't let me do, and I will not do them."

Conscientious Objectors Through the Years

There are many people who oppose war or some part of war because they think it is wrong. If you find that you're against war so strongly that you can't be part of it, you may qualify for conscientious objector (CO) status. And you're not alone. Over the years, thousands of people have

become conscientious objectors while they were members of the military. Some of these objectors applied for and received discharge on CO grounds. Others were discharged on other grounds. Still others found that their consciences wouldn't let them follow military orders and ended up with discharges characterized Under Other Than Honorable conditions (OTH) for reasons of misconduct or discharge in lieu of court-martial. But no matter what discharge they received, all these objectors had realized that, for them, taking part in war was wrong.

Many of these objectors were good soldiers before they had a change of heart. Charles Ferguson, who was discharged from the Navy in 1989, graduated from Annapolis. David Wiggins, who resisted the Persian Gulf War (1990-1991), graduated from West Point. Leslie Cole (1975), a Navy CO, had high performance ratings before she became a CO. Addis Wiley (1991), was a top-rated non-commissioned officer before he sought CO discharge. So it's not true, as your superiors may try to tell you, that COs are all "misfits." Most of them are not.

It's perfectly true, though, that COs don't fit into the military. That's probably why you're reading this book. If by reading it you learn to trust your conscience and not somebody else's opinion, it will have done its job.

Conscientious Objector Regulations

Military regulations today provide for discharge or transfer to noncombatant status for people who object to "participation in war in any form." It's hard to say whether George Wilson would have qualified under today's law. Military law made no provision for COs at that time, and George had never had counseling. But he did decide that he couldn't do some things because they were wrong.

Whether you object to war or not is your decision. No one can make it for you, and if you decide to take a stand, nothing the military does can take your beliefs away from you. But drawing your own moral lines, deciding what

1. Throughout this book, the letters "CO" will be used to mean "conscientious objector," not, as is usual in the military, "commanding officer."

you can and can't do, is hard. This book can't do it for you. It can only help you to decide.

When you joined the military, you probably didn't even think about being a conscientious objector. You may not have known there was any such thing. At your enlistment, you signed a statement saying you weren't a conscientious objector. And you probably weren't at the time.

But people change. They may have a quick change of heart, as George Wilson did. Or they may realize they're against war only slowly. It doesn't matter. If you find that you can't be part of war, or that there are some parts of war that you can't be part of, this book is for you.

Conscientious Objectors in History

No one knows when conscientious objection in the military began. Years ago, anyone who refused an order or said he or she was a conscientious objector might be court-martialed or imprisoned, or tortured, or shot. But we know there were conscientious objectors and people who refused orders in some of the Colonial armies, and in the American revolution. During the Civil War, COs were sometimes drafted and often stood by their beliefs despite punishments like being hung by their thumbs.

In the two World Wars of this century, there were many conscientious objectors, and some of them were in the military. Because there was no provision for discharge or transfer for COs, no one knows how many soldiers could have applied for CO status. But a controversial survey after World War II by Brig. Gen. S. L. A. Marshall seemed to show that many soldiers fired in the air or simply didn't fire their weapons as ordered. In many units, 75 percent of the soldiers did this.

These people didn't apply for discharge, and most of them probably supported the war. But they also found that they couldn't kill.

In 1962, the Department of Defense finally provided for conscientious objector status. The number of applications for discharge or transfer remained low until the Vietnam era (from about 1966 through 1973). Many soldiers and sailors refused to be part of the Vietnam War. Desertion rates went to their highest levels in history. Thousands were court-martialed for many different offenses. Occa-

sionally entire units simply sat down and refused to fight. And the number of applications for CO discharge doubled, and then doubled again, until, in 1971, 4,381 members of the military applied.

Conscientious Objection Today

Military regulations today allow discharge or transfer to noncombatant status for people who object to participation in war in any form. The military's regulations parallel the civilian law, so any time a court rules on an issue like what a conscientious objector is, the court's ruling applies both to the draft and to the military.

Under today's law, you have to object to war on moral or religious grounds. You have to be against all war. And you have to be sincere. All of these standards are easy to understand—though military officials sometimes don't know very much about them. You'll find more about the laws on conscientious objection in *Conscientious Objection and the Law* and *Selective Objection*.

Although the standards for COs are easy to understand, deciding whether or not you're a CO, and applying for CO status, can be very hard. The moral issues are probably among the hardest you'll ever face. And when you apply for discharge or transfer, you may find that military officials try to talk you out of your position, don't understand what you're doing, or don't even know about the CO provisions.

But don't be discouraged. And don't be afraid to apply. It's your life, not someone else's, and you must live with your own conscience. Members of the GI Rights Hotline are available to talk with you about your position, help you prepare your application, and give you plenty of support as you go through the CO processing. And as you'll see later in this book, if you're sincere and you qualify under the CO provisions, the law is on your side. There's a good chance that either the military or the courts will recognize your claim if you stand by it.

About This Book

This book is divided into four parts. Part I talks about conscientious objection and war resistance in general. It also gives you an outline of steps you should take to protect your rights.

Part II explains what conscientious objection means under the law, how to apply for discharge or transfer, what happens while you're waiting for the military's decision, and what happens after the military decides what to do with your claim—whether the claim is accepted or rejected.

In Part III, you'll find discussions of some of the moral issues which you face as you think about conscientious

2. On Civil War objectors, see Lillian Schlissel (ed.), *Conscience in America* (New York: Dutton, 1968), pp. 58 ff.
3. World War II soldiers who did not fire at the enemy: Survey reported by Brig. Gen. S. L. A. Marshall, *Men Against Fire* (William Morrow, 1947), quoted in John Keegan, "Men in Battle," *Human Nature*, Vol. I, No. 6 (June, 1978), p. 36. See also John Keegan, *The Face of Battle* (New York: Viking Press, 1978), pp. 72-74. Marshall's findings are now disputed by some scholars.

objection. These chapters are only the opinions of the author, and aren't intended to tell you what to think. But if you read them, you may find you have a better idea what the important issues are. And these chapters will challenge you to think, no matter where you come out.

Part IV discusses other discharges that you might consider applying for and gives the pros and cons of seeking another discharge. It also discusses what could happen if your conscience tells you that you must refuse orders or go AWOL or UA.

At the end of the book, you'll find a list of questions which military authorities and local draft boards have actually asked CO applicants. You can use these to help you prepare for your required interviews. Some of them may seem pretty strange or stupid, but nobody made them

up. The government has actually asked COs these questions.

No book is a substitute for good counseling. But if you read this book through, you'll have a better idea what's involved in conscientious objection. And you may find that you have a better idea what you want to do. You need to think about what you believe. And when you've done that, you need to think about whether you fit within the law—whether it would be worthwhile for you to apply for CO status. You'll probably find that, like most people, you can't separate the two questions. That's all right. What's important is that you decide what you must do. And that you stand by it.

If this book helps you to do that, it will serve its purpose.

Protecting Yourself

Applying for conscientious objector discharge—or any other discharge for that matter—can be hard. You can make it easier on yourself and protect your rights if you follow the suggestions below. The first section applies to any application for discharge or other request you make from the military. The second applies specifically to a CO application.

Protecting Your Rights

You have the right to possess a single copy of this book, or any other piece of literature. However, if you have in your possession more than one copy of any literature the command does not approve of you can face disciplinary action for intent to distribute prohibited literature.

The military is a bureaucracy. In fact, it's probably the most rigid bureaucracy you'll ever experience. If you don't know your rights and don't protect them, military officials usually won't help you very much. They won't tell you what you can do; often they won't even know. Throughout this book, you'll find discussions of your rights under military law. You can make sure your rights are respected—by the courts if not by the military—if you follow a few rules of thumb.

- *Speak to a counselor.* To reach a civilian counselor in your area who knows about military law and can guide you through the discharge process call the GI Rights Hotline at (800) 394-9544. To apply for CO status, you won't need a lawyer. But if you do need a lawyer later on, you can help your case by following the rest of the rules in this section. A GI Rights Hotline civilian counselor will help you at no charge.
- *Make all requests in writing.* Even though you may not think it necessary at the time, write out every request, complaint, etc., that you have to make. That's the only way you'll have a record of what happened in your case.

- *Request written replies to your requests and complaints.* You may not always have a right to a written reply, but if you don't ask for one, you probably won't get one. And a written reply from your superiors can be an important part of your case record.
- *Keep all records in a safe place.* Make copies of everything you send to the military and everything you receive from them. Keep one copy in your own file, and send the others to someone you trust off base. The military is famous for losing letters and other records, so you must be more careful than they are.
- *Know your rights.* Talk with your counselor about what you are getting into, what is likely to happen, and what you can do if the military denies your requests. Read this book and the regulations on CO discharge. If you're applying for another discharge, review the chapter *Other Discharges*, read the regulations on it, and talk with your counselor about it.
- *Meet deadlines.* Even though you may think a deadline is unfair or illegal, try to get your material (for example, your CO claim) to the military on time. If you can't, make a written request for an extension and explain why you can't meet the deadline.

Complaints Under Article 138

As a last resort, it is possible to file a complaint under Article 138 of the UCMJ. Under Article 138 of the Uniform Code of Military Justice, you have the right to file a complaint against your commanding officer if you feel he or she has treated you unfairly. You can use Article 138 to complain about delays in processing your CO claim, harassment, racial discrimination, illegal orders, or even denial of leave. Call the GI Rights Hotline for more information.

Applying for CO Status

The steps for applying for noncombatant status or discharge as a CO are fairly simple. They are discussed in detail in Part II. Here they are in brief.

- *Decide what you must do.* Read this book and think about both the legal and moral aspects of conscientious objection. See a counselor.
- *Get a copy of your Service's regulation.* See *Processing Your CO Claim* for discharge regulation numbers and information on how to get copies of regulations.
- *Write rough answers* to the questions on religious training and belief and the other questions discussed in *Preparing Your CO Claim*.
- *Start to gather supporting letters.* See *Preparing Your CO Claim*.
- *Share your written material with your counselor.*
- *Submit your complete application* when you and your counselor are satisfied that it clearly expresses your beliefs and position. As soon as you do, the military should "make every effort" to place you on duties which conflict as little as possible with your stated beliefs. This usually means you'll be assigned to work which doesn't involve the use of weapons. If you're not, see *Processing Your CO Claim* for ideas on what to do. *Processing Your CO Claim* also discusses to whom you should submit your application.
- *Be interviewed* by a chaplain, a psychiatrist, and an investigating officer. Your attorney or counselor is allowed at the investigating officer's interview, and you may take witnesses to support your sincerity. If you need a lawyer, CCCO or your counselor may be able to refer you to one. See *Questions Asked COs* for samples of the questions you may have to answer.
- *Wait.* While waiting you should be kept on duty providing minimum conflict with your beliefs. The wait may take two weeks to three months or longer.
- *If your application is turned down,* you still have some alternatives. See *Resisting the Military*.

Conscientious Objection and the Law

In 1962, the Defense Department made it a policy to allow conscientious objectors to be discharged or transferred to noncombatant duties. Department of Defense Directive 1300.6, *Conscientious Objectors* [August 20, 1971], is based on conscientious objector provisions in the Military Selective Service Act (draft law) and Supreme Court decisions on conscientious objection. Each Service (including the Coast Guard) has regulations based on this directive:

- Army: AR 600-43, *Personnel-General; Conscientious Objection* [September 1, 1983];
- Navy: MILPERSMAN (NAVPERS 15560 C) §3620250., *Naval Military Personnel Manual* [Through Change 15, February 28, 1997];
- Marines: MCO 1306.16 E, *Conscientious Objectors* [November 21, 1986];
- Air Force: AFI 36-3204, *Procedures for Applying as a Conscientious Objector* [July 20, 1994]; and
- Coast Guard: COMDTINST 1900.8, *Conscientious Objectors and the Requirement to Bear Arms* [November 30, 1990].

For more information on getting copies of regulations, see *Processing Your CO Claim*.

DoD 1300.6 defines a conscientious objector as a person who has “a firm, fixed and sincere objection to participation in war in any form or the bearing of arms, by reason of religious training and belief.” People who object to war “solely upon considerations of policy, pragmatism, expediency, or political views” do not qualify for discharge or transfer under DoD 1300.6.

But What Does It Mean?

The words of DoD 1300.6 sound more complicated than they are. In the case *Clay v US*, the Supreme Court held that, in order to be a recognized conscientious objector, you have to meet three standards:

- You must object on the basis of religious, moral, or ethical beliefs;
- Your objection must be to war in any form; and
- You must be sincere.

If you fit these standards, you should be able to gain transfer or discharge as a conscientious objector. Keep in mind, though, that these standards aren't always as clear as they seem. And military officials often don't understand them.

Objecting to War

In order to qualify as a conscientious objector, you have to object to participating in “war in any form.” Although the DoD says that your belief has to be “firm [and] fixed,” this *doesn't* mean you have to be sure what you would do in every situation, or that you can't reserve the right to change your mind. But you do have to object to all war now.

Objecting to war isn't the same as disliking war, or being saddened by it. Lots of people, including a lot of generals and admirals, have hated war. But they weren't conscientious objectors. To be a conscientious objector, you must feel so strongly that war is wrong that you can't be a part of it. If your conscience won't let you remain in the military, or if it won't let you use weapons, then you may qualify for conscientious objector status.

Religious Training and Belief

The language of DoD 1300.6 can be a little confusing when you first read it. According to §III (a) of DoD 1300.6, your objection has to be based on “religious training and belief.” But later on, in §III (B), the Directive states that this means:

Belief in an external power or being or deeply held moral or ethical belief, to which all else is subordinate or upon which all else is ultimately dependent, and which has the power or force to affect moral well-

being.

In other words, to qualify as a conscientious objector, you must have “religious training and belief,” but this does *not* mean religion as we usually use the word. You don’t have to be part of a church, or believe in a God, or follow any particular religion’s teachings. If your belief is deeply held and central to your life, it qualifies under the law.

Many people, with many different beliefs, have qualified for conscientious objector status. The two most important for understanding the legal definition of conscientious objection were men who applied for CO status under the draft law—Daniel Seeger and Elliot Welsh.

Seeger didn’t know whether he believed in a god or not. But he did believe in moral forces like good and beauty. In 1965, the Supreme Court held that his belief was “religious” for purposes of the law. It held the same place in Seeger’s life as a more traditional religious belief might in someone else’s life.

Welsh went even farther than Seeger. He told his draft board, again and again, that his belief *wasn’t* religious. But in 1970, the Supreme Court said that Welsh qualified for CO status because, even though he thought his belief wasn’t religious, the law thought it was. In *Welsh v. U.S.*, the Court said that a moral objector could qualify for CO status as long as his or her belief was central to his or her life.

What all this means is that you don’t have to worry about whether or not your belief is religious. If you’re a member of a church, or if you follow a particular religious teaching, you can qualify for CO status. If you just think it’s morally or ethically wrong for you to be part of war, you can still qualify. It doesn’t matter what you call your belief. What matters is that you deeply believe it would be wrong for you to be part of war.

Religious Training

If you’re worried that you have no religious training, you needn’t be. The courts have held that “religious training” isn’t any special kind of school or indoctrination. Your training is the process that led you to the belief you have—whatever that process may have been. It’s that simple.

If you were raised in a religious group, went to religious school, and still follow the teachings of your religion, that’s part of your training. If you’re not particularly religious, but have talked with people who were against war, or seen anti-war movies, that’s part of your training. You can explain your training when you apply for conscientious objector status.

A lot of military officials don’t understand the legal meaning of “religious training.” They’re likely to think that “training” is a bit like boot camp or basic. But that’s

wrong. The only training that counts is the way you came to the beliefs that you have.

War in Any Form

Probably the hardest question for you to answer is whether you’re against “war in any form.” The next chapter discusses this question in more detail. The important point to keep in mind is that you don’t have to know what you would do in every situation, and you don’t have to have a solution for all the problems of the world. Nobody can claim that, not even people who have been COs all their lives. And not even your commanding officer, for that matter.

Political Objection

The DoD and the draft law both say you can’t qualify as a conscientious objector if your belief is “essentially political.” This can be confusing because, if you object to war, you’re likely to find that your beliefs affect your political views. You may, for instance, be against sending troops to a foreign country because you think war is wrong.

The Supreme Court has helped to make the words “essentially political” more clear. In *Welsh v US*, the Court said that officials can’t deny your CO claim just because your beliefs influence your views on foreign policy or other political issues. This means that the military can’t turn you down because your beliefs are political unless your political beliefs are the *only* basis for your claim.

This means that before you say your beliefs are “political,” you should ask yourself whether they also have a moral or religious basis. If you’re against US nuclear policy, for example, it helps to ask yourself *why* you’re against it. Is it wrong? Why is it wrong? Could the same be said about other wars?

If your answer is a moral, ethical or religious belief that’s central to you and leads you to object to all war, then you qualify as a conscientious objector—even if you’ve never thought of yourself in this way before. And you can qualify for CO status if there is any moral or religious basis at all for your claim.

Sincerity

The hardest part of the three CO standards to meet is probably sincerity. That’s not because you aren’t sincere. It’s because *proving* that you’re sincere can be very hard. But if you look at it another way, the military will have just as hard a time proving that you’re not sincere.

And that’s just what they have to do. Once you’ve made a CO claim that appears to meet the standards (a so-called “prima facie case”), it’s up to the military to grant or deny your claim. If they deny it, they can’t just turn you down.

They have to give a reason, and their reason has to be based on evidence that you don't meet one of the standards. Often this means they have to show that you're not sincere.

You can go far toward convincing the military that you're sincere by preparing a good CO application and submitting strong reference letters with it. And processing for discharge or transfer includes three interviews—with a psychiatrist (or medical officer if no psychiatrist is available), a chaplain, and a specially-appointed investigating officer—where you can show your sincerity. *Processing Your CO Claim* discusses the CO application process in detail.

“No Rest or Peace”

You won't be surprised to learn that the military sometimes uses illegal standards in judging CO claims. The most troublesome of these is the idea that you must prove your conscience would give you “no rest or peace” if you had to take part in war. Courts which have ruled on this standard have said the military can't use it, but your CO Review Board may still turn you down because of it.

You can't prevent the military from using illegal standards. What you can do is to present your strongest case. In writing your application, show how your beliefs won't let you continue in the military (or in combatant duty). Get good supporting letters. And try to bring strong witnesses to your Investigating Officer hearing.

What you shouldn't do is try to argue your case like a lawyer. If you spend a lot of time arguing that “no rest or peace” is an illegal standard, you'll waste precious time and energy that you should spend presenting the evidence in your favor. You'll probably irritate the officials who are interviewing you. And you may even give them the idea that “no rest or peace” is a standard they should take seriously. It's best to leave argument to the lawyers if and when your case goes to court. Your job is to show that you're a CO—not to show that the military doesn't understand CO law.

Two Types of COs

Military law, like the draft law, recognizes two types of conscientious objectors. The first, classified 1-A-O, is a person who won't take part in war, but is willing to serve in the military if he or she doesn't have to use weapons. The second, classified 1-O, is a person who can't accept any military service. 1-O COs are discharged.

Deciding whether you're 1-O or 1-A-O can be difficult. You'll find more on this issue in *Discharge or Transfer?*. But here are some brief rules of thumb:

- 1-A-O COs can be deployed to a combat zone or ordered onto combat ships. The regulations say only that you can't be required to personally use weapons.
- Consider that every member of the military ultimately supports the military's mission of fighting wars.

Discharge as a CO

If you apply for and receive 1-O status, you will be discharged. Normally your discharge will be honorable, and you'll be eligible for the same benefits (or lack of benefits) as anyone else with an honorable discharge.

One part of the CO processing may confuse you a bit. In 1919, Congress passed a law which said that COs who refused to wear the uniform or follow orders couldn't qualify for veterans benefits. That law is still on the books, and during CO processing you'll receive “counseling” on it. But if you have a clean record, this old law doesn't affect you. See *Processing Your CO Claim* and *Resisting the Military* for more details.

Your Decision

The decision whether you are a conscientious objector is yours. No one else can make it for you. The military will decide whether you've presented a strong enough case for discharge or transfer. But even if they turn you down, they can't change the fact that you're a CO. What's most important is for you to decide what you must do and then stick to it. If you do this, you've gone a long way toward getting the status you want.

Selective Objection

For many people considering conscientious objection, the hardest question is whether there are some wars in which they would be willing to fight. Many people are in fact “selective objectors.” That is, they would be willing to fight in some wars but would be conscientiously unwilling to participate in others. Even the toughest old general or admiral would admit under pressure that there are some wars their consciences would not permit them to fight—for example, if a President became senile and ordered an invasion of Canada. The key difference between a CO who qualifies for discharge or transfer and most ordinary people is that a CO won’t take part in war no matter what its nature. A “selective objector” does not qualify.

Selective and Non-Selective

Military regulations define a CO as someone with a firm, fixed and sincere objection to *participation in war in any form* or to the bearing of arms, by reason of religious training and belief. The key language here is “war in any form.” If there is a current or likely war in which you know you would be willing to take part, then you are a selective objector. You do not qualify for legal recognition as a CO.

While this may seem a clear-cut rule, the line between a legally recognized CO and a selective objector is hazy. You may be willing to fight in some “wars,” yet still qualify for legal CO status. Before you conclude that you’re a selective objector, read the rest of this chapter. Maybe you do fit under the law after all.

Past and Future Wars

In deciding whether you would fight in any wars, you don’t have to put yourself in a time machine and decide what you would have done many years ago or what you will do many years in the future. One question that is often asked of CO applicants is whether they would have fought in World War II. If your answer to this question were “yes,” the military would probably deny your claim unless you could show that the situation now and the situ-

ation in World War II were completely different (see “Just and Unjust Wars,” below, and “Hitler and Other Dictators” later in this book).

On the other hand, if you were not certain what you would have done at that time because you can speak only for the person you are here and now, you can still qualify as a CO. That’s also true for wars in the distant future. In *Gillette v US*, the Supreme Court upheld the validity of the military regulations which denied CO status to selective objectors. However, the *Gillette* case distinguished between people who knew that they would fight in some wars and people who couldn’t swear that their beliefs would never change. Speaking of the second group, the Court said:

Unwillingness to deny the possibility of a change of mind, in some hypothetical future circumstances, may be no more than humble good sense, casting no doubt on the claimant’s present sincerity of belief.

So if you don’t know what you would do in the future, you can still qualify as a conscientious objector.

Other Hypothetical Wars

Would you fight if the world were invaded by forces of evil from outer space? Somebody in the military might ask you this, but you don’t need to have an answer. You don’t have to know what you would do in wars you think are impossible—or in wars you would never be called upon to serve in. If you don’t have an answer, you can say so. That’s true also for realistic wars. For instance, you can’t know what you would think if you had lived in South Africa under apartheid, so you can’t know whether you would fight in those circumstances. If somebody asks you, it’s all right to say you don’t know. The real issue is whether you would take part in any war you could actually be called upon to fight.

Just and Unjust Wars

Many religious traditions distinguish between just and unjust wars. Those who follow a “just war” theory—either from their religious tradition or as a result of their own thinking—believe they should fight only in wars which

meet their definition of a just war. If you follow a “just war” theory and you believe that you would realistically be called upon to fight in what you consider a “just war,” you don’t qualify as a CO under military regulations as confirmed in the *Gillette* case.

Most just war thinking is designed to *prevent* wars, not to help governments to rationalize them, but phrases like “just war” and “just cause” are often misused. (The US invasion of Panama in 1989 was actually called “Operation Just Cause.”) Just war theories also often try to help soldiers decide between right and wrong actions once war has started—for example, by forbidding deliberate killing of civilians.

In the West, the Christian just war theory, which goes back to St. Augustine in the 4th Century, is the best-known. Christian theologians do not agree on exactly what the standards for a just war may be, or how many of them there are. The most common “just war” standards, however, are the eight below. It may be helpful to see how they apply to some recent wars.

- War must be the last resort after all other possible solutions have been tried and failed.
- The reason for the war must be to redress rights actually violated or to defend against unjust demands backed by force.
- The war must be openly and legally declared by a lawful government.
- There must be a reasonable chance of winning.
- Soldiers must try to distinguish between armies and civilians and never kill civilians on purpose.
- The means used in fighting the war must be “proportionate” to the end sought. The good to be done by the war must outweigh the evil which the war would do.
- The winner must never require the utter humiliation of the loser.

Vietnam and the Gulf War

The Vietnam War (1954-1975) violated at least six of these standards. It wasn’t a last resort. The rights of the US hadn’t been violated, and the US hadn’t been attacked. The war was undeclared. Far from there being a chance of victory, no one in the government even knew what “victory” meant. The means—like dropping millions of tons of bombs on North Vietnam—were out of proportion to whatever end the war sought (except the total destruction of Vietnam). US soldiers, under orders, killed thousands of civilians in “search-and-destroy” missions and similar operations. Nobody will ever know, of course, whether the US wanted to humiliate the Vietnamese.

The Persian Gulf War (1991) was widely thought to be a just war because the Allies were fighting to repel Iraq’s illegal invasion of Kuwait. You’ll have to decide for yourself whether it met the just war standards, but there’s a good argument that it didn’t meet some of the eight standards above. It wasn’t a last resort, for example. Right up to the start of the air war, the Allies could have decided to rely on economic sanctions against Iraq rather than make war. And it’s not clear that the destruction caused by the war was “proportional” to the end sought. Over 100,000 Iraqis, most civilians, were killed in the air war, and according to a United Nations evaluation, the bombing reduced Iraq to nearly “stone age” conditions in some places. The World Council of Churches, in fact, has formally declared that the Gulf War did not meet “just war” standards. (See *Conventional and Unconventional Wars* for more discussion of the Gulf War and its effects.)

Working Through Your Beliefs

If you oppose the use of violence at all times, the question of whether you’re a CO or a selective objector is simple because all wars involve the use of violence. But if you’re not sure where you draw the line, this is a hard question. After you consider the basic legal distinction and exceptions discussed above, consider how your own beliefs might fit in. Remember that if there is a war you would fight in, it must be a war you think might realistically happen, and one you might be asked to take part in. If it isn’t, your willingness to fight may not disqualify you from legal CO status.

If you’re not sure what you would do if the country were attacked, consider whether you believe any country would attack the United States and what such an attack would be like. Do you think someone would attack the US without using nuclear missiles? How likely do you think such an attack really is? And remember that there are many things you could do to resist the invasion and support your family, community, and nation if the country were attacked, short of joining the military.

Should You Apply for CO Status?

If you don’t know whether you qualify but definitely want discharge or noncombatant status, you can go ahead and apply as a conscientious objector. Often by applying and writing down your beliefs you will clarify them in your own mind. Since the differences between selective objection and legal conscientious objection aren’t always clear, it’s possible that your claim will be approved. And you may even help to extend the rights of other COs by making your claim.

Even if you're sure you are a selective objector, there are good reasons for making a CO application. First, by putting your application in, you insure that you'll be assigned to duties that provide minimum conflict with your beliefs as long as your application is being processed. While this may not be a complete solution, it may help you over some difficult situations.

Second, by applying and going through the CO processing, you will both document your position and make it clear to the military that you are taking all possible legal steps. While this may not result in your recognition as a CO, it might lead the military to discharge you on some

other grounds or to give you an assignment that presents less conflict with your beliefs. Before you finally decide what to do, however, talk with your counselor about the possible risks; CO applicants during the Gulf War were often abused because of their stand.

Third and finally, many people continue to feel that United States laws should recognize selective objectors. By applying for CO status and sending copies of your application to your religious group (if you have one) and to your Congress members, you can help work toward recognition of selective objectors in the United States at some time in the future.

Preparing Your CO Claim

In order to be discharged or transferred as a conscientious objector, you have to make a written application and follow the processing described in the next part of this booklet. You can make a good start toward being recognized if you submit a strong application. This chapter explains the questions you will be asked. It also discusses letters of reference which you'll need to support your application.

Writing

When you apply for CO status, you'll have to do a lot of writing. And there's no doubt about it: writing is hard work. If you've never done much writing, you may be tempted to give up before you start.

If you're worried about whether you can write—or if you find that you just don't know what to put down on paper—you're not alone. Experienced writers, people who write for a living, have the same problem at times. You may find it helpful to remember the following suggestions:

- Good writing is like talking. You don't have to use long words or complicated sentences. Try to write the way you talk.
- Don't worry if your first try isn't perfect. You can polish it up later. You and your counselor can go over what you've written to make sure it does its job.
- If you get stuck, don't sit at your desk worrying. Do something else. Your mind will work on the problem even when you're doing other things. Chances are when you go back you'll find that the problem wasn't so bad after all.
- Talk about your beliefs before you try to write them down—and as you're working on your application. Sometimes talking, just saying them aloud, can make your beliefs more clear to you. And that will help in preparing your application.
- Try saying your beliefs aloud to a tape recorder and then playing them back.
- Have a counselor or friend ask you questions and record the answers you give out loud. Then play them back.

Getting Ready

Before you sit down to write your claim, you'll want to prepare yourself. Here are some suggestions:

- Get a copy of the conscientious objector regulation for your military branch. CCCO will send you one upon request. Study it and ask your counselor or CCCO to explain anything you don't understand.
- Read *Conscientious Objection and the Law* and *Selective Objection* of this book very carefully. And study this chapter so you'll be able to plan your answers to the required questions.
- Jot down the points you want your answers to cover. This doesn't mean making an outline as you may have done in school. If you find an outline helpful, use one. But if you don't, you'll probably still want to list the points you need to make.
- If possible, have a friend read your application to see whether it's clear and makes the points you wanted to make.
- Completing an application will require making revisions to make your original draft more clear and complete. Be prepared to write more than one draft.
- Don't submit anything to military officials until a civilian counselor or lawyer has read your application.

The Required Questions

There is no form to fill out in order to apply for CO status. Instead, you must answer the required questions on your own paper. The questions you must answer are listed in your Service's CO regulation. Some are easy—past jobs, addresses, etc. Some are harder—and these are the important ones. This section will give you an idea what these harder questions mean.

Don't expect to answer these questions quickly. Think about them, talk about them, and follow the suggestions above before you try to write about them.

The most important questions are the six (seven in the Army) which ask you to explain your beliefs. These are discussed first.

Discharge or Transfer?

Unlike the other military branches, the Army asks whether you are willing to serve in the military as a noncombatant, and why you will or will not. If you're in the Army, of course, you must answer this question. But even if you're not, you'll need to explain why you are applying for the status you are seeking. You can do this as part of your answer to the first question discussed below.

You'll find further discussion of noncombatant duty in *Discharge or Transfer?* While that chapter can't tell you what to say, it may give you a start toward your own stand.

Nature of Beliefs

The first question asks you to:

Describe the nature of the belief which requires you to seek separation from the military or assignment to noncombatant training and duty for reasons of conscience.

A full answer to this question should include:

- The religious, moral, or ethical beliefs that guide your life (your claim can also be based on a combination or religious, moral, and ethical beliefs);
- What you believe about war;
- In what way this belief is connected with your moral or religious beliefs, or both;
- Why this belief keeps you from participating in war as a combatant or noncombatant.

What Do You Believe? For some COs, this is the hardest question to answer on paper. They know what they believe but have trouble writing it down. An easy way to get started on this question is to say: "I am against participating in war because..." Then start writing what comes to mind. How important is human life? Why is it wrong to kill? What basic rules do you live by? Truth? Fairness? Honesty? Respecting others? Who decides what is right and wrong? Should people always follow their conscience? What does the military do that is wrong? What teachings of others do you follow? The Golden Rule? The Scriptures? Jesus? Gandhi? Thoreau? Dorothy Day? Malcolm X? Elijah Muhammad? Fannie Lou Hamer? Martin Luther King, Jr.? How should people deal with conflicts?

In working on this question, remember that a positive answer is best. Emphasize what you believe, not what you are against.

Why You Can't Participate in War. Make it clear that because of your religious or moral training and belief you *cannot* participate in war. This is more than just wishing to avoid a combat zone. It is not just a dislike of military life. It is a firm decision that it is morally wrong to participate in war.

If you are applying for discharge, you should say why you cannot take a noncombatant job in the military. Military officials may easily see why you are against killing, but may not understand why you aren't willing to serve in some other way.

If you feel an obligation to serve your country as a civilian—for example, in a community center at home—say so.

How and From Whom?

The second question asks you to:

Explain how your beliefs changed or developed and explain what factors caused the change in, or development of, your CO beliefs.

In answering this question, it's a good idea to talk about:

- Your training and experience before you entered the military;
- How you felt at the time you enlisted;
- What experiences led to your becoming a CO.

Try to show how your present beliefs relate to your earlier training and experiences, both inside and outside the military. You'll want to list the different things that helped you form your beliefs against participating in war and your moral value system in general. Your beliefs about war are part of your overall beliefs.

Most COs organize their answers by listing these things in order as they happened. You might tell how your family and friends influenced you; your religious training, if any; experiences in school; memberships in organizations; books and reading which influenced you.

The more details you have, the stronger your claim will be. Remember, you aren't required to have had *formal* religious training. Your religious training may have influenced you a little or a lot. Or its influence may come out now in another form. You may have had "negative training"—for instance, you may have been shocked by bayonet training. Your training isn't Sunday School or formal training. It's the process that led you to what you believe now. That's what you should explain.

Include in your answer experiences you've had since entering the military which have been important in your decision. Explain how your new experiences in the military make you see that you can't be part of war.

When and Why

The third question asks you to:

Explain when and why these beliefs became incompatible with military service.

Here you can discuss:

- When you realized you were a CO;
- What caused this realization;

- Why you are applying at this point;
- Why your beliefs will no longer allow you to participate in war.

When Did You Become a CO? The military may try to deny your claim if they believe you held CO beliefs at the time you enlisted. So it's very important to state clearly that you weren't a CO when you enlisted, and what made you change your mind.

Some COs make the mistake of saying they have been COs "all their lives" or "since high school." They think this will be proof of their sincerity. Often, though, it's just the opposite. A person who says this may really mean he or she had *feelings* against war, but wasn't a *conscientious objector* to participation in war in any form.

If you had very strong feelings against war before you entered the military, you are still eligible for discharge or transfer if those feelings matured into *objections* after you came face to face with military training and duty. It's the objection to participation that's the important thing.

If you had strong feelings against war at the time you joined the military, say so. Then explain how those feelings changed since you entered the military. On the other hand, if you had little or no objection to war when you joined, say so. But it is very important to go on and say how those feelings developed and forced you to take a stand.

What Changed Your Mind? No matter when it happened, you will have to explain what it was that finally made you decide you were against participating in war. Was it your reaction to bayonet training? Firing at human-shaped targets? Combat training? Loading bombs on planes? For some COs, it isn't one big thing, but a lot of little events that finally bring them to their CO stand. If this is the case with you, say so.

Also make it clear why you are making the application now and not a month or two years ago. Some people don't think seriously about what they are doing until they get orders for reassignment. The shock of being sent to a combat zone or combat-type training is often what gets someone thinking. If any of the above applies to you, say so and describe the experiences and your reaction.

You should also include any non-military experiences or influences which helped change your beliefs. Books, movies, news stories, people you've met, and many other factors may have helped to change your mind.

Why? By this point in your application it should be clear why your beliefs won't let you take part in war. But here you can sum up your objection.

The Use of Force

The fourth question asks for:

An explanation as to the circumstances, if any, under which you believe in the use of force, and to what extent under any foreseeable circumstances.

Many objectors have trouble with this question. *The Use of Force* discusses the use of force in detail. Read it before you try to answer this question.

You can use this question to your advantage by explaining your beliefs as clearly as you can. Among other things, you might want to:

- Show the difference between force you accept and force you reject;
- Mention those types of force in which you do believe, explaining when and to what extent you might use each;
- Why and how the kinds of force you would use are different from war;
- Wind up the whole answer with a clear, strong statement about your beliefs on the use of military force.

Keep in mind that you don't have to object to all "force" or to violence, but only to war, in order to obtain CO status.

Changed Life Style and Future Plans

The fifth question asks you to:

Explain how your daily life style has changed as a result of your beliefs.

This and the following question concern your sincerity and depth of belief. Since you're in the military and can't change your life style very much, the question may seem unrealistic. But there may be some things you can point to. Do you talk with or write to friends about the problems of conscience and war? Have you written to any peace organizations or taken part in peace rallies?¹ Have you talked with other members of the military about conscientious objection? Have you tried to avoid the more warlike aspects of training duty, like rifle range or bayonet training?

If, after becoming a CO, you went AWOL or refused orders because of your beliefs, remember that such events are part of your record. For some COs such action may be valid evidence of sincerity.

As for the future, you can't be sure how you will act in all situations, but many COs state that they will try to act according to their beliefs—whether or not their requests are approved. If you'd like to work in a community service

1. Do not attend any demonstration when in uniform or while on duty or overseas.

job, say so. But you don't have to be a Peace Corps volunteer or a social worker to prove you are a CO.

Think about what you might like to do when you get your discharge; it's sure to reflect your beliefs in some way. Point out how it does. Remember, though, that COs come from all walks of life, including social work, blue-collar work, banking, sales—even boxing. Living your own life, without harming others, can also reflect your beliefs.

Consistency and Depth of Belief

The sixth and last question asks you to:

Explain what in your opinion most conspicuously demonstrates the consistency and depth of your CO beliefs.

This question, like the previous one, is wide open as to what you can include in your answer. Your past actions, before you made your application, may show what kind of person you were becoming. Have you, for instance, shown that you are a person who stands up for your beliefs? Did you avoid fights? How did you feel about capital punishment? Hunting? Were you active in church projects or other humanitarian or community services?

Remember that behavior before you became a CO doesn't prove you are one now, nor does it prove you are not. But it can help to give military officials a true picture of the kind of person you are.

And what about now? Your answer to Question 5 may show the consistency and depth of your belief. And you might want to point out that you are making your application in order to settle the conflict between your conscience and your military duties. Your application itself may be the strongest, most persuasive evidence that you are trying to act in an honest and consistent manner. The more care and effort that goes into your claim, the more convincing this argument will be.

In addition to actions you've taken on your CO claim and any work for peace you've done, be sure to include other actions which show that you try to live by your values. For example, if you believe the earth should be protected, do you recycle? If you believe in the Bible, do you read it regularly? Information like this can help to make a stronger CO claim.

Other Questions

The other questions asked of CO applicants are simple. You must answer each one. Claims are sometimes returned because some bit of information was missing.

You will be asked to list your previous jobs. If you've ever worked as a civilian for the defense industry, or for the military, explain why you got the job, why you left it, and whether your conscience would allow you to do the same work again.

Organizations

Part C consists of three questions about your past and present affiliations with military, religious, and other organizations.

Question 1 asks whether you have ever been a member of a military organization before you enlisted for your present term. If you were in ROTC, it's not likely that you were a CO at the time. If your experiences acted as "negative training," explain this briefly and detail your answer in Question 2 of the series dealing with religious training and belief. You should also state when and why you left each organization and whether or not you would now agree to be a member.

Question 2 asks whether you are a member of a religious sect or organization. If you are, get a copy of its position on conscientious objection from your pastor, the National Interreligious Service Board for Conscientious Objectors (who can be contacted at (202) 483-2220) or the GI Rights Hotline. Submit the statement with your application. If you are no longer an active member, you may still want to submit the statement to show the roots of your belief—but make clear that is why you are submitting it.

Question 3 asks about affiliations and activities with other sorts of organizations. If you have become a member of an anti-war group such as the Fellowship of Reconciliation or the War Resisters League, or have become active in peace work or with religious groups, here is the place to say it. You can then give further details in your answers to the questions on religious training and belief.

References

Part D of the questions asks you to present letters from people who can say you're sincere. The military may not contact any of these people, though the Investigating Officer is allowed to do so. Be sure to tell your references that there's a possibility that the Investigating Officer will contact them about your claim.

Try to get at least four letters. Less is all right, and so is a few more. But a few good letters are better than a lot of poor letters. If you are far away from home, it's hard to get supporting letters. But you can write to ex-teachers, employers, neighbors, brothers, sisters, parents, clergy and others who could write letters about your general character. A letter from someone who knows your beliefs is most helpful. Letters from military superiors and from others who are not COs seem to be given more weight. The best letters are those which say they disagree with your beliefs but believe you are sincere. Any letter writer who served in the military should say so in the letter. (Share Appendix , *Supporting Letters for Conscientious Objectors* with letter writers.)

The length of the letters is not important. But longer ones with more information about you are usually helpful.

Letters should be addressed to “The Commanding Officer of (your name)” rather than “To Whom It May Concern” or to you. They should be sent to you so you can submit all of them with your application at your Investigating Officer hearing. Typed letters are more likely to be read, but neatly handwritten letters are fine as well.

The writer should explain who he or she is, and how he or she knows you. Then he or she should discuss:

- your sincerity;
- the recent change in your beliefs and how they have matured;
- the religious, moral, or ethical basis of your beliefs;

If the writer has not had a chance to discuss your beliefs with you, the letter can discuss your general character and sincerity.

When asking for supporting letters:

- Ask each person to write about the points above. The more detailed and personal a letter is, the more helpful it will be.
- Send each reference a short summary of your beliefs.
- Ask your references to send their letters to you. If they’re unwilling to give the letters directly to you, they may agree to give them to your counselor. Read them over before submitting them. And have your counselor read them, too. If you and your counselor think a letter doesn’t support you or has wrong information, don’t submit it; it is your claim that is at stake. Try to have at least three copies—carbon or photocopies—of each letter. Keep copies in a safe place.

- Try to get letters corroborating important anecdotes or incidents you mention in your claim, even if the people who know about the incident don’t know anything about your CO beliefs. Investigating Officers and CO Review Boards often find such “independent verification” more convincing than a number of letters attesting to your sincerity. For example, if your claim mentions that you did community service while in high school, try to get a confirming letter from the person who supervised you.

Your Application

Preparing a CO application isn’t like taking a test. The only right answers are the ones you think are right. You can help yourself to do a good job by using these guidelines:

- Keep your answers as simple as you can. Make them long enough to explain your beliefs, but keep in mind that long answers aren’t always better.
- Write what you do believe. Don’t write about what you don’t believe. This saves space, and it’s a more positive approach.
- Don’t try to convince military officials that they are wrong and you are right. This is just a waste of time. Always say “I” believe that “I” must act in such and such a way.
- Show how your beliefs lead you to object to war.
- Submit a neat application. If you can’t type, it’s worth the money to have a professional type your claim for you. Every Service requires a typed application.
- Make several copies of your application, and keep them in a safe place.

You’re now ready to begin CO processing. The next chapter outlines the steps in that processing.

Processing Your CO Claim

Once you've completed your answers to the required questions, you'll be ready to make your formal application for CO status. Unless you have reason to think there might be a mobilization, it's best to wait until you've got your answers ready because when you begin to write them, you'll probably have no idea how long it will take you to complete them. And once you've notified the military that you intend to apply for CO status, you may have to meet a very strict deadline. (For more on problems during a mobilization, see Appendix , *If There Is a War...*)

You have a legal right to apply for CO status. The application must be handled according to the regulations. No one can turn down your request except officials in your Service's headquarters.

As soon as you submit your request, your command must "make every effort" to assign you to duties which "conflict as little as possible" with your beliefs (DoD Directive 1300.6, VI, 1). And in many cases you may be kept in your unit until a final decision is made.

When To Apply

By the time you read this, you may already have decided to apply for CO status. If you haven't, there's one rule you should keep in mind: Apply when you are sure of your beliefs against participating in war. However, if you are early in your first enlistment you may want to submit your claim before the six month anniversary of your enlistment. You may be eligible for an Entry Level Separation, which will be processed more quickly but will make you ineligible for many benefits. (See *Other Discharges*.)

You can present a convincing case if you're sure in your own mind that applying for CO status is what you must do. That doesn't mean you have to work out answers to every possible question before you apply, or that you have to be so sure you feel you'll never change. But it does mean that—no matter how long you've been in the military—you need to think long and hard about your beliefs *before* you apply.

But once you've decided, don't waste time. Get your claim ready, and file it. You'll probably find that your

beliefs become more clear to you as you prepare your application. Many COs do.

Harassment

COs are sometimes harassed because of their beliefs. After all, others in the military often feel you are saying that the military and all who belong to it are morally wrong. They don't like to hear that. They believe in what they are doing just as you do. While some people will show respect, others will see you as trying to get out of an agreement you made to serve. Some will think you are a coward.

Your command might actually view you as a "morale problem." This might lead to harassment, too. You might even be given the worst jobs or duty assignments. You might be disciplined more than you were before.

Some people in your unit might just avoid you. This could make your life hard and lonely. But if you show respect for others, listen to what they have to say, and politely explain your opinions and beliefs, others might return that respect. Some people in your unit might decide to become COs because of your example. There are lots of people in the military who would be COs if they knew about the provisions and thought they could qualify.

The important thing is to be strong in your beliefs. Don't back down or let yourself make compromises you can't live with. If the harassment seems unjust, you have a right to complain. Get the help of your counselor, who can help you file a complaint or request a new assignment.

Also, try to keep in contact with someone who agrees with your beliefs. Having someone to talk to in hard times can be helpful. You can talk to your counselor, or you can look other places. Is there a Quaker meeting, Church of the Brethren, or Mennonite Church nearby? They might support you even if you aren't very religious. A local peace group can also be very helpful. If you're stationed in Europe, peace groups there will be glad to support you. And COs stationed on ships have sometimes gotten together with other COs (or people who were thinking about conscientious objection) to form discussion groups.

Outside support can be very important. Not only will it help you through rough times, but if the military knows that someone outside is concerned about your case, they may treat you more fairly.

Initial Request

As soon as you've got the first draft of your CO claim, write a letter that says, "I have become a conscientious objector to participation in war in any form." Then say whether you want to be discharged or transferred to non-combatant duties. Then write, "I understand that until a final decision is made I am to be employed in duties providing minimum conflict with my beliefs." It's also a good idea, if you can, to make a specific request for temporary duty or transfer to an assignment you can accept—for instance, if you're in a combat unit, you can request an assignment that doesn't use weapons, or if none is available, ask for transfer out of your unit to one with noncombatant jobs available.

Submit the statement to the person named in "To Whom One Applies," below. Keep a copy.

This written request may serve one or more purposes.

- It puts the military on notice that you're a CO.
- It may get you placed on noncombatant duty until the military decides on your case; and
- In some cases, it may get you held in your unit rather than shipped to a combat unit or combat assignment.

What Form to Use

At the time you present your request, you may be given a copy of the relevant regulation. There is no standard form which one must fill out, but some military installations have lists of the application questions. Your command may insist that you submit your application attached to a standard personnel action request form—the same form you would use when applying for leave, an interview with your commanding officer, permission to go to a military school, or any other personnel action.

Whether you're given such a list or merely a copy of the regulation, it's best to prepare the application on regular-sized, unlined paper. The company clerk or someone else—even you, as one of your regular duties—will then be charged with getting the application into the proper typed form and making the required number of copies. In any event, you should arrange the written questions (and your answers) as they appear in the regulations. Keep copies.

To Whom One Applies

The application is submitted to your immediate commanding officer. Members of the reserves who do not regularly attend drills contact:

- Army: The responsible Overseas Area Commander, or Commanding Officer, US Army Reserve Components Personnel and Administration Center (RCPAC), 9700 Page Boulevard, St. Louis, MO 63123. (See AR 600-43 §2-1.a.)
- Navy: Commanding Officer, Naval Reserve Personnel Center, New Orleans, LA 70149-7800. (See MILPERSMAN §1040400.1.f.)
- Marine Corps: Commanding General, Marine Corps Reserve Support Command, 15303 Andrews Road, Kansas City South Airport, Kansas City, MO 64147-5000, or call (800) 255-5082. (See MARCORSEPMAN §1101.4.b.)

If you're an ROTC cadet, submit your application to your Professor of Military Science, who is your commanding officer. (See "If You're in ROTC" on page .23..)

Assignment

Each Service has its own policy about holding people in their units pending final decisions on their cases detailed in the regulations. All Services will place you on duties that provide "minimum conflict" with your beliefs. You should be placed on this duty as soon as you submit your application.

Normally this means you'll be put to work as a clerk or warehouse worker or continue to train—except in the study, use, or handling of weapons. You might also be assigned to do nothing, either as a way of harassing you or because there just isn't any suitable assignment for you.

There is some question as to just what duties in the military "conflict as little as possible" with CO beliefs. The Department of Defense maintains that "service aboard an armed ship or aircraft or in a combat zone shall not be considered to be combatant duty unless the individual involved is personally and directly involved in the operation of weapons." (DoD Dir. 1300.6, III, (C) (4)) In the Coast Guard, you can still be ordered to use a handgun.

Sometimes a CO is mistakenly—or even purposely—not put on noncombatant status, or is ordered to pick up a weapon. If this happens to you, ask immediately to talk to a legal officer and contact your counselor. Your counselor will contact your command and negotiate a different assignment. If your commander remains inflexible, it may be necessary to file a complaint.

If you do not have time to contact your counselor and your conscience cannot allow you to obey an order, explain that you believe the order is illegal and that you are

not required to obey an illegal order. This could result with you're being charged with disobeying an order and you'll have to convince a court-martial that the orders were illegal. See *Resisting the Military*.

Applying for Noncombatant Status

If you are applying for transfer to noncombatant status, you do so under the same regulations as if you were applying for discharge. The effect of an application for transfer on your assignment is the same as it would be if you applied for discharge.

Processing

After you have handed in your written application, you still have a few more things to do. You will have some interviews, and you will be counseled by a legal or personnel officer about what you are doing and sign a statement that you have understood the counseling you received. And you'll have to wait before you know whether your application is approved.

Advice and Counsel

At some point in the processing of your CO request, you will be required to sign and date a "Statement (Counseling Concerning Veterans Administration Benefits)." That statement is found in DoD Directive 1300.6, Enclosure 2, and can be found at the back of this book on page 12 of the directive.

The confusion over the meaning of this statement has been cleared up somewhat by the Veterans Administration. They have said that a CO who has not disobeyed orders and who has not refused to wear the uniform will be denied veterans benefits only if he or she gets less than an Honorable or General Discharge or has served less than two years of active duty. If you have an Honorable or General Discharge, and haven't refused orders or refused to wear the uniform, you should be entitled to all benefits due to non-COs with similar discharges. If you have problems with your local VA office, you can write to The Chief Administrator, Veterans Administration, 2033 M St., N.W., Washington, DC 20421.

Interviews

Within a few days after your request, you should be interviewed by a chaplain and a psychiatrist (or medical officer if a psychiatrist is not available). An Investigating Officer in grade O-3 or higher will also conduct a hearing into your claim. The Investigating Officer hearing is discussed in the next section.

In many cases, you'll find that without prodding the military is slow to set up your interviews. One way to

avoid this problem is to offer to set up the interviews—at least those with the chaplain and psychiatrist—yourself.

The interviewers may be friendly or unfriendly. You may be asked a lot of questions that seem important, and some that don't. Your answers should be straightforward and positive. While, along with many others, you may dislike the military, that's not the subject of the interviews. Your conscientious objection to war is.

You should prepare detailed, accurate reports of your version of the interviews, especially the Investigating Officer's interview. You can submit the reports of the interviews to be included as additional information with your rebuttal of the Investigating Officer's recommendation if it is negative. And, as with all documents, you should keep a copy for your own file.

Psychiatric Interview

The psychiatrist, psychologist, or medical officer has to decide whether you have any medical disorders which would make you eligible for discharge. You may feel offended by the interview; many COs don't like being suspected of having mental disorders just because they oppose killing and war.

The psychiatrist may comment on your sincerity but doesn't have to. (In the Army and Air Force, the psychiatrist is supposed to make no recommendation for approval or denial of the application.) If you don't cooperate or respond during this interview or the one with the chaplain, the officer is supposed to note it in his or her report. Usually the interview takes only a few minutes, and the psychiatrist's report is brief.

If you think you have a psychiatric problem you can explain it to the psychiatrist. It would help if you first got a letter from a civilian psychiatrist. The military psychiatrist could recommend discharge for psychiatric reasons. But be careful not to make the psychiatrist think your CO beliefs are a result of emotional problems. And, if you think you might be eligible for discharge on grounds of mental disorder, discuss this interview with your counselor before you do.

Some military branches or commands may require you to take a standard personality test before you see the psychiatrist. This is the standard procedure, for example, at many Navy clinics. The military uses the Minnesota Multiphasic Personality Inventory (MMPI) for this procedure.

Chaplain's Interview

Military chaplains may be less sympathetic than civilian clergy members. Don't be surprised, in fact, if the chaplain is more hostile toward you and your views than any other officer. But there are a number of sympathetic, sensitive chaplains who care a lot about freedom of conscience.

The regulations don't require you to be assigned to a certain chaplain. You can ask around to find a chaplain with a reputation for fairness. If you are a member of a religious group, you can request a chaplain of your denomination, if there is one and you want to. (Many counselors believe that seeing a chaplain of your own denomination is unwise because the chaplain is more likely to feel that you are misinterpreting church doctrine.) It's also a good idea to share with the chaplain your written statement and, if you are a member of a church, its statement on conscientious objection.

In any event, the chaplain is supposed to interview you and "submit a written opinion as to the nature and basis of the applicant's claim, and as to the applicant's sincerity and depth of conviction." He or she must also give the reasons for these conclusions. (DoD Dir. 1300.6, VI (V)) Again, in the Army and Air Force, the chaplain is supposed to make no recommendation for approval or denial of the application.

Remember that the chaplain's idea of what may be considered religious, ethical, or moral may be narrower than the legal definition discussed earlier in this booklet. It may be wise to visit a second chaplain if the interview with the first turns out to be unsatisfactory, but you'll probably have to set up the second visit on your own.

The Investigating Officer (IO)

The most important interview is the one with the Investigating Officer. In fact, this "interview" is more of an informal hearing. In the Army, Air Force, and Marines, the IO is appointed by the commander with special court-martial jurisdiction over you (usually the brigade, regiment, or group commander). In the Navy, the appointing authority is your commanding officer; in the Coast Guard it's the district commander. The appointed officer must be in grade O-3 or above and not in your chain of command. The Navy prefers him or her to be grade O-4 if possible, and the Air Force likes to use Judge Advocates, regardless of rank.

For all applicants who are officers, the Investigating Officer must be higher in both temporary and permanent grade, except that the Air Force will allow a Judge Advocate to interview any higher-ranking officer. The IO may have dealt with CO cases before but many IOs have simply reviewed the regulations and will obtain needed legal advice from the local Staff Judge Advocate or legal officer.

The Investigating Officer's interview has several purposes. It is a chance for you to add evidence or papers to your application before the complete record is forwarded for a final decision. The officer must gather information on your case and then interview you. Finally, he or she is to make an "informed recommendation" on your case so

that the higher authority may make an "informed decision." As part of the investigation, the officer may seek out information about you from commanders, supervisors, written records, and other likely sources of important information.

This hearing is extremely important. You should not waive your right to attend it even if the military offers to let you do so. This will probably be the best chance you will get to present your views. If, without a good reason, you don't appear at the interview, it will be assumed that you have waived your rights, and the Investigating Officer will hold the hearing without you. If you don't appear, the officer might think you are not sincere.

You may present whatever evidence you wish, give any sworn or unsworn statements you think may help your case, and have witnesses to give sworn statements. This is the time to add to the file any reference letters, church statements on conscientious objection, or other papers that you haven't already attached to your application. It is also a chance for you to look at and comment on everything in the file, including the opinion of the chaplain and the psychiatrist and any other evidence gathered by the Investigating Officer, if you haven't already done so.

You have a right to bring "counsel" (a civilian counselor or attorney) to this hearing at your own expense. The hearing is informal, except that all oral testimony is given under oath or affirmation.

The Oath

If your religious beliefs require you to affirm rather than swear, you have the right to "affirm" that your testimony is true. Using this right, however, raises issues that you should know about. In recent years, military courts have decided a large number of child-abuse cases. Witnesses in these cases have included very young children—sometimes even pre-schoolers—for whom the standard oath is meaningless. Military judges have therefore tried several alternatives to the traditional oath, some of which have been challenged on appeal.

The Court of Appeals for the Armed Forces has decided that, in order to be legally sufficient, an "alternative oath" must include an acknowledgment by the witness of the solemnity of the proceedings and the importance of telling the truth. This means that you may no longer be able simply to affirm that you will tell the truth, but may be asked to make a more formal affirmation.

If you or your witnesses object to this kind of "alternative oath," you will have to make some difficult decisions. Your refusal to take an alternative oath which you are offered could be construed as refusal to testify and might severely damage your claim or lead to its rejection.

Before you decide, you should seek a compromise that both you and the Investigating Officer can accept. One wording which might be acceptable is as follows:

I understand that this hearing is a serious and important proceeding. My religious (moral, ethical) beliefs require me to be truthful in my testimony at this hearing, as they require me to be truthful in all matters. I am willing to answer any questions concerning my testimony.

The last sentence is important because a sworn statement is subject to cross-examination, while an unsworn statement is not. By saying that you are willing to answer questions, you agree to let the Investigating Officer examine you, while avoiding the traditional sworn oath.

Be sure to clear any alternative oath with the Investigating Officer prior to the hearing.

Witnesses

You have the right to have witnesses testify in your support at the hearing. If you can think of people who could offer evidence of your sincerity, ask to have them testify. People who wrote supporting letters for your claim are especially important witnesses. By attending the hearing, such witnesses give additional weight to their testimony of your sincerity.

While the military won't pay for the personal or travel expenses of your witnesses, local commanders are supposed to "render all reasonable assistance in making available military members of his command requested by the applicant as witnesses." (DoD 1300.6, VI (D)(2)(c)) If you want fellow service members or officers to serve as witnesses, you should, as soon as possible, request in writing that the local command make those persons available. If your commander does not help, and if those witnesses do not appear at the hearing, you should explain in your application why you wanted them to come, attach a copy of the letter to the commander, and state that they did not appear at the hearing. All witnesses should be notified as soon as possible of the hearing date, time, and place. In addition, you will be allowed to question any other witnesses the Investigating Officer calls or who volunteer to come.

During the Hearing

Just prior to and on the day of the hearing you should meet with your counsel and any of your witnesses to prepare for the hearing. It can be particularly helpful to role play questions with your counselor to help you prepare for the hearing. You can request that your witnesses be present during the interview. If this is allowed, it could give you additional support and be especially helpful to any witness who is also a CO applicant.

Many COs find that their Investigating Officers don't know very much about conscientious objection or the procedures. So it's a good idea to be ready to take the initiative yourself. Put together a brief opening statement so you can get the conversation going if necessary. In your statement, concentrate on your beliefs—not on political issues or military hassles. Before you give your statement, though, ask the Investigating Officer whether he or she would like you to give a statement, or would rather just go ahead and base the interview on your written application.

Bring a copy of your application and any additional material, as well as a list of those who will testify and those not available for testimony. After taking the oath or affirmation, you or your counsel can review all items in the investigating officer's file and submit any new information. If the officer wants you to give a statement, you can then deliver the one you've prepared.

Usually, whether or not you give an opening statement, the Investigating Officer will have some questions to ask. Some of these are likely to be routine, such as whether you belong to a church. Others may be very difficult or hostile, like the ones in *Questions Asked COs*. If you don't have an answer to a question, say so and then explain why. You don't have to know the answer to every problem in order to be a conscientious objector. And sometimes, if you say honestly that you find a question difficult, your sincerity and truthfulness will impress the officer far more than a glib answer. Do make clear throughout the interview that you know you're against all war and can't be part of it.

Either before or after the questioning, you should call your witnesses, one by one. They must also take the oath or affirmation before they testify. All should state their relationship with you and why they offered to testify, and then go on.

If the Investigating Officer has summoned any other witnesses, you or your counsel can question them if necessary. After all witnesses have testified, your counsel should question you on any points the Investigating Officer did not raise.

Transcript

The regulations do not require a verbatim transcript of the IO hearing, only a summary of testimony prepared by the IO him or herself. Though DoD 1300.6 says that no verbatim transcript of the hearing is required, you should request one anyway. If the military doesn't provide a transcript, you can make your own.

Be careful in deciding how you will go about making your transcript. If, for instance, you bring along a tape recorder to the hearing or hire a court stenographer, you may intimidate the investigating officer and actually make the hearing more difficult for yourself. It's best to talk with

your counselor about how to proceed. And be sure to tell the investigating officer in advance that you will be making a transcript. This is more polite, and it will cut down on the chance that the officer will go harder on you because you are making a transcript. Any transcript you make must be done at your expense, and you must provide a copy to the Investigating Officer. (The Marine Corps will not accept a tape recorded record of the hearing.)

Many lawyers feel that a record of the testimony can prove invaluable when the entire case is reviewed at department headquarters—or in federal court, should the case end up there. You can, as suggested above, use a tape recorder to make your transcript. Or you can hire a court reporter if you can afford to do so.

If no transcript has been made, the officer will summarize the hearing in his or her report. You and your counsel can submit a rebuttal statement with any disagreements you have with the Investigating Officer's interpretation of what happened. If the summary seems biased or incorrect, you may submit your own summary of the hearing.

The Final Record

After the hearing, the officer will prepare a statement of his or her conclusions concerning your sincerity and the basis of your objection. The report will then recommend approval or disapproval of your application.

"The investigating officer's report, along with the individual's application, all interviews with chaplains or doctors, evidence received as a result of the investigating officer's hearing, and any other items submitted by the applicant in support of his case will constitute the record." (DoD 1300.6, VI (D)(3)(f)) The officer gathers this together, forwards it to the commander who appointed him or her, and supplies you with the copy of the complete record.

Prepare a statement with your counselor explaining anything in the report to which you object and why you object to it. If, for example, the officer was hostile or kept asking irrelevant questions or didn't give you time to answer the questions properly, this can be evidence of bias. Statements you made at the hearing but which have been quoted out of context can be explained more fully. You can also mention points that the Investigating Officer didn't allow you to bring up or failed to mention in the report. And you can—and should—add new documentation, like supporting letters, to strengthen your claim. In your rebuttal, give as many details and exact quotes as you can.

The Army gives you ten calendar days from the receipt of the record to submit a rebuttal; the Navy, five working days; the Marine Corps, seven days; the Air Force, 15 calendar days; the Coast Guard, two weeks.

After the appointing officer has reviewed the record for completeness and legality, and, if necessary, sent it back to the Investigating Officer for more information, he or she will make a recommendation and forward the whole record through the chain of command to Service headquarters. Officers in the chain can make recommendations as the record passes through their hands on the way up. But before Service headquarters can make a final decision, you must be given the opportunity to rebut any adverse evidence (in the Army, any evidence at all), including chain of command recommendations, which you haven't seen or had a chance to rebut already.

You will be notified of the final decision and the reasons for it.

Approval Authority

Only the Secretary of the Service concerned has the authority to discharge a person as a conscientious objector. Each Secretary assigns a board in the Service headquarters to review each case. The Secretary of the Army delegates authority to approve (but not disapprove) discharge to local commanders who exercise general court-martial authority over you.

Special Problems of Reservists

If you're in the Reserves, your biggest problem is likely to be delays in processing—especially if you're a weekend Reservist. Since your unit is likely to be in operation only once a month, for example, the three interviews could be spaced over a period of three months or even longer. Or, particularly in the Army, your interviews might be scheduled back-to-back on the same day. The military sometimes doesn't think that Reservist CO cases are very urgent, so you may have to wait many months for a decision.

You can deal with this problem best if you start before the delays begin. The first step in processing your claim is for the Reserves to appoint an officer to oversee the processing, including choosing the Investigating Officer. As soon as you receive notice that this "overseeing officer" has been appointed (as you should), set up a meeting with him or her to discuss scheduling your processing. Stress the importance of your claim to you, and see if any special arrangements—like holding your interviews at a nearby active duty base—can be made. (Be careful, though. If the local base is primarily a center for Special Forces, for instance, it may be better to process through your own unit personnel.)

Once your claim is in process, you may have to keep after your command—politely, of course—to make sure they don't forget about it. And occasionally a Reserve unit

is baffled about what to do with a CO claim. If you are polite and helpful in your efforts to keep your processing going, though, you shouldn't have any trouble.

If You're in ROTC

ROTC cadets face processing for both disenrollment from ROTC and CO discharge. A disenrollment hearing can determine whether you will be dropped from ROTC and called to enlisted active duty rather than going through the CO process as an ROTC cadet. Contact a counselor for more information if you are in ROTC.

A Final Word

As you can see, the CO processing is complicated and can take a long time. There are a lot of pitfalls. But many COs have been successful in applying for discharge or transfer, and so can you. Your most important asset is your own sincerity and determination. Military officials, who certainly won't agree with you, will understand and respect your willingness to take a position and stand by it.

The Use of Force

One of the hardest questions you'll have to answer as you apply for conscientious objector status is the question on the use of force. It's hard, not because you have to be against all force to qualify as a CO, but because it's a trick question. When you answer it, you need to be careful to avoid some traps. And you need to make clear to the military that you do object to participation in war, whatever you may believe about other uses of force.

The Definition of Force

Many COs make the mistake of saying simply that they are against all use of force when they answer the "force" question. This makes it easy for a clever Investigating Officer to catch them being inconsistent or to confuse them. The reason is simple: in the required question, "force" is never defined. So when you say you're against all use of force, you may mean military force or violence. But an Investigating Officer can trip you up by using "force" to mean the force you would use to hold someone back from hurting another person.

The dictionary defines "force" in a great many ways—ranging from the power you would use to move a billiard ball to the use of bombs, tanks, and military troops. So it's important when you talk about the use of force to be clear what kind of force you mean.

It's also important to remember that the courts have said the only use of force you have to object to is *military* force. Your common sense tells you that there's a difference between war and, say, defending yourself if someone assaults you in a bar. And the courts agree.

Force and Violence

Many COs distinguish between force, which they can accept, and violence, which they can't. If you do this, be sure to state clearly the difference in your mind between

force and violence. For example, many COs argue that violence is excessive force. For example, a nuclear warhead can destroy an entire city. Almost everyone would agree that the use of nuclear weapons is violent—not merely a use of force. Probably you can think of other examples.

You don't have to use the terms "force" and "violence" unless you want to, of course—though most people do. The point is that you should think about and show which uses of force are okay and which you can't accept. And you should briefly explain why.

Nonviolence

Often COs are asked what they would substitute for military force as a method of defense. You don't have to have a complete plan for nonviolent defense—or any plan at all—in order to qualify as a CO. But for many COs, nonviolent resistance is one way of defending one's country and one's principles all at once. And many believe that peace can never come about through violent means, but only through nonviolent ones.

Mahatma Gandhi, who led India to independence from Britain using nonviolence, said, "In nonviolence the masses have a weapon which enables a child, a woman, or even a decrepit old man to resist the mightiest government successfully." Nonviolence is, he said, "the most active force in the world. It is the weapon not of the weak...but of the strongest and bravest... No power on earth can stand before the march of a peaceful, determined, and God-fearing people."

Martin Luther King, Jr., who led the nonviolent struggle for black civil rights in the 1960s, said, "The aftermath of nonviolence is the creation of the beloved community, while the aftermath of violence is tragic bitterness."

Keep in mind that, in order to gain CO status, you don't have to present a complete philosophy of nonviolence. Gandhi and King took years to develop their philosophies, and you just don't have that much time.

1. Courts on force: *Gillette v US*, 401 US 437 (1971); *US v Purvis*, 403 F.2d 555 (2d Cir. 1968)

Self-Defense

One common question asked by Investigating Officers, chaplains, friends, and neighbors, is this: What would you do if someone attacked your mother (or sister or yourself)? If you answer that you would use force to defend the person attacked, the person who asked the question may conclude that you don't really object to war.

That's not true. A Court of Appeals decision in the early 1970s stated that:

"Agreement that force can be used to restrain wrongdoing, especially as the last alternative, has little bearing on an attitude toward war."²

That's still what the law says. You don't have to object to personal self-defense, or defense of your loved ones, to qualify as a conscientious objector. And you can't really say what you would do. A person who says he or she would use force in self-defense may find that a nonviolent response makes more sense in actual practice. And a person who favors a nonviolent response may respond violently in practice.

One thing you can be certain of, though. If you or someone you loved were attacked, you wouldn't dig a trench around the attacker's house, bombard them with artillery fire, drop napalm on their family, and demand their unconditional surrender—if they survived. That's the point. Personal self-defense is not war. In fact, it doesn't resemble war in any way.

Police Force

The police today, in some ways, are like a military force. They are organized and disciplined. They have ranks, and they even use military names for their ranks. SWAT teams use military tactics and are sometimes trained by the military. For these reasons and others, you may be against police force. Or you may be critical of modern police forces.

But most people don't object to police force. If you don't, don't worry. The police may look like a military unit, but there's a big difference in principle between police force and military force. Aldous Huxley gives some reasons why the two are different:

The force which [armies]...use is not limited. Their function is not to restrain the guilty; it is to destroy all things and people within their range. When the police wish to arrest a criminal, they do not burn up a town in which he is living and kill or torture all its inhabitants. But this is precisely what an army does, particularly an army using modern weapons. States [claim]...the right not only to judge other states, but also by means of their armies, to punish

them. The principle is wholly repugnant to law; moreover, the process of punishing the guilty entails the destruction of countless innocent individuals. An army with atomic and hydrogen bombs is not and cannot be a police force. Nor can its essentially evil and destructive functions be moralized by calling it a U.N. army, an instrument of collective security, etc. Police operate with the consent of the community which employs them. Armies operate at the order of one among the nations or the few nations which are allied together.

You may not, of course, agree. Some people believe the police are an instrument of the rich for keeping the poor "in their place." But if you believe this, it doesn't mean that you support war.

A more complicated question is the use of troops as "peacekeeping forces." Such forces often operate with the consent of the government—though not always that of the people—of the country where they are stationed. Are they operating as a military unit, or as police? There's no easy answer to this question, but one clue lies in the command structure. Who is in charge? The community where the troops are stationed, or the nation which sent them there? Do you see a difference between a United Nations peacekeeping force and, say, the US Marines who were stationed in Lebanon in 1982-84? Or is there no difference?

If you are sure that you'd take part in a peacekeeping force, you may have trouble being recognized as a conscientious objector. Guy Gillette, whose case is discussed in Chapter 4, said he would be part of a peacekeeping force and was denied CO status. But maybe you can still qualify. It's best to talk with your counselor about this issue before you try to write anything about it. Or maybe you can simply omit discussion of it. You don't have to deal with it in order to answer the question on the use of force.

Revolutionary Violence

Another hard question is the use of violence to overthrow an oppressive government—for instance, the former *apartheid* government of South Africa, which for many years was involved in a war against African nationalist guerrillas.⁴ There's a good chance that you're against the policy of *apartheid*, or strict separation of the races. And you probably can understand why the opposition resorted to violence. But there's a difference between understanding someone's use of violence and supporting it.

You can support the end which a person is seeking, while disagreeing with the means he or she is using to get it. At the same time, you can't say how you would react if

2. U.S. v. Purvis, op.cit.

3. Aldous Huxley, *Ends and Means* (New York: Harper Bros., 1937), Ch. 12.

you were a black South African. You've never been in that situation. All you can say is what you believe and how you react to the situation you face. And that's all you have to say. In *Gillette v US*, the Supreme Court quoted a case, *Owen v US*, which said that questions about what you would do in a future or hypothetical situation are irrelevant. They don't show what you're thinking now. It's the same for questions about what you would do if you were a different person. You simply can't know.

This is a hard question for many people, not just for COs. Is violence okay when the government or the economic system is very oppressive? Is it all right to use violent means to change it? Some people say yes. Others say that violence may overthrow the government, but it doesn't really change things. The government was violent; the means used to overthrow it were violent; and violence only leads to more violence. It doesn't change people's hearts and minds.

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4. In the late 1970s and early 1980s, the South African Defense Force (SADF) fought an extended counter-insurgency war against guerrillas from the Southwest African People's Organization (SWAPO) for control of what is now Namibia. The African National Congress for many years maintained an active military arm which relied on guerrilla tactics. The ANC's military arm is now inactive. The term "guerrilla" is here used to describe a particular type of warfare; use of it implies no judgment on the legitimacy of either SWAPO or the ANC.

It's hard to know which is right. But history suggests that violence often does breed more violence. The French Revolution led to the Reign of Terror. The Russian Revolution led to the Red Terror and the rise of Stalin. Violence by the US and by guerrilla forces in Cambodia (Kampuchea) led to mass slaughters under the dictator Pol Pot. Does violence always corrupt the end it is seeking? You'll have to decide for yourself.

Military Force

In answering the question on the use of force, one thing you can be clear about—and should be—is your objection to taking part in war. You don't have to say a lot about your beliefs because you've already done that in earlier answers. But you should restate your objections and show how you think war is different from other uses of force.

A Final Word

The "use of force" question has bothered many COs. Probably it will give you a lot of trouble. But don't let it give you so much trouble that you can't answer other questions. The only force you have to object to is war. If you keep that in mind, you won't get confused by this question. And you can put your time and energy into writing good answers to the other questions about your beliefs. In the long run, they're the important questions.

Conventional and Unconventional Wars

In 1815, the Duke of Wellington's forces defeated those of Napoleon at the Battle of Waterloo. The battlefield was so small that Wellington personally visited most parts of it while the battle was taking place. Local farmers actually watched the fighting from a hill nearby. The battle ended after one day.

It is difficult to imagine a similar battle today. Modern weapons are so much more destructive than those used in 1815 that civilians near the combat zone would not stay to watch but, if they could, flee for their lives. A modern "battlefield" can include entire countries. Fighting can go on for weeks or even months.

Modern war is different from older wars. This chapter discusses how it differs from earlier wars, when the modern era in warfare began, and some issues for you to think about as you decide whether to be a conscientious objector. It is only an introduction.

When Did Modern War Begin?

Historians do not agree on when war began to be "modern." Many date the modern era in warfare to the American Civil War (1861-1865), but, though that war was like today's wars in many ways, it did not include air war (except for observation balloons), and modern armored warfare had not yet been invented. World War I (1914-1918) led to the invention of many modern weapons and tactics, but missiles and guidance systems, which were an important part of the Persian Gulf War (1991), did not exist. Missiles were first used late in World War II (1939-1945), and modern guidance systems were developed long after the end of that war.

What all this shows is that war has changed over the years. To understand modern war and why it is so devastating, you have to look at how it evolved as well as how armies fight today. For simplicity, this chapter will assume that modern war began to develop during the Civil War.

How Is Modern War Different?

Modern armies differ from older armies in six major ways:

Size. Modern armies are usually larger than pre-Civil War armies. Even after cutbacks, for example, the US active military will have 1.4 million troops—a far larger force than most pre-Civil War armies—in *peacetime*. In wartime, the US military might grow to eight or ten million.

Mechanization. At Waterloo, infantry on both sides fought with single-shot muskets. The Civil War saw the introduction of the first machine gun. Though unreliable and difficult to use, the Gatling Gun changed warfare forever because it was a *machine* which killed impersonally. By World War I, the machine gun had become the most deadly of all infantry weapons.

Firepower. Modern weapons are more destructive than those of earlier eras. The armies at Waterloo, for example, had artillery, but not explosive shells. Modern shells and missiles carry deadly explosive charges, including smaller "bomblets" or mines which spread over a large area and then explode, causing far more damage than a single explosion.

Mobility. Tanks and troop transporters, helicopters, strike aircraft, and transportation aircraft allow modern armies to fight and cause destruction over very wide areas—including entire countries.

Accuracy of Weapons. During the Persian Gulf War, television audiences in the US saw film of missiles which could enter a building, locate an exact target, and hit it. These "smart" weapons, or precision-guided munitions, were supposed to cut down on civilian casualties. The television images were misleading because less than ten percent of US weapons in the Gulf air war were "smart," and

many of these hit the wrong targets. Modern weapons, however, are usually more accurate and reliable than weapons in older wars. This, combined with their increased explosive power, can only increase the numbers of dead and wounded. The Gulf air war killed over 100,000 Iraqis, many of them civilians, in less than a month.

Tactics. Modern warfare includes many tactics which are violations of international law or are questionable on moral grounds. See the discussions under “Total War” and “Battlefield Tactics,” below.

Total War

Modern war is often called “total war.” Total war is often thought to be new in this century, but in many ways it isn’t. Ancient wars, for instance, were often total in the sense that the loser’s cities and crops were destroyed, the men slaughtered, and the women and children taken captive.

But today’s total war is so different from past wars that it is a new development. Before the mid-19th Century, armies were small, and most wars were fought on battlefields away from the civilian population. A country that went to war didn’t put all its industry to work making war supplies and ammunition, as happens today. There was no such thing as bombing of cities, though cities were often besieged and even destroyed.

All this began to change with the Civil War. In that war, armies—and casualties—were huge by the standards of past wars. The railroad made troop movements easier and more rapid than they had ever been before. The telegraph made for fast communication. Even the weapons used were rifles that shot modern-style bullets, rather than muskets which shot lead balls as in earlier wars.

Most important, the Civil War saw the first use of a deliberate attack against the enemy’s population rather than the enemy’s army. For many people, this is what makes modern war different from past wars. Gen. William Tecumseh Sherman of the Union Army believed that the best way to defeat the Confederacy was to destroy its economy and its “will to fight.” His troops first occupied and destroyed Atlanta—then, as now, a major trade center. They then marched in a line fifty miles wide from Atlanta to the Georgia coast, burning crops, killing those who resisted them, and destroying property as they went. This “March to the Sea” split the Confederacy and ruined its economy, just as Sherman had predicted. It was a total war tactic.

Direct attacks against civilians are forbidden by the laws of war, but they are common in modern war. The British blockaded German shipping in World War I and caused

great hardship and starvation among the civilian population. The Allies bombed German cities in World War II, and the Germans bombed Great Britain and many of the cities of Europe. All these are total war tactics.

Battlefield Tactics

Shortly after the end of the Persian Gulf War, Congressional investigators found that some US bulldozer units had deliberately buried thousands of Iraqi troops alive even as the Iraqis tried to surrender. The investigators and other commentators criticized this method of fighting as a violation of international law; it was also a violation of orders, which directed the units to bypass Iraqi fortifications.

Burying opposing troops alive is not an accepted battlefield tactic, but it is not surprising that a modern army did it. Modern armies often use equally destructive tactics. Some, like “free-fire zones” (areas in which the US forces in Vietnam were authorized to kill anything that moved), violate international law. Others, like the use of “anti-personnel” weapons (weapons which are specifically designed to wound and maim rather than to kill), may not.

The Christian “Just War” theory, which is discussed in more detail in Chapter 14, provides standards not just for deciding when war is justified, but for deciding which tactics are acceptable. If you accept this or some other form of “just war” theory, you’ve probably got your own ideas about which tactics are acceptable and which are not. If you reject all wars, you may wonder why you should worry about whether particular tactics are acceptable, but it’s an important issue for everyone. It’s best if the fighting never starts; but once it *does* start, it is likely to be less destructive if armies follow international law. In the long run, that benefits all sides.

Unconventional Wars and Weapons

In the modern world, it’s very difficult to decide which wars are “conventional” and which are not. Is bombing a city “conventional”? Some think that it is because most modern armies do it; others think it is not because it may violate international law. This section discusses two types of unconventional warfare and some issues related to modern war for you to think about.

Guerrilla Warfare

Guerrilla warfare got its name from the Spanish armed resistance to Napoleon’s armies. Guerrillas are soldiers who live among the civilian population, usually supported by them (willingly or not), and operate by small, fast attacks against “conventional” forces and by sabotage. A conven-

tional army usually has trouble defeating a guerrilla force because guerrilla soldiers disappear into the population when they aren't fighting.

Because it's often hard to tell the soldiers from the civilians—or, as in Vietnam, impossible—war against guerrilla forces (called “counter-insurgency warfare”) doesn't involve battles as we usually understand them. A counter-insurgency force attacks not only the guerrilla forces, but the population which supports them. So, for instance, crops were destroyed in Vietnam to try to cut off the guerrillas' food supplies. Jungles were “defoliated” (sprayed with a powerful weed killer) to make it harder for the guerrillas to hide. Entire villages were evacuated and destroyed. And so on. The same kinds of tactics have been used by Soviet armies in Afghanistan, the Rhodesian army before majority rule in that country, and the South African army.

This isn't surprising. Many military experts think that one guerrilla can defeat as many as ten conventional soldiers by using stealth, harassment, and civilian support. Many others think that fighting guerrillas will be part of the main work of Western armies in the future. This is true not only of people in the peace movement, who oppose counter-insurgency war, but even of military thinkers who support it.

Terrorism

Political analysts often say that another form of unconventional warfare is *terrorism*. Terrorists and terrorist groups try to create fear by acts of random (or seemingly random) violence. It is an old political tactic with long historical roots (the “Assassins,” for example, whose name gave us the word *assassin*, were a medieval Islamic terrorist group). In today's world, terrorists may use explosives, guns, or other modern weapons to attack buildings, political leaders, or innocent bystanders.

Terrorist attacks are not war by this book's definition, but as a CO you may be asked what you would do about terrorism. You don't have to have a solution to the problems of terrorism, political violence, and other violence in order to be a CO. Nobody really knows what to do about these problems.

Unconventional Weapons

Part of the rationale for the Persian Gulf War was the fear that Iraq had developed chemical (gas) and biological (germ) weapons and was trying to develop nuclear weapons. United Nations inspectors found no proof that Iraq had developed germ weapons, but in the late 1980s the Iraqi government actually used poison gas to suppress a revolt among its own people.

Iraq, however, was neither the first nor the only country to experiment with or use gas warfare. Armies on both sides used gas in World War I. Though outlawed by a Geneva convention following that war, gas remained in the arsenals of many countries. As this book went to press, the United States maintained a large stockpile of poison gas. The US military used tear gas in Vietnam. And both sides in the Cold War developed deadly gas for use in combat.

During the Cold War period the US also funded extensive research on germ warfare. Because much of this research was carried on in secret, no one knows exactly how extensive it was or what stockpiles, if any, of biological weapons the US maintains.

Both gas and germ warfare violate international law. Both would kill indiscriminately, and neither could be controlled once begun. Gas would eventually disperse into the air, polluting the atmosphere, but would cause a great deal of damage before it did. Disease, once launched on the population, might spread out of control and cause an epidemic. And, though both may never be used, they pose a threat to the public even if merely maintained in storage. A gas leak, for example, would cause great destruction without regard for whether it was wartime or peacetime.

War Without Killing

During the Persian Gulf War, officers in the military sometimes asked conscientious objectors whether they would object to weapons which overcame the enemy without killing anyone. They suggested that the US was developing such weapons and that they might make war acceptable.

This sounds farfetched, particularly since most modern weapons are *more* likely to kill than the weapons of years ago. But it raises an important issue for you to think about: What exactly is war all about, and what makes it wrong? The Chinese military philosopher Sun Tzu argued that the highest form of the “art of war” consisted of defeating one's opponent without battle—by better tactics which brought about surrender before the fighting started. Would you find war acceptable if armies decided battles without fighting?

This book can't answer that question for you. As you think about war, however, keep in mind that war is not necessarily about killing as such. You can view killing and wounding the soldiers in an opposing army as a means to an end. The goal of a military force is to impose its will on its opponents. Sun Tzu suggests that an army can do this without killing, by using the *threat* of force.

Do you think it is okay for one country or army to impose its will on another? Does it matter what tactics it uses to do so? Does war always involve the threat of force,

even if no one is actually killed or wounded? Your answers to these questions will help you to answer the question of whether you should be part of war.

A Final Word

As you think about conscientious objection, keep in mind the obvious: Nobody is asking you to fight in battles like Waterloo. War today is *modern* war, with all that implies. It's unlikely that the world will abolish all modern weapons and tactics. If the nations could agree to that, they probably could also agree to abolish war itself.

Just as nobody is asking you to fight in an 18th-Century army, so nobody is asking you to fight in a war in which nobody is killed or wounded. Such a war may be the dream of military theorists, but in the real world, military planners assume that soldiers and civilians will be killed and wounded when the shooting starts.

In the real world, modern armies have caused untold destruction. Since World War II, over 35 million people have died in "conventional" wars. Can you be part of this kind of killing and destruction? That's the real question for you to decide.

Hitler and Other Dictators

One question which you may face—from the Investigating Officer, from the chaplain, and even from yourself—is whether you would have fought against Hitler.

In a way, it's an unfair question. Many people who fought in World War II now believe that all war is wrong. Others who refused to fight now think they made a mistake and should have fought. There's nothing you can do to change what happened in Europe in 1939 or 1943—long before you were born. It's all in the past, and war today is completely different from what it was then. How can you know what you would have thought? How can anyone expect you to know?

You can try to think what you might have done if you had held your current beliefs, but even that isn't easy. People at the time had very different reactions to Hitler. They didn't know, in 1938 or 1939, what would happen in 1941 or 1945. We now see Hitler in the light of what happened later—which people at the time couldn't have done. So, though you can try to think how your beliefs would have applied then, you can't really be sure.

The courts disagree on whether you have to be sure. If you aren't, though, there's a good chance that you can still qualify as a CO. For details, see Chapter 14.

Hitler presents a hard problem because, except for a few modern Nazis, everyone now agrees that he was responsible for great evil. And most people think of World War II as the “good” war. It's even become a fad, as you can see in any bookstore or any store that sells strategy games.

Was it really that simple? What can we learn from the history of Europe in the 1930s and 1940s? This chapter can't answer these questions for you, but it can give you a start.

Hitler as Symbol and Reality

Many people today think of Adolf Hitler as the most evil man who ever lived. Until the recent collapse of the Soviet Union, when the Defense Department planned a mobilization for war in Europe, it was planning how to stop a Hitler-style *Blitzkrieg* (lightning war). Visitors to St. Petersburg (formerly Leningrad) are always taken to see

the monument to those who died in the Siege of Leningrad—caused, the guides remind visitors, by Hitler's armies. People in Israel today still recall Hitler's death camps. Even the name of Hitler—or his ministers like Goebbels, Himmler, and Goering—has come to mean pure evil.

This is an exaggeration, but not by much. Hitler was a ruthless man with dangerous ideas. He was the driving force behind a war which killed over 50 million people. Millions of people died in German concentration camps—six million Jews, 200,000 Gypsies, millions of gay men and lesbians, and at least a million political prisoners. Hitler is not only a symbol of evil, but, in many ways, was the reality of it as well.

Hitler and World War II

World War II is often called “Hitler's War.” Some historians believe that Hitler planned to conquer most of Europe, defeat the Soviet Union, and set up a German Empire—without war if he could do it, but by making war if he could not. This is also what the public thinks: the sole cause of the war, and the reason it was fought, was Hitler.

But, like many things in history, the answer may not have been that easy. One school of historians thinks that, though Hitler meant greatly to expand German power, he didn't plan the war that actually happened. Allied policy, they say, has to share the blame for World War II.

The truth is probably somewhere between these two positions. But even if Hitler planned the war and started it by himself, a bigger question remains: Why did he come to power in the first place? And why did the German people follow his leadership? If any question is important for today, it's this.

The Coming of the War

Historians often say that World War I and World War II were really two parts of a single process. They believe the “German problem” began in the 19th Century and was still there even after the slaughter in the trenches of World

War I. It led to Hitler and to World War II. In its simplest form, the “problem” was this: Germany was becoming the most powerful country in Europe, and the other countries didn’t want that to happen.

World War I was the largest European war up to its time. Ten million soldiers were killed. Great Britain and France actually lost more people in World War I than in World War II. The Treaty of Versailles, in 1919, tried to prevent another such war by disarming Germany, forcing it to pay war reparations, and setting up a new system, the League of Nations, to keep the peace in Europe. At the same time, the Allies did not disarm, and the Treaty took territory from Germany. In Germany, and later on in much of Europe, most people thought the Treaty of Versailles was unfair.

During the 1920s, Germany had a domestic constitution much like that of the United States. She also had serious domestic problems. Her army had been disbanded, but thousands of ex-soldiers formed themselves into *Freikorps* (free corps), or private armies who began as border guards but later became, in many cases, right-wing political parties backed by force. War reparations were so punitive that the famous English economist John Maynard Keynes, in his book, *The Economic Consequences of the Peace*, predicted “disastrous consequences,” including the possibility of another war, if the Allies actually carried out reparations policies. German inflation in the 1920s became so bad that

Men and women rushed to spend their wages, if possible within minutes of receiving them. Notes were trundled to the stores in wheelbarrows—or baby carriages... [T]here was resort to virtually every printing press that was capable of printing money. Notes were in literal fact churned out. And, on occasion, trade stopped as the presses fell behind in producing new bills.

During these desperate days, the United States refused to provide financial aid to the German government (the Weimar Republic). Some years later, British, French, and American financiers like Henry Ford did advance aid to Hitler to support him as a bulwark against Communism.

The inflation ended in 1925, but in 1929 the Great Depression began. Not only America, but the rest of the Western world, suffered high unemployment and economic collapse. In Germany,

by 1930 what had been a bothersome problem turned into an acute disaster. In just one month, January, the number of unemployed soared from 1.5 million to almost 2.5 million. From then on, the figures kept climbing steadily.

Germans blamed the unemployment on many things. Some thought war reparations caused it. Some blamed it

on dishonest, incompetent politicians. Many believed Nazi propaganda that blamed it on the Jews.

Looking back, it’s hard to imagine, but Hitler was a popular figure in Germany in the early 1930s. His party never received a majority in a free election, but by 1930 it had won 107 seats in the German parliament. He came to power when the President of Germany, Hindenburg, appointed him Chancellor. He reduced unemployment by increasing public spending. He built public works like the *Autobahn* (a highway system) that are remembered today. Most of all, to Germans who thought of themselves as surrounded by hostile nations, he appeared to be a welcome savior and protector. He was not. Once in power he gradually consolidated his dictatorship and escalated his campaign against the Jews, other “non-Aryan” peoples, gays, and political opponents.

Overseas, he had many sympathizers—ranging from industrialists like Henry Ford to the writer Anne Morrow Lindbergh, wife of Charles Lindbergh. In an article in *Reader’s Digest*, she wrote:

Much that is happening in Hitler’s Germany is bad...but perhaps it will lead to some ultimate good. We, as Americans, do not have the moral right to judge what is happening...What was pushing behind Communism? What’s behind fascism in Italy? What’s behind Naziism?...Something one feels is pushing up through the crust of custom...One does not know what...some new conception of humanity and its place on earth. I believe that it is, in its essence, good.

Lindbergh, who devoted her life to humanitarian causes, later came to regret these words. But she wasn’t alone. Many people deceived themselves about Hitler. Many others secretly agreed with him.

Appeasement

Today we have been taught to think of “appeasement” as a kind of cowardice. Most people believe that the “appeasers” gave in to Hitler’s demands, especially at Munich in 1938, and helped to bring on the war. Negotiations between countries today have become much more difficult because neither side wants to be accused of “appeasement.”

The truth isn’t quite so simple. Hitler made many demands in the late 1930s, but the Munich agreement, which gave him parts of Czechoslovakia, was actually a British and French proposal. And it had much public support. “[F]ew causes have been more popular. Every newspaper in Britain applauded the Munich settlement with the exception of Reynolds’ News.” In the 19th and early 20th centuries, many great powers settled their differences by dividing up smaller powers or colonies. You may think this was very wrong, but it was common. British Prime Minister Neville Chamberlain wasn’t an advocate of non-

violence, and the partition of Czechoslovakia wasn't an example of nonviolence or the "failure" of peacemaking. It was, in many ways, a continuation of traditional diplomacy—but even more cynical than most such agreements.

A Dilemma

It's easy to look back and criticize Chamberlain, who proposed the Munich settlement. But at the time, Chamberlain was faced with a terrible dilemma. He couldn't have known what would happen in the future. He couldn't have known whether a "firm stand" would have stopped Hitler. We don't even know that today, though many people assume that it would have. What Chamberlain did know was that his country had been through the most bloody war in history in 1914-1918. The Munich settlement was his way of avoiding another disastrous war. It didn't, of course, work out that way.

When a leader like Hitler is in power, armed with a mass army, there isn't any good solution to the problems he creates. World War II killed over 50 million people and laid waste much of Europe and Asia. It's hard to think of this as good, even though many people do. So it wasn't a choice of a "good" war or a "bad" non-war. *Both* choices were bad because each might have led to great suffering.

It's possible that a different stand by the Allies at Munich would have prevented or postponed World War II. It's also possible that the war would have started sooner if the Allies had threatened Hitler with military force. No one will ever know. What we do know today is that Hitler might never have come to power if the Allies had followed different policies after World War I—for instance, if they'd followed through on their pledges about disarmament and the League of Nations and had helped the struggling Weimar Republic in the 1920s. And we can see how the policies that they did follow laid the groundwork for the crisis of 1938 and the war that followed.

Hitler didn't just happen. Allied policy, including that of the United States, must share a lot of the blame for Hitler's rise to power and the damage that he did.

Even when their policies had failed, the Allies didn't at first see the war as a crusade. Going to war didn't, for instance, stop the Holocaust; and before the war, the Allies had done little or nothing to save the Jews of Europe. Britain declared war when Germany invaded Poland, but "as late as 1940, when France fell, some British political leaders gave thought and utterance to coming to terms with Hitler and letting him be." The United States kept out of the war until the Japanese attack on Pearl Harbor in 1941. Even then, Hitler declared war on the US before the US declared war on Germany.

The Horrors of War

Like most modern wars, World War II was a total war, as described in Chapter 7. It aimed not only at the enemy's armies, but at the people of the enemy's country. So it's not surprising that millions of civilians were killed.

Hitler's armies and his later policies were certainly more cruel than those of the Allies. Hitler ordered the Holocaust. Toward the end of the war, he gave orders for all of Germany to be leveled rather than surrender. And he destroyed himself by his own suicide, and millions of soldiers and civilians by suicidal strategies like his attack on the Soviet Union. At the same time, German soldiers, following policies laid down by Hitler and Himmler, became known for their abusive treatment of prisoners and civilians.

Yet many of the policies of the Allies caused terrible damage—more, according to many historians, than was needed to win the war. The so-called "area bombing" campaign—which today would be called "saturation bombing" or "carpet bombing"—is an example. In 1940, the British set out to destroy German military targets—oil refineries, munitions plants, etc.—by bombing raids. They soon found that, if they flew by day, their bombers would be shot down. And if they flew by night, their bombers didn't have the equipment to bomb accurately. Rather than give up the bombing raids, Bomber Command changed its targets to German cities. This was supposed to break German morale and win the war.

In fact, "area bombing" probably did no such thing, any more than German bombing of British cities broke English morale.

Did the bombers win the war?...The answer...is no. The German armies were fatally defeated by the Russians in July 1943 and at that point the bomber onslaught had barely begun and had caused no decisive damage.

What the bombing did do was kill hundreds of thousands of civilians and destroy hundreds of German cities—many, like Dresden, of cultural but not military importance. The bombing campaign was controversial even during the war. Its critics ranged from pacifists to military thinkers like Liddell Hart. This doesn't, of course, prove that the Nazis were really "good" and the Allies really "bad"—or even that, morally, there was nothing to choose between them. But it shows that, in modern war, nobody's hands are clean. Often *both* sides choose tactics which are morally questionable and may even—as carpet bombing of cities does—violate international law. That is the nature of modern war.

The Holocaust

Many people believe that the war against Germany stopped Hitler's campaign to exterminate the Jews of Europe. And that's true enough. After Germany had been defeated and Hitler had killed himself, the Allied troops liberated the extermination camps. Many of the soldiers wept uncontrollably at what they saw.

What these soldiers did not know was that, before the war and during it, many of the Allied countries did little or nothing to help save the Jews or other threatened peoples like the Gypsies. Before the war,

No country could be found willing to take substantial numbers of Jews; the British barred Palestine to them except in small numbers...: the Americans...require[d] certificates of birth which few German Jews possessed and none could ask for from a German official...: a Bill to permit 20,000 Jewish children to enter the United States was killed by a "patriotic" lobby in the Congress on the grounds that it offended against the sanctity of family ties.

Before the war, no country did very much to help. And the war didn't stop the Holocaust until six million Jews and millions of other peoples—gays, lesbians, Gypsies, Hitler's political opponents, and many others—had died in Nazi death camps.

In fact, after the war began, Hitler's campaign against "inferior" races actually grew more intense, even diverting resources from the war effort. The first concentration camp, at Dachau, had been set up in 1933 to hold not only Jews but Hitler's political opponents. The death camp at Auschwitz was set up in 1939, but it was not until well after the start of the war that the Nazis decided to go ahead with the "final solution." Historians have found no written order for the Holocaust, but it is likely that the decision was reached in January, 1941.

On August 8, 1942, Gerhart Riegner of the World Jewish Congress reported on Hitler's extermination plans to the United States government. At first American officials didn't believe the report. And even after it was confirmed, they didn't try to organize a rescue effort. One critic says,

As [Hitler] moved...toward the total destruction of the Jews, the government and the people of the United States remained bystanders. Oblivious to the evidence which poured from official and unofficial sources, Americans went about their business unmoved and unconcerned.

As the war went on, the death camps worked faster and faster.

What can we make of the Holocaust today? The war didn't prevent it. The war also didn't start it. If there had been no war, the Nazis might have killed or driven out millions of "inferior races" anyway. And Hitler's attempt at killing an entire people (now called genocide)—though it

was the most terrible—was not the first. In the middle ages, Jews were often slaughtered, driven from their homes, and confined in ghettos. Between 1915 and 1918, the Turkish government massacred two million Armenians. And there have been other examples throughout history—including the Americas, where millions of Native Americans have died as a result of extermination campaigns.

One lesson of the Holocaust is that racial hatred is always dangerous. Anti-Semitism had been common in Germany and most of Europe for centuries before Hitler. Hitler wasn't that much different in his thinking from the anti-Semitic composer Johannes Brahms. But he acted ruthlessly on his convictions, and others followed his lead.

Another Hitler Today?

When you're thinking about Hitler, you'll probably ask yourself whether another Hitler is possible today. After all, even if you wanted to fight the historical Hitler, you couldn't. Part of the Cold War was the threat of nuclear war. Even after the end of the Cold War, the major powers are keeping enormous numbers of nuclear weapons. And that makes today completely different from 1939.

Hitler wasn't completely sane. If he had had nuclear weapons, he would probably have used them. In 1939, he could threaten the whole of Europe without nuclear weapons. Today, a Hitler without nuclear weapons would be terrible in his own country but would pose little threat to the world. A Hitler with the US or Soviet arsenal would be a threat such as the world has never known before.

How would you—or anyone, for that matter—stop him? Other countries would probably threaten him with nuclear weapons. If war came, it would be nuclear, and it wouldn't matter very much whether you or anyone else decided to fight. Hundreds of millions would be dead before the armies could march. This would "stop" a new Hitler. It would also "stop" much—probably most—of the human race.

Many people think that a new Hitler is less of a danger to the world than "sane" world leaders with their fingers on the nuclear button. What do you think?

Saddam Hussein and Hitler

After Iraqi troops invaded Kuwait in August, 1990, President Bush called Iraqi President Saddam Hussein "the new Hitler." This made for rousing speeches, but most historians said it was not accurate—that Saddam was in no way the threat to the world that Hitler had been. The Iraqi army was much smaller than the 1939 German army, for one thing, and its weapons were no match for the sophistication and power of the Allied arsenal. And, though Sad-

dam was a terrible dictator who attacked and killed his own people, the destruction he caused was not nearly as great as that of Hitler, or of Stalin, who killed an estimated 35 million people during his rule in the Soviet Union.

There's another major difference between Saddam Hussein and Hitler. Until August, 1990, the West *supported* Saddam, even to the point of supplying him with weapons to help in the ten-year Iran-Iraq War (1979-1989). No one talked about Hitler or the "lessons of history" when discussing Iran and Iraq. Saddam became "the next Hitler" when the President needed to build support for the Gulf War.

Learning from History

The lessons of history aren't always what the speechwriters say they are. As you decide what you're going to do, you need to be skeptical whenever a politician says that history

teaches us this lesson or that lesson. Be skeptical even of the "lessons of history" in this chapter. Ask yourself whether the people who cite the "lessons of history" are telling the truth or merely trying to influence the public.

There's no doubt that many of the world's governments have been headed by dangerous leaders. And many have been totalitarian. Being a conscientious objector doesn't mean that you have to ignore the evils of dictatorship or the dangers of expansionist military policies. In fact, you may find that you're more consistent on these issues than the government. Remember that Saddam Hussein was our "friend" until 1990, when he became "the next Hitler."

We can learn a lot from history. But, in a world of nuclear weapons, shortages, and interdependent nations, history can't tell us much about the future. And it can't tell you what your conscience requires. It's the future and your conscience you need to be concerned about.

Discharge or Transfer?

On October 12, 1945, President Truman gave the Congressional Medal of Honor to Desmond T. Daws. His citation, listing more than half a dozen acts of heroism on Guam, Leyte, and Okinawa, said he had become a “symbol for outstanding gallantry throughout the 77th Infantry Division.” As a member of the 307th Infantry Medical Detachment, PFC Daws had rescued 75 wounded men from the battlefields in Okinawa. Daws was a noncombatant conscientious objector. Other unarmed soldiers have received medals for heroism, and noncombatant COs as a group have received praise from officers and non-commissioned officers who have worked with them.

Training and Duties

Noncombatant duty for conscientious objectors in the armed forces was defined by the President in Executive Order No. 10028, dated January 13, 1948, as follows:

- service in any unit of the armed forces which is unarmed at all times;
- service in the medical department of any of the armed forces, wherever performed; or
- any other assignment the primary function of which does not require the use of arms in combat; provided that such other assignment is acceptable to the individual concerned and does not require him to bear arms or be trained in their use.

The term “noncombatant training” means any training which is not concerned with the study, use, or handling of arms or weapons. DoD 1300.6 states: “Service aboard an armed ship or in a combat zone shall not be considered to be combatant duty unless the individual concerned is personally and directly involved in the operation of weapons.”

Choosing

Although noncombatants serve in many military jobs, ranging from chaplain’s assistant to clerk, most of them are medics. So in deciding whether you should apply for discharge or for noncombatant status, you need to think

about what the military medical services do. And you need to think about whether you can help the military in any job, not just whether you can be a medic.

It’s easy to get tangled up on this issue. Military officials may urge you to apply for I-A-O status. After all, they say, what you really object to is killing—and as a noncombatant you won’t have to kill anyone. That’s perfectly true. But the real issue you have to think about is whether your conscience can accept any military duty at all. Noncombatants are part of the military, and they all, in some way, contribute toward its mission. There’s nothing startling about that. If you worked in a factory, you would be part of a work force whose every member contributed toward the mission of the factory. It’s the same with the military.

As a clerk, for instance, you might have to handle orders which send other people off to combat. As a chaplain’s assistant, you might have to counsel with people, and it might be your job to help them accept the killing that’s part of their job. Or you might even be ordered, while unarmed yourself, to supervise rifle practice; this actually happened to one noncombatant. Many COs can accept and perform duties like these because they’re willing to serve in the military but object to personally killing. But if you think you couldn’t, you should apply for discharge.

The Military Medical Services

Many COs apply for noncombatant status because they think they can perform a humanitarian service in the medical corps. That’s true in one way, but there’s a big difference between military medicine and civilian medicine. Military medicine, according to the military manuals governing it, is concerned not with saving lives, but with conserving fighting strength.

This is perfectly logical. The goal of armies is to win military victories. In combat, soldiers are frequently wounded. If military doctors can save them, they may be able to fight again—and this would increase the military’s combat efficiency. Saving lives and easing suffering are less important in combat medicine than conserving trained manpower.

The military medical services practice a form of triage, or medical sorting. The name, triage, refers to the World War I French system of sorting the wounded into three groups: the slightly wounded, who were treated and returned to duty; the more seriously wounded, who were evacuated behind the lines for treatment; and the hopelessly wounded, who were made comfortable and allowed to die. If medical resources are in short supply—as they are almost sure to be in any combat using modern weapons—military medical staff are required to favor those patients who can be returned to immediate duty rather than the more seriously wounded.

This is the reverse of practice in civilian medicine, where serious cases are treated at once, and minor cases later. Often, of course, medics, nurses, and military doctors don't follow these principles. But combat medicine can place you and other medical personnel in a very hard moral position. Can you be part of a system like this? That's your decision. But it's important for you to understand the differences between civilian medicine and combat medicine. If you don't, you might find you had a lot of trouble performing your duties as a medic.

Your Decision

Chances are you have a good idea already whether you can accept noncombatant duty. But if you're still confused, keep a few rules in mind.

- Don't apply for noncombatant status just because you think it's easier to get. Often it isn't. And if you do get it, you may find that you can't accept it. If you want a discharge, apply for a discharge.
- Don't accept noncombatant status as a "compromise" when you've applied for discharge. The military can't legally offer you such a compromise, but it may happen. Stick to your principles.
- If you have any objection at all to military duty, apply for discharge. And when in doubt, apply for discharge. You'll probably be better off in the long run if you do. There are many COs who find that noncombatant duty is what they want and what their consciences will allow. Others find that only a discharge is acceptable. Which are you? Only you can decide.

The Decision

After you've submitted your application and had your required interviews, your claim will work its way up the chain of command. This can take a short time, or it can take a long time. There's no way to predict. Eventually, though, the military will decide whether to accept or reject your claim. This chapter discusses the military's decision on your claim and what you can do if it is rejected.

Waiting

For many COs, waiting for the decision is the hardest part of applying for CO status. Processing your claim generally takes 6-9 months if you are on active duty, longer—as much as 9-12 months—if you're in the Reserves or ROTC. Sometimes it takes longer. In any case, if you haven't heard anything within two months from the time you put your claim in, you should investigate. Congress members, legal officers, chaplains, or even commanding officers can sometimes help. Your counselor or lawyer can place a few phone calls to various levels in the chain of command—maybe even to the Pentagon—to find out what's happening with your claim.

Even if you've applied for noncombatant status and are already working at a noncombatant job, you'll want to know the outcome of your case. That's doubly true if you've applied for discharge. And while you wait, you may be stuck in a make-work job because your command may not know what to do with you. You'll probably worry a lot, and you may begin to think about refusing to cooperate with the military. Or you may be put in a pretty good assignment. There's just no way to predict.

COs handle the waiting in different ways. Some draw strength from their religious or moral convictions. Others simply grin and bear it. Some go AWOL, apply for another discharge, or refuse orders. You should do what your conscience tells you to do. If you're thinking about violating military law, though, talk to your counselor and read *Resisting the Military* and *Court-Martial and Military Prison* of this book before you do.

Positive Decision

The percentage of claims approved varies from Service to Service and from year to year. Of course, a well-prepared claim has a better chance than a weak one. In the 12 years prior to the Persian Gulf War (1991), more than eighty percent of CO claims were approved. Approval rates were much lower during the War. As this book went to press in 1993, approval rates had remained lower than their pre-war levels, but the long-term effects of the Gulf War were still not clear.

Transfer Approved

If your request for noncombatant status is approved, you'll be asked to sign a statement. By signing it, you say that you are a CO and request assignment to noncombatant duties for the rest of your term. (You sign it only after you get 1-A-O status; you don't have to sign it in order to apply.)

Discharge Approved

Though your Congress member or lawyer can sometimes find out the final decision as soon as it's been made, it may take as long as two weeks for separation orders to filter down to your unit. Once your immediate commander has been notified, you should be out within ten days. The discharge will be Honorable unless you refused to obey orders or refused to wear the uniform while your claim was pending; then you may get a General Discharge (Under Honorable Conditions). The discharge will be for the "Convenience of the Government," but your separation papers will give "conscientious objection" as the reason for discharge.

An Honorable Discharge as a CO is just like any other Honorable Discharge, except that you can't re-enlist unless you decide you're no longer a CO and request a waiver. You'll be entitled to any veterans' benefits you would qualify for with any other discharge. And you'll have it on the record that you are a conscientious objector.

If you were a ROTC scholarship student and did not complete your contractual obligation, the military can

require you to pay back your scholarship money. Repayment is made on the same terms as federal student loans.

You may find that, once you're out, your discharge is only a small part of your new commitment. Many COs do. You may want to help other people facing struggles like yours, become involved in the peace movement, or do some kind of humanitarian service.

Negative Decision

If your application is turned down, you're in a tough position. But before you do anything drastic, make sure that your application has indeed been denied. Some COs believe the statements of NCOs or fellow soldiers who had "heard that your discharge has been turned down." But if that's not true—and sometimes it isn't—you can worry needlessly. So get a written copy of the denial. You have a right to it, and it must state why your application was denied. This is important information if you decide to submit a second application or to challenge the denial in the civilian courts.

Once you've had the bad news in black and white, it's time to make your next move. There are six basic alternatives. It's best to begin thinking about them now, before you've received the military's decision:

- compromise;
- submit a new application;
- file a complaint;
- apply to a Board for Correction of Military Records;
- petition the civilian federal courts for a writ of habeas corpus;
- resist or refuse to obey orders which go against your conscience (see *Resisting the Military*);
- apply for another type of discharge (see *Other Discharges*).

Compromise

There are a lot of compromises you can make after your request has been turned down. Sometimes a person is offered a noncombatant job—even one far from a combat zone—by a commanding officer. If your conscience can accept this, it may work out all right, especially if you have only a short time left before your normal discharge date. But the longer you have left to stay in, the greater your chance that the officer who arranged the job might be

1. The Montgomery GI Bill requires a minimum period of service to qualify for veterans' benefits. If you're discharged early, you may find that you weren't in long enough to meet this requirement. And if you get a General (Under Honorable Conditions), the Veterans Administration will make a determination on your case and might deny you benefits even though in theory you should qualify.

transferred. Or you might be transferred. Then you'd have to decide again what to do. Your cooperation up to this point might make the military and a civilian court doubt your sincerity.

If you object to combatant duty only and you are steadfast in your position, the odds are you will sooner or later be given some kind of noncombatant status (or discharge). But there's no guarantee. The military wants everyone "available for world-wide assignment," which means they may try to pressure you into accepting combatant duty. And you still might spend some time locked up. Many people have been court-martialled, sometimes more than once, for refusing to pick up and use weapons, even though they were willing to accept noncombatant duty. In most cases, such people were finally either classified as noncombatants, or a "gentleman's agreement" was worked out and they were given noncombatant positions without official recognition. But in at least one case an objector to combatant duty was court-martialled and sentenced to three years hard labor and a Dishonorable Discharge for failing to secure his weapon as ordered.

If your conscience can accept nothing but a discharge, you are not in a position to make a compromise—unless, perhaps, it is one which you feel will lead to a quick discharge.

New Application

A number of people have had to submit second applications before gaining CO status. However, it is very difficult to get a second application approved. If...

- you had applied for transfer but now your beliefs have strengthened or changed so that now you have to apply for discharge; or
- you had to refuse orders because of your beliefs or have given some other strong evidence or steadfastness; or
- your first application was not a clear statement of your beliefs and you can write a much better one now; or
- your original position has not changed, but since you submitted your application your beliefs have strengthened because of further exposure to the workings of the military; or because
- you have joined a church or re-established contact with your earlier one; or
- some of your colleagues, perhaps even your NCOs and officers, have become convinced enough of your sincerity that they're willing to write supporting letters

...and you don't mind going through the whole process again, consider submitting a new application.

If you do decide to submit a second application, make sure it is the best application you can prepare at the time. Get counseling, and have your counselor read your first application. Of course, the new application should specifically counter the reason given by the military for denying the first, and if your first application was for noncombatant status and this is for discharge, it should show how your beliefs have changed. Otherwise, the new claim should be a development from the first one, rather than appearing to contradict points made earlier.

Along with the new application, submit a cover letter which lists the ways in which the new application differs from the earlier one. Some of these might be:

- it's more obviously based on moral, ethical, or religious belief;
- it includes the official position of your church on conscientious objection;
- it's for 1-O rather than 1-A-O or vice-versa;
- it contains more specific indications of how your beliefs developed after you entered the military (and after you submitted your first application);
- it presents new evidence of actions and behavior which demonstrate the depth and consistency of your beliefs;
- it includes new supporting letters;
- you've had an offer of alternative service type work when you return to civilian life.

Your second application may or may not be accepted for processing. The DoD Directive says commanding officers may return, without action, second applications which are based upon essentially the same evidence as the previous application. But the DoD does not tell at which level of command this decision is to be made. Any new application must be processed if it is not based upon mostly the same grounds, or supported by about the same evidence, as a first application. People whose second applications are accepted for processing should be given the same kinds of assignment and duties as first-time applicants.

If your first application was not handled right, you can try to get a commanding officer, chaplain, or other official to help you get it processed. Talk with your counselor about whether filing a complaint is a good idea.

Boards for Correction

There's a Board for Correction of Military Records for the Army, one for the Navy and Marine Corps, one for the Air Force and one for the Coast Guard. Acting upon the rec-

ommendation of the Board, the Secretary of each Service "may correct any record of that military department when he considers it necessary to correct an error or remove an injustice." (10 U.S. Code 1552(a)) Application to a Board for Correction of Records is not a very practical remedy in most cases. It often takes two years or more before the Board makes its decision, and during that time, you may be reassigned, you are not exempt from combatant duties, and you must comply with all orders. If you're in the inactive Reserves, however, it can be worth a try.

Habeas Corpus

By far the most effective way of fighting a denial of a CO claim has been to seek "habeas corpus" relief in federal court. A "writ of habeas corpus" is an order from a court to a person who is illegally holding another in any form of "custody." It orders that the person detained be brought before the court to receive whatever remedy is ordered by the court. This is a common way for a person to get out of illegal confinement. In the case of *Brown v McNamara* the civilian court decided that civilian federal courts have the power to:

- review whether the military has followed proper procedural due process;
- determine whether the military has a "basis in fact" to deny the discharge; and

Although effective, habeas corpus action is potentially very expensive because you nearly always have to hire a lawyer to represent you. Contact the GI Rights Hotline for more information.

Resistance

If you refuse to cooperate with the military after you have tried everything or because you can't continue to follow orders or process your claim through administrative channels, you may face court-martial. Or the military may try to punish you in other ways, some of them illegal. Many different things can happen, and you can't predict in any particular case.

Resisting the Military discusses noncooperation in more detail.

Other Discharges

If you've been denied discharge as a CO, you can still apply for and receive discharge on other grounds. *Other Discharges* discusses other discharges.

Other Discharges

Applying for CO status is a long and complicated process. You may want to consider seeking a different discharge that could be processed more quickly. However, the military will usually try to construe any claims for other discharges as evidence of an “ulterior motive” for your CO claim. Be prepared to show in your claim and answer questions at your hearing about why your CO claim is not just a try for any discharge you can get. And be careful that any discharge claims you make don't contradict your CO claim. While this isn't likely, if it happens it could damage your CO claim. And your CO claim is, at bottom, what's most important. It may also be the claim that's most likely to succeed.

This chapter does not deal with the Bad Conduct Discharge (BCD) or Dishonorable Discharge (DD). These are “punitive” discharges which can result only from special or general court-martial. Instead, this chapter talks about “administrative” separations. Conscientious objection leads to an administrative discharge “for the convenience of the government.” But there are several other administrative separations which might apply to you. This chapter may also be helpful to friends of yours who are not conscientious objectors but want an early discharge.

Getting an early discharge isn't easy. Before you try to get any of the discharges described in this chapter, contact the GI Rights Hotline at (800) 394-9544. *This is very important* because the procedures for discharge are often complicated. A counselor can discuss the various discharges with you, help you decide which is best for you, explain procedures, work with you to gather the necessary documents, and support you throughout the process.

Entry Level Performance and Conduct

If you cannot be in entry level status and cannot—or will not—adjust socially or emotionally to military life or cannot meet the minimum standards of your training program, you may be eligible for separation. Entry level status is the first 180 days of active duty (reservists who have recently completed training can call the GI Rights Hotline for information on entry level status for reservists.)

While there is no official way to apply for this separation, you and your counselor can bring your problems to your commanding officer's attention, in the hope that your commander will consider your separation to be in the best interest of the military. But you'll need to act fast. In order to get this discharge, your commanding officer must start the discharge process while you are still in entry level status.

Ask for a meeting with your commanding officer. Discuss your problems and present any poor test results or evaluations. If possible, see a civilian psychologist, psychiatrist, or counselor who can report that military life is causing you anxiety and other troubles which affect your attitude and performance. Clergy members, even a friendly chaplain or medical officer, can write letters on your behalf. All of these will help to convince your command that the military should not spend one more dime to pay or train you.

Hardship or Dependency

You may request a separation if your family or dependents are suffering severe financial, physical, or psychological problems. A few examples are: death of or divorce from your spouse, leaving you the sole parent of a child; disability or death of a parent, leaving others dependent on you for support; or, a long-term physical or mental illness of your spouse which requires your presence at home. There are many other possibilities.

To get this separation you must show that the hardship or dependency is not temporary and has become worse since you entered the military. You must also show that you have tried all possible alternatives to discharge but these attempts have failed and only a discharge can solve the problem.

A “dependent” must be a member of your immediate family and may be your spouse, child, parent, stepparent, sister, brother, or anyone under your legal custody or who depends on you for primary financial support.

One way to begin the process for a hardship separation is to request emergency leave or, if you are already on

leave, a leave extension. This lets you go home to help the situation temporarily and gives you time to gather documentation to support your case. Meanwhile, you or your dependents should contact the nearest American Red Cross to have them verify for your command that you do indeed have a hardship or dependency situation.

You should also contact your Congress member, who has an aide who works specifically on military cases. This aide should be able to assist you if you have trouble getting your command to do something about your request for separation, and can give you other kinds of help. If your command knows that your Congress member is aware of your hardship, they may take you more seriously.

To apply, write a letter requesting a discharge. Describe in full detail the problem and how a discharge will solve it. Say what alternatives to discharge you've tried—for instance, disability assets you have access to. Another alternative might be a special military allotment providing you with a supplement to your regular pay. Show how you were either unable to receive it or how it is still not enough to support your dependents. You will also need to show that there is no one—neither a close relative nor a friend—who could step in and provide the needed support in your place.

Gather letters of support from people who can say that they know you and your family well and know you need a discharge to deal with the problems. Friends, neighbors, clergy members, doctors, social workers, relatives and counselors can all provide such letters. Especially important in financial hardship cases is a letter from a civilian employer stating that you've been offered a job that pays more than you earn in the military.

You will need notarized statements from your dependent(s), reports from physicians or psychiatrists, and copies of any necessary documents (like a death certificate or proof of child custody). If your family is in financial trouble, you will need to make out a budget showing this.

Be sure to make and keep copies of everything. When you are ready, submit your application to the commanding officer of the base nearest to your home and ask to be attached to that base for processing. If your request is denied, contact your Congress member, whose request on your behalf may improve your chances of reassignment.

If your application is approved, you may receive a complete discharge. Or you may be separated from active duty and transferred to the inactive reserves. If your command decides you do have a hardship, but could probably solve the problem without separation, you may receive a "compassionate reassignment" or "temporary duty" closer to home.

Disability

If you have a physical problem which prevents you from performing your military duties, you may qualify for a disability discharge. DoD Directive 1332.18 provides the medical standards for all the armed forces. If your condition is listed in these regulations, you may be "unfit for further military service," or you may have been ineligible to enlist in the first place. You can't formally request this discharge, but you, your counselor, your civilian doctor, or a medical officer can tell the command about your health condition so the discharge process can begin. Even if your condition is not listed in the regulations, you may still be able to make a good case for discharge if you can show that continued duty will make the condition worse or that discharge would be in the best interest of the military.

First, try to see a civilian doctor who can write a report and supply important medical records to support your claim. Take the civilian doctor's report with you to the military medical facilities to encourage them to give you a proper diagnosis. As soon as possible, visit the medical facilities on your base. You will need a medical officer to recommend your discharge. If the medical people won't cooperate, make repeated visits to sick call until they pay attention to you. If the military doctor won't convene a medical board to deal with your case, go to another doctor. The medical board decides whether or not you should be discharged or reassigned.

If your disability existed before you enlisted, you may be able to get a discharge for "erroneous enlistment," discussed below.

If your discharge is denied, you can appeal. The boards for appeal and review of your disability will also decide whether you qualify for disability benefits.

Other Physical and Mental Conditions

The military may discharge you if you have a physical or mental condition that is not considered a disability but could still interfere with your duty performance. Each branch of the armed forces considers different conditions as discharge possibilities. Some examples are: seasickness, bedwetting, airsickness, sleep walking, certain allergies, severe nightmares, severe stuttering, obesity, excessive height, and personality disorders.

If you are feeling depressed or helpless, or out of control, if you can't sleep or can't cope with work or people, if you think about suicide sometimes, you may have a "personality disorder" that could be grounds for discharge.

As with the discharge for disability, you can't officially apply for this discharge, but you or your counselor can bring your condition to your commander's attention. Get a good, strong report from a physician or psychiatrist—

civilian, if possible—who has seen you and is willing to write that your condition makes you unable to function in the military. Supporting letters from relatives, clergy members, psychiatric counselors or social workers, and friends in and out of the military can be of great help.

When you approach your commanding officer, explain your problems, feelings, and symptoms, submit your medical reports and letters, and ask for help. Your commander will probably start the discharge process by setting up an interview for you with a military psychiatrist. If not, you may need to approach the command again with more supporting documents or a direct request for discharge. If the commander will not cooperate, ask to see someone in the next higher level of command, or indicate that you will file a complaint under Article 138 of the UCMJ. You might also contact your Congress member, who can make an inquiry on your behalf.

Homosexual Conduct (Don't Ask, Don't Tell)

The military's 1993 revision of its policy on homosexuality and military service has been subject to varying interpretations by commands, widespread abuses and has been challenged in various courts. If you are being investigated or are planning to come out to the military, contact a counselor at the GI Rights Hotline immediately. If you are questioned by military authorities say nothing and sign nothing until you have received legal help.

A member of the armed forces may be discharged if found to have engaged in or attempted to engage in a homosexual act; stated that she or he is homosexual (unless the servicemember successfully argues that they will not engage in homosexual acts); or married someone of the same sex (unless the marriage occurred in order to avoid or be released from military duty).

If you are gay, lesbian, or bisexual and want an Honorable discharge, get help from a counselor or attorney. The following suggestions will help you get the discharge you seek, while protecting you from prosecution under military law:

- Write a letter saying that you desire to engage in homosexual acts;
- Do not say or acknowledge having engaged in homosexual acts;
- Do not name names; and
- Do not admit to a history of homosexuality.

Applying for a homosexual discharge forces you to come out to family members, friends or co-workers who did not know of your sexual orientation. Because federal law allows certain types of discrimination against gays and lesbians, this type of discharge might affect your ability to get certain jobs or housing.

If your command harasses you, get help from your counselor or attorney and file a complaint under Article 138 of the Uniform Code of Military Justice. Actions taken to punish you could involve a compulsory urinalysis for suspected drug use, investigations of your private life, and more. Even if you don't experience harassment, a lawyer or counselor can help you protect yourself physically and legally and make sure you don't end up with a bad discharge.

Pregnancy and Childbirth

A woman may request separation because of pregnancy or childbirth. To do so, write your commanding officer a letter requesting an honorable discharge and describing how your pregnancy or childbirth makes it important that you be discharged. You may also need a military physician's certification of your pregnancy.

If your request is approved you will either be discharged or separated from active duty and transferred to the Individual Ready Reserve.

Parenthood

If you are a single parent, you might have trouble performing your duties effectively, be absent frequently, or be unavailable for worldwide assignment. This might hurt military "readiness," and you can be separated if parenthood interferes with your work and availability. If this is true for you, discuss the problem with your commanding officer. Don't make a case for how your parenthood has already kept you from doing your duties, because that may lead to a less than honorable discharge. But discuss how much of a problem your parenthood may be in the future and how separation would be in the interest of the military as well as yourself.

Surviving Son or Daughter

Many people think that they could be eligible for discharge because they are the only son or daughter in their family. There is no such provision for discharge.

There is a discharge for a member of the military whose father, mother, son, or daughter was a member of the US military and, after the member enlisted, was either:

- killed in action;
- died in the line of duty as a result of wounds, accidents, or disease;
- was captured or determined to be missing in action; or
- is permanently 100% disabled.

Even for the very few people who qualify, discharge is unlikely unless you act quickly after the death, capture,

etc. of your family member. If you think you qualify, call the GI Rights Hotline to be sure.

Erroneous and Defective Enlistment

Recruiters are often so eager to fill their quotas that they will enlist people who are not actually eligible for enlistment. You may be entitled to a discharge for “erroneous enlistment” if you can show that you were not fully qualified for enlistment, that you yourself did not lie in order to enlist, and that you are still unqualified. You must show that your enlistment would never have occurred if the facts had been known or if recruiting personnel had followed regulations. Some examples of this are: you did not meet the medical standards; your test scores were not high enough but the recruiters changed them to get you in; or you were sworn in by a noncommissioned officer rather than a commissioned officer.

There is another discharge for “defective enlistment agreements.” Suppose you enlisted only because your recruiter promised you a specific kind of training or job assignment—but the military could not or would not give you what the recruiter promised. If you enlisted as a result of such a “material misinterpretation” by a recruiter, you may request a discharge; but you must do so within 30 days after you have discovered the defect.

Compile as much evidence as you can: a copy of your enlistment document (especially useful if the recruiter’s promise appears on the document); notarized statements from family or friends who were “witnesses” at your enlistment or can testify that you would never have enlisted if it were not for the recruiter’s promise; medical records to confirm a medical condition; school records to help contradict strangely high military test scores; and a statement from recruits, friends, or counselors who have had similar problems with your recruiter.

But be sure that the erroneous or defective enlistment did not occur because you knowingly concealed or gave false information. If so, you run the risk of being charged with “fraudulent enlistment” and getting a bad discharge or other punishment.

Gather all of your evidence and submit it to your commanding officer with a letter requesting an honorable discharge for erroneous or defective enlistment.

Unfortunately, such discharges are difficult to obtain due to strict time limitations for claims and the fact that qualifications for enlistment and recruiting promises can be “waived” rather than resulting in discharge. If you believe you have a strong case, but the command is uncooperative, get help from your Congress member.

Under Age

It is illegal to enlist if you are under age 17. But if the recruiter took you anyway, simply provide proof for your age, and your enlistment should be automatically voided. Proof of age can include a birth certificate, a certified copy of your earliest school records, or a notarized statement from the doctor or midwife who assisted your birth.

To enlist people between ages 17 and 18, a recruiter must get written consent from your parents or legal guardian. If you are still 17 and you want a discharge, your parent(s) or legal guardian must request your discharge within 90 days of your enlistment. They should state either that they never gave their written consent (if that is the case) or that they have changed their minds and wish to withdraw their consent. If more than 90 days have passed since your enlistment, you may still be able to get a discharge if you can show that you protested your enlistment early on, but were told by military superiors that a discharge would be impossible; that your parents did not know you enlisted; or, that your parents did not know an early discharge was possible for you.

Unsatisfactory Performance

You may be talented and intelligent, but just not cut out for military life. Is it unlikely that you’ll make it through any further training? Have you no potential for military advancement or leadership? Do your evaluations show that you can’t keep up to the “standards” of your military job? Are you financially “irresponsible”? Unsanitary? If you answer “yes” to any of these, you may qualify for separation. But by bringing your unsatisfactory performance to your commander’s attention, you risk a discharge for misconduct, which may be less than honorable and can result in a loss of veterans benefits. However, if you make it clear that your attitude and performance are not intentional or your fault, you might be able to get an Honorable discharge. If you are in entry level status, you will receive an Entry Level Performance and Conduct discharge.

Your military service record may provide much of the documentation you need for this separation, especially if it contains low evaluations, poor aptitude and test scores, and records of counseling or unsuccessful attempts at rehabilitation. Help your case along by getting an examination with civilian or military psychiatrists who can report on your problems with work and life in the military. Give your command any such reports, and ask sympathetic clergy members, medical officers, or other professionals to submit letters explaining how a discharge would be best for both you and the military. Once your command has all of this material, request a meeting to discuss it. If your commander refuses to deal with it, consider going to the

next level of command or getting help from your Congress member.

Misconduct

A misconduct discharge can result from a pattern of minor disciplinary infractions, a serious military offense, or a conviction by civilian authorities. Common misconduct offenses include drug use and unauthorized absence. If you're thinking of trying to get out for misconduct, you're taking a big risk. Most offenses resulting in a misconduct discharge are also punishable by court-martial, and you could wind up in prison with a bad conduct or dishonorable discharge.

If your command wants to give you a misconduct discharge, the commander must first try to "rehabilitate" you—give you another chance. If the command still decides, against your will, that you should be discharged, you can challenge it. You have the right to a lawyer and to an Administrative Board hearing where you can explain your behavior or defend yourself against unfair accusations. The hearing officers and NCOs will decide if you should be discharged, and what character of discharge (Honorable, General, or OTH) to recommend. Miscon-

duct discharges are usually Under Other Than Honorable conditions.

Separation In Lieu of Court-Martial ("For the Good of the Service")

If you have been charged with an offense for which you could be given a court-martial (like AWOL or UA), you may request an administrative discharge instead of ("in lieu") of court-martial. This discharge will most likely be Other Than Honorable, which means you will probably lose your veterans benefits and may have problems getting a civilian job. But these, or worse situations, could also result from a court-martial. Although you will get a military lawyer, try to talk with a civilian attorney and find out how good your chances are at winning the court-martial.

A request for "separation in lieu of court-martial" does not always result in discharge, and you may have to admit your guilt when you make the request. If your request is turned down, your command could possibly use that admission of guilt against you, so it's risky. But so are the ordeal of court-martial, possible imprisonment, and a bad conduct or dishonorable discharge.

Resisting the Military

Applying for a CO discharge doesn't excuse you from performing military duty, wearing a uniform, or following legal orders. Until you're discharged, you're subject to military rules. Once you submit your CO application, however, the military must, if it can, assign you to duty involving "minimum" conflict with your beliefs. For details, see *Processing Your CO Claim*. Your new assignment won't mean you can't be sent out on a combat ship or to a war zone. This can make waiting for a decision on your claim very difficult. During your CO processing, you may decide that you can no longer cooperate with the military. Noncooperation, sometimes called resistance, takes many forms. Some people refuse to work, obey orders, or wear their uniforms. Others simply go AWOL or UA. People resist for many reasons. Some want to cooperate with the CO process but find that they can't compromise as much as they had thought. Others become so frustrated with delays in processing that they feel they must resist. Some cooperate through the entire process but are turned down and then find they can't go along. Some even refuse to apply for CO discharge.

One form of resistance which all COs can do is to speak out against the military. This can mean anything from talking with co-workers about your beliefs to engaging in anti-war demonstrations. Each of these actions is a valid expression of conscientious objection. But each also has risks which you should be aware of. If you're thinking about resistance, talk with your civilian counselor first. You may find that you can avoid some problems by planning ahead.

Problems in Your Processing

Assigned Work While Your Claim Is Being Decided

Think about which job in your command you would feel least uncomfortable doing while you're waiting for a decision on your claim. Then you can go to your command with a job to suggest rather than having them simply assign you. This can help you avoid duty you can't perform in good conscience. Even if your request is turned down,

your making it will mean you can file a complaint against your commanding officer. And you might be able to use your commander's decision as a defense if you're court-martialled for refusing to work. If you can't agree to perform any of the jobs in your command, you might consider requesting a transfer to a command which has work you can accept. COs have often been assigned as chaplain's assistants during the processing of their claims. You might explore with the chaplain and your command whether such an assignment would be possible for you.

Your Case Is Taking a Long Time to Decide

If the military is taking too long to decide your case, you may be able to speed things up by getting help from your counselor or your member of Congress. Counselors and members of Congress may also be able to help you solve other problems before you risk non-cooperation.

What is "too long"? Army regulations say that under normal circumstances a CO claim should be forwarded to the Department of the Army for final determination within 90 days of being submitted. If the processing takes more than 90 days, the general court-martial convening authority must explain why it took so long. While these standards aren't binding on any other branch of the military, they can help give you an idea whether your claim is being delayed too much.

Filing Complaints

Article 138 of the UCMJ gives you the right to file complaints against your commanding officer if he or she has wronged you. If you can't avoid or informally solve a problem related to your conscientious objection, you might consider filing an Article 138 or other complaint.

Your Claim Has Been Denied

You have several choices if your claim has been denied. You can apply for another discharge, make a second application for CO status, or take your case to federal civilian court. Consider these options before you make a decision to resist. For details see *The Decision*.

The Risks of Non-Cooperation

If you can't solve your problem in any other way, you may decide that resistance is your only choice. You might also decide that it is the only course of action consistent with your beliefs. If you decide to resist, what risks would you face?

Non-Judicial Punishment (NJP) or Court-Martial

Refusing to follow orders, going UA or AWOL, or refusing to wear your uniform are all violations of the UCMJ and could result in nonjudicial punishment (Article 15s, Captain's Mast, or Office Hours) or even court-martial. Even though your actions result from your CO beliefs, you could be sentenced to prison and a Bad Conduct or Dishonorable Discharge. The Court of Appeals for the Armed Forces has held that, in most cases, CO beliefs are no defense to court-martial charges. Once you have been charged with a violation of the UCMJ, the military may stop processing your CO claim until your court-martial or NJP, including all appeals, is over and you have either been acquitted or finished serving your sentence. Even if they continue to process your claim, they will not discharge you as a CO until your case is over and you've served your sentence, if any. If you are convicted by a special or general court-martial, you could be sentenced to a Bad Conduct or Dishonorable Discharge. Unless your conviction is reversed or your sentence changed to remove the bad discharge, you will *never receive* a CO discharge. A Bad Conduct or Dishonorable Discharge will keep you from receiving veterans benefits.

If you are court-martialled but not sentenced to a discharge, or if you are acquitted, the military will again consider your CO claim—unless they decide to give you some other administrative discharge.

Other Administrative Discharges

Rather than court-martial you or subject you to NJP, the military may simply discharge you using an administrative discharge other than CO. For instance, the military may discharge you if they determine that it is in their best interest. The discharge you receive would probably be either an Honorable or General Discharge. If the military wants to give you an Other Than Honorable Discharge, you will have the right to an Administrative Board hearing. The military might decide to give you an administrative discharge even if you are court-martialled and acquitted. The military will often, but not always, give administrative discharges when a person's noncooperation has been made an issue by the news media. In many cases they would rather quietly discharge someone than court-martial him or her and receive bad press coverage. In other

cases, however, publicity can actually cause them to treat you more harshly, especially during a war or mobilization. (See *If There Is a War...*)

VA Benefits

When you apply for CO discharge, you must sign a statement saying you understand that if you are discharged as a CO who has disobeyed lawful orders, refused to perform military duty, or refused to wear the uniform, you will not receive VA benefits. This law affects only COs who are noncooperators. It doesn't affect most people because most people don't resist. Those who do are usually discharged not as COs but on other grounds.

However, should you be given an NJP or be court-martialled for refusing to wear your uniform, obey a lawful order, or perform military duty, and still receive a CO discharge, you would be deprived of VA benefits. Going AWOL or UA is not considered refusing to perform military duty, disobeying a lawful order, or refusing to wear the uniform. So if you go AWOL or UA you should not be deprived of VA benefits under this law.

The Benefits of Resistance

While there are definite, serious risks involved, sometimes non-cooperation has positive results. Nicholas Patrick received a General Discharge (Under Honorable Conditions) after he refused to work or eat. Patrick's CO claim had earlier been denied six months after he had submitted it to the Navy. After the denial, he continued to perform his job. Four months later, attack planes from his aircraft carrier went out on a bombing mission over Lebanon. Patrick could cooperate no further. Although he was charged with UA, dereliction of duty, and failure to obey a lawful order of a senior commissioned officer, the charges were later dropped, and he was discharged.

"Free" Speech in the Military

You have the right to discuss your beliefs with your co-workers. Talking about your beliefs can have several beneficial effects. If the people you talk with believe you are sincere, they may be good witnesses at your Investigating Officer hearing. You might even get other people thinking about becoming COs themselves. Your talking might encourage the military to process your claim quickly—especially if they think you're infecting others with the "CO bug." However, there is a real chance that you will be harassed for talking about your beliefs. A superior officer or NCO might take it upon him or herself to try to pin as many infractions on you as possible in hopes of building a case for some other type of discharge or punishment.

You also have the right to possess any printed material (this book, for instance). Even possession of unauthorized printed material cannot be prohibited. The military can take away unauthorized material only if they think you are going to distribute it. But they can't do this just because the material you're going to distribute criticizes government policy. At one time, anti-war "underground" newspapers were common on US military bases. These papers were published by enlisted people and even some officers. Publication of such papers is not prohibited, but you must work on them off hours and off base. You may not use government property (such as government pens) to write or produce the paper. Unless you are stationed overseas, it is legal for you to participate in demonstrations. You must be off duty and out of uniform when you do so, and the demonstration must be nonviolent and legal. If you're stationed overseas, the regulations do not allow you to participate in demonstrations.

Federal Court

If your CO claim has been turned down, you have the right to go into federal civilian court to ask for a writ of habeas corpus. See *The Decision* for details. If you resisted the military after your CO claim was turned down, the writ of habeas corpus will also wipe out your military conviction and stop all punishment under it. If you are being court-martialled for non-cooperation which occurred after your claim was denied, it is important to go to federal court before you are actually discharged from the military. After you've been discharged, you cannot file for a writ of habeas corpus. You would have to petition the Board for

the Correction of Military Records or the Discharge Review Board for your branch of the military and ask them to upgrade your discharge to a CO discharge. If denied, you could then file a case in federal court. In some cases, a federal court might issue you a writ of habeas corpus even though your CO claim was not formally turned down. For instance, if the military is taking an exceptionally long time to decide your case, the court might decide that you really have been denied because they have been taking so long.

You do not have to resist to file for a writ of habeas corpus. You just have to have your CO claim wrongly turned down. Federal court is not a sure answer to having your CO claim wrongly denied. A court may rule that denial was lawful, and therefore not grant the writ. If this happens, you will remain in the military. If you were given a bad discharge or other punishment for resistance which occurred after the denial of your CO claim, the punishment will be enforced unless it is modified by the military—for example, by court action or clemency.

It's also possible to ask a federal court to restrain the military from requiring you to perform duty or follow orders which conflict with your beliefs. Such a court order would be based on the military's duty to assign you to work which least conflicts with your beliefs while your CO claim is being decided. For this reason you must already have filed your CO claim before you can use this remedy.

Court cases always depend on the specific facts of each case. For this reason, it is important to have experienced lawyers evaluate and present your case. Call the GI Rights Hotline for more information.

Court-Martial and Military Prison

Few COs are court-martialled in peacetime, and still fewer are sentenced to time in the brig or stockade. (For more on what may happen in time of war or mobilization, see *If There Is a War...*) But if you refuse to cooperate with the military, there's a chance that you will be court-martialled and imprisoned. How much time would you be facing, and what would it be like?

WARNING. If you are facing possible court-martial or non-judicial punishment, don't rely on this chapter alone. Talk with your counselor or attorney, or contact the GI Rights Hotline at (800) 394-9544.

Length of Imprisonment

How long you might be imprisoned depends more on the type of court-martial you face than on the crime you are charged with. The Uniform Code of Military Justice (UCMJ) specifies maximum punishments for each crime, but not all military courts can give you the maximum punishment. For instance, if you're charged with disobeying an order of a superior commissioned officer (a violation of Article 90 of the UCMJ), you could in theory be sentenced to five years' confinement at hard labor and a Dishonorable Discharge. In practice, your sentence would depend on which court you faced. Here are the punishments which the courts could actually impose:

- *Non-Judicial Punishment:* NJP, strictly speaking, is not a court-martial. Punishment by NJP is not considered a criminal conviction or criminal record. But it's one of the ways you could be punished for refusing an order. If punishment is imposed by an officer of the rank of major or lieutenant commander or above, the maximum confinement would be 30 days. If punishment is imposed by an officer of lower rank, the maximum confinement would be seven days. An NJP cannot sentence you to a punitive discharge.

- *Summary Court-Martial:* The maximum punishment is one month confinement at hard labor. A Summary Court cannot sentence you to a punitive discharge.
- *Special Court-Martial:* The maximum punishment would be six months confinement at hard labor. A Special Court cannot sentence you to a punitive discharge.
- *BCD Special Court-Martial:* The maximum punishment would be six months confinement at hard labor and a Bad Conduct Discharge.
- *General Court-Martial:* A General Court-Martial may impose the maximum punishment allowed by the UCMJ—in this case, five years confinement at hard labor and a Dishonorable Discharge.
- *Other Types of Punishments:* Courts-martial may also punish you with hard labor without confinement, reprimand, restriction, pay forfeitures, reduction in rank, detention of pay, and fine. In the same way that there are limitations on each type of court's ability to sentence you to confinement, so too there are limits on these other types of punishments. See a military counselor or attorney or call the GI Rights Hotline for more information.

What Kind of Punishment?

When the military threatens you with punishment they usually won't tell you what words like "hard labor" actually mean. Here are some definitions that you should find helpful:

- *Hard labor:* This is simply the usual tasks that low-ranking enlisted people perform, such as mopping floors. A lot of it may be make-work.
- *Restriction:* If you're on restriction, you're not allowed to leave the base or certain areas of the base. You must "report in" several times during the day. But you'll perform your normal work.

- *Forfeitures*: If you're sentenced to forfeitures, you won't be paid all or part of your salary for a certain period.
- *Detention of pay*: If you're sentenced to detention of pay, your pay will be withheld for a certain period of time.
- *Confinement*: Imprisonment in the brig or stockade.

Officers

The maximum punishments discussed above apply only to enlisted people. Courts are limited even more in how they may punish officers. For instance, only a General Court-Martial may sentence an officer or warrant officer to confinement at hard labor.

Life in a Brig or Stockade

Most COs who are court-martialled and imprisoned are tried by BCD Special Courts-Martial. This means that the maximum length of their confinement is six months. For most, it is much less. This is because courts don't often sentence people to the maximum and because the possibility of parole and clemency further shortens the actual time.

Leslie Cole, for instance, who had refused to wear her uniform or perform any work, was convicted in the late 1970s of eight counts of failure to go to appointed place of duty; four counts of disobeying orders; and one count of failure to obey a general order or regulation. If she had been tried by a General Court-Martial, she could have been sentenced to a total of four years, eight months in the brig and a Dishonorable Discharge. Instead, she was tried by a BCD Special Court-Martial and was sentenced to two months confinement, forfeiture of three months pay and \$375.00, and a Bad Conduct Discharge. She was released after 6 1/2 weeks when the federal civilian court in Baltimore granted her a writ of habeas corpus. Although the court's decision was overturned on appeal, Leslie did not have to serve more prison time. However, if

there is a war, a court-martial may impose harsher sentences.

Being in a military prison is like being in the military, only more so. In terms of regimentation, restriction, arbitrary authority, and your own sense of meaninglessness and powerlessness, life in military prisons is somewhat worse than military life.

- *Isolation*: Perhaps the worst thing about being in prison is isolation from your family and friends. There are limitations on how often they can visit. They probably won't live near where you are confined, so they won't be able to visit you very much. Mail to and from them will be examined. Even finding out about your case may be difficult at times.
- *Harassment and Violence*: Your guards and fellow inmates will all be military personnel. Most of them probably won't understand your CO position, and some may even consider you a traitor. You may experience harassment for this. Violence is common in prison. This isn't surprising. And it can be frightening. Rape does occur, and threats of violence more often than rape. Most COs learn to cope with these threats, but making the adjustment can be hard.

Prisoner Visitation and Support

If you are sentenced to confinement, you may want to have a visit from a visitor from Prisoner Visitation and Support. PVS is a nationwide program for federal and military prisoners. Authorized by the Federal Bureau of Prisons and the Department of Defense, and sponsored by 35 national groups, PVS has volunteers across the US who regularly visit prisoners. These volunteers live near a particular prison and have access to any prisoners in that facility. PVS visitors do not do any legal work or military counseling. They simply offer friendship and trust to prisoners and communication with the outside world. The PVS national address is: PVS, 1501 Cherry St., Philadelphia, PA 19102.

If There Is a War...

This book describes the CO processing and discharge provisions as they should work and as they normally work in peacetime. Even in time of war or mobilization, you *should* be able to apply for CO status or for discharge, just as you can when the US is not at war. But, in wartime even more than in peacetime, you can't rely on the military to process your claim fairly—or even to process it at all. This Appendix briefly describes problems that COs encountered during the Persian Gulf War (1991) and steps you can take to protect yourself if you are caught up in a mobilization.

The “Stop-Loss” Provisions

A little-known provision of Title 10 of the United States Code gives the President the authority to suspend military discharges, transfers, and promotions. Until the Gulf War, no President had used this power, but at the beginning of the mobilization for the War, the White House did. An Executive Order authorized the Department of Defense to freeze discharges, transfers, and promotions. The result was a series of directives, many of them contradictory or confusing, known collectively as “Stop-Loss.”

The details of the “Stop-Loss” provisions are not important now that the War and the mobilization have ended. But these provisions had four major effects which you need to know about:

- Different commands interpreted the directives in very different ways. If you had applied for CO status in one unit, for example, you might have been told that the CO provisions had been abolished; while in another unit, military authorities might have accepted your claim but held it without processing. COs whose claims were returned often became discouraged and sought other discharges, only to be told that nobody could apply for those discharges either. Or they might have given up on their claims and simply gone AWOL or refused to deploy as ordered.
- Applications submitted after the issuance of the “Stop-Loss” orders were four times as likely to be denied as those submitted before the orders. This means that if it appears you might be caught up in a

mobilization, you will need to decide and act quickly so that, if possible, you can have your application in before the mobilization actually begins.

- Reserve commanders, who were under pressure to deliver complete units as ordered, were often particularly reluctant to process CO claims—and other discharge claims as well.
- When some federal courts ordered the military to accept CO claims, military officials directed that CO applicants who had received deployment orders would have to report to their next duty stations before their applications could be accepted. For most COs, this meant reporting to the combat zone in Saudi Arabia, which most found unacceptable. The new directive was a change from previous procedures under which most COs were held at their original duty stations while their claims were processed.
- Throughout the mobilization and the war which followed, military discharge policies were confusing for officials and discharge applicants alike. Sometimes nobody knew how to handle a particular case, but more often officials cut through the confusion by refusing all discharge applications—and particularly CO applications. COs were viewed as cowards and shirkers.

“Stop-Loss” caused so much confusion and so many problems for the military that it is unlikely to be repeated without some changes. But the history of the Gulf War mobilization shows that the government has a great deal of power over discharges. You need to protect yourself at all times when you're seeking CO status, but in wartime you need to be especially careful and keep especially good records.

Treatment of Conscientious Objectors

Aside from the problems they had in applying for discharge, COs faced unusual harassment during the Gulf War. Many refused orders on grounds of conscience and faced court-martial, where they received sentences ranging from \$25,000 fines to as much as 30 months' imprison-

ment. The average sentence among 22 COs adopted as “prisoners of conscience” by Amnesty International was just over nine months in prison. Those who served time were often treated more harshly than other prisoners.

Some COs who refused to follow deployment orders were literally carried to Saudi-bound aircraft. One CO known to CCCO and adopted by Amnesty International was, in effect, handcuffed and kidnapped. Although there were few such incidents, physical abuse was always a possibility for those who resisted the war.

Physical maltreatment of COs was far less common than refusal to process claims or, where a claim was processed, denial of the claim on illegal grounds. Even after the war, the CO Review Boards continued to deny a much higher percentage of CO applications than they had previously done in peacetime. Their reasons for denial were often “boilerplate,” which is legal slang for a standard phrase or cliché, often having little to do with the claim that was denied.

Protecting Yourself

The Gulf War was a very bad time for COs (and for other military people, like those with family hardships, who needed discharges). As this is written, in 1993, it is too early to tell what their long-term effects of the War will be on COs. And what happened in the Gulf War doesn't predict what will happen in the next war or mobilization. Things may be better or worse in the future; we just don't know.

What you can learn from the Gulf War is to be especially careful if you find yourself applying for CO status during a war or mobilization. Be sure to follow the steps outlined in *Protecting Yourself*. You should do this whenever you apply. You should also take extra precautions. Here are some suggestions:

- **Before you take any steps, contact the GI Rights Hotline at (800) 394-9544.** We will try to help you find a counselor or give you counseling over the phone, by mail, by email, or by fax. Keep in mind, however, that during war or mobilization, we receive literally hundreds of phone calls per week (or even per *day* in some cases). If you can't get through, keep trying.
- **If you discuss a possible CO claim with your supervisor or commanding officer, make a written record of the conversation.** If you're told that CO claims have been abolished or suspended or that the command won't accept a claim, this record may be the only written evidence that you were turned away before you had a chance to apply.

- **Make sure your personal records of your case are in a safe place.** This is standard procedure when you apply for CO status, but it's doubly important in wartime. Send copies of your CO papers, including records of conversations with supervisors, to your civilian counselor and members of your family.
- **Use your Congressman throughout the processing of your claim.** Send copies of all your papers to him or her, along with a letter explaining what you are doing. Intervention from your Congressman will be more useful if his or her office has full records of your case.
- **Consider filing complaints under Article 138.** If your command refuses to process your CO claim, harasses you because of your beliefs, or is uncooperative in any other way, you may have grounds for a complaint. If you file a complaint or a series of complaints, you put the military on notice that you know your rights and will not stand by when they are violated. Article 138 can be a very powerful weapon. There may, however, be situations where filing a complaint will do more harm than good. Before you decide, talk with your counselor.
- **Consider going public with your case—but with caution.** Some COs during the Gulf War found that the publicity given their cases caused them additional trouble with the military. On the other hand, publicity can often force the military to back down or compromise in a difficult case. In general, it's best to try every available remedy—such as Congressional intervention and Article 138 complaints—before going public. If you've tried everything and the military still won't process your claim or is still treating you unfairly, you will look better and the military will look worse when you do go public.

The previous paragraph talked about going public as a *tactic*, not as an essential part of your stand. If going public is an essential part of your stand, don't be deterred from doing so by tactical considerations. But do think carefully about when you should go public, how best to do it, and what is likely to happen if you do. Then you'll have some idea what you are getting into, whatever decision you make, and you'll help to increase the effectiveness of your stand when you do take it.

Publicity can be a very powerful force, but it can also hurt you if not used well. Before you go public, talk with your counselor, your family, and others whose opinions you respect. And keep in mind that *you* decide when and whether to go public. If you don't want to do so, you don't have to. It's your life and your conscience that are at stake—no one else's.

Should You Apply?

There is little or no hard information on maltreatment of COs whose cases never got to court. Reports from counselors throughout the United States indicate that physical abuse of COs, while it did happen, was rare. The most common problem for Gulf War COs was being turned away because of the “Stop-Loss” provisions. Other forms of petty harassment, like “losing” pay records or writing COs up for petty or nonexistent offenses, were less common than COs feared, though they did occur in some cases. COs in peacetime, however, also encounter this kind of harassment. Your best defense is to know your rights and to make sure you have outside civilian support. For more discussion of harassment, see *Resisting the Military*.

The Gulf War experience doesn't give much clue as to what might happen in your case in a future war. You should, however, consider applying for a lot of reasons. When you seek Congressional intervention, the fact that you applied or tried to apply will show that it is the military and not you who is failing to follow the rules. And if you decide to go public, you will get a more sympathetic hearing if you can show that you've tried everything and the military has just refused to listen.

The primary reason why you should consider applying, however, is that if you don't apply, you will have no chance whatever of getting a CO discharge. The military won't conclude that you are a CO and offer you a discharge. You have to take the initiative. And if you don't apply, you

won't have very strong grounds for going to federal court—if you have any case at all. If you want to fight your case in court, you must first use the remedies that are available. That includes applying for CO status.

A Final Word

There is no way to tell what might happen in the next war or mobilization. What we know for certain is that the situation can change very quickly—as it did during the Gulf War. You have no control over world events or command decisions, but you can control your own decisions.

If you're reading this during peacetime, or during wartime, many of the same general rules apply: Decide where you stand and what you must do. Get civilian help. Stand by your beliefs as strongly as you can. And take steps to protect yourself at all times.

In wartime, the need to decide is more urgent, and you may face problems that you wouldn't face in peacetime. But you can still get outside support, and you still have rights under the law. You can't be sure that the military will treat you fairly because you can't control the military. By knowing your rights and getting help, however, you can make it less likely that the military will abuse you either physically or mentally.

In the long run, by taking a stand as a CO, you are standing for a better, more peaceful world—and you are saying that peace begins in each person's heart. That's a powerful statement. You can draw great strength from it. Many others have.

Questions Asked COs

You will be asked many questions during your required interviews. Your interviewers may be friendly or hostile, straightforward or apparently friendly but bent on tripping you up.

Make your answers straightforward and sincere. You don't have to convince your interviewers that you are right—only that you really believe what you say you believe. If you don't have a good answer in your own mind, it's all right to say that you haven't arrived at an answer for a particular question. Nobody knows all the answers.

The questions below are real. They have been asked, along with thousands of others. You won't be asked all of them. You may be asked none of them. But you, your counselor, and your friends can use them to prepare for your interviews, or to help in preparing your CO statement.

Nature of Belief

- Do you doubt that God exists?
- Is your conscientious objection to war deeply rooted in your own free thinking and personal opinions?
- How can you say that your belief is religious?
- Is your objection to killing or being killed?
- What does your church say about war?
- Why do most members of your church support military force?
- Where in the Bible do you find anything which forbids you to defend your country?
- Why did Christ say, "He that hath no sword, let him buy one," "Render unto Cæsar that which is Cæsar's," and "I came not to bring peace, but a sword"?
- What would you do if God told you to defend your country?
- How do you explain all the wars in the Old Testament?
- Do you think America's millions who killed and died in wars were immoral to kill?

- How about the Christian doctrine of approval for just wars?
- Is it ever an honor to die for your country if you die keeping the enemy from conquering it?
- Do you think that combat soldiers who believe they serve God in serving their country are misled?
- Can no war be just and necessary regardless of the situation?
- Do you believe in Romans 13:1-8 of the New Testament, in which it states that God ordains the governing authorities to be servants of God for the good of the governed?
- Is there any possibility at all that your CO application comes out of a feeling of uncertainty, insecurity, or fear of military hardships?
- Why are there no atheists in foxholes?

Why Not 1-A-O?

- Does God love that dying American infantry soldier on the battlefield? Would he want someone like you to try to save his life? Does "loving one's neighbor as oneself" ever include being a medic?
- Would it be a high honor for you to die for our country if you did so while helping to save the life of a dying American soldier?
- Can you say that a medic helping a dying soldier is an immoral act and can never be an expression of God's love?
- If you don't believe in killing, why let a wounded soldier die?

How, When, and from Whom or What Source?

- Do you respect and follow the religion of your parents?
- Did you arrive at your decision to apply for CO by your own personal ideas alone?
- Did books you read have most to do with influencing your request for CO status?

- Since you say you have been a CO for only two months, might your conscience not change back again two months from now?
- Who helped you prepare your CO application? Are these really your *own* beliefs?

Use of Force

- Do you honestly think the Armed Forces should be abolished?
- What method would you use to resist evil?
- Would you forcibly restrain individual law breakers?
- Would you use force to preserve anything you believe in?
- Would you use force to prevent a maniac from killing an innocent person? From killing you? From killing himself?
- Wasn't Hitler a maniac?
- Can't non-destructive force, such as strikes and boycotts, be just as painful and destructive as physical violence?
- If someone were attacking your mother, would you try to stop him or would you call the police?
- Didn't Jesus use violence in driving the money-changers from the temple?
- Do you think the federal government was right in using military force as it has in riots, disorders, and racial strife?

- Do you think blacks are justified in using self-defense?
- Do you believe in the kind of force the police often have to use to stop killer criminals from murdering others?

What Have You Done?

- Are you trying to influence others to become conscientious objectors?
- How can you *prove* you're a CO?
- What will you do if your application is denied?

And Some Other Questions

- Why do you take your place in a society organized by force and then refuse to fight its wars?
- Why do you pay taxes?
- If you really believe these things, why can't you just write a book or speak out about your beliefs after you finish your enlistment? Wouldn't people have more respect for what you have to say knowing that you served your country?
- Aren't you bringing a great deal of dishonor on your family?
- Do you think the authority of your conscience is much more reliable than the consciences of most Americans?
- Do you realize that you are helping to destroy this society?

Supporting Letters for Conscientious Objectors

Letters in support of a conscientious objector claim may be written by anyone who knows the applicant (including friends, co-workers, teachers, family, members of their faith, etc.). Letter writers need to understand the requirements for receiving CO status and the role supporting letters play in attesting to an applicant's sincerity.

Laws And Regulations Regarding Conscientious Objectors

Members of the military who develop a "firm, fixed, and sincere objection to participation in war in any form or the bearing of arms," based on moral, ethical, or religious beliefs, are entitled to discharge from military service or transfer to non-combatant status. An applicant for conscientious objector status must submit a written application, and be interviewed by a chaplain, military psychiatrist, and investigating officer. The written application must describe:

- The nature of the applicant's beliefs about participation in war;
- How those beliefs changed or developed since entering the military;
- When and why the applicant's beliefs prevented him or her from continuing to serve in the military; and
- How the applicant's daily lifestyle has changed as a result of his or her beliefs.

A conscientious objector must:

- Have a firm, fixed and sincere objection to participation in war;
- Object to participation in war in any form;
- Base the objection in strongly held religious, moral, or ethical beliefs; and
- Base the objection in beliefs that arose or became central to the applicant's life after enlistment.

While the applicant must object to all war — not solely to a war that might be going on at any given moment —

they need not know what they would do in the future or would have done in the past. A CO does not have to belong to a religious sect, and need not believe in any kind of Supreme Being. If he or she is not religious in the conventional sense, she or he must show that the beliefs that form the basis of their objection are as important in their life as those in the life of a religious CO. The applicant's conscientious objection must have "crystallized," or become definite, *after* enlistment. It's okay if he or she had strong feelings against war before, but those feelings must have become objections for them to qualify.

Once an applicant demonstrates that their beliefs conform to the accepted definition of conscientious objection, the applicant must demonstrate that their beliefs are sincerely and strongly held. Letters of support are the best evidence of an applicant's sincerity and serve as testimonials to how strongly their beliefs are held.

Effective Letters

Supporting letters are important to document the applicant's general sincerity and integrity and to corroborate the specific events and dates that are cited in the applicant's claim. It is very helpful you have talked with the applicant about their CO beliefs or read their application. If you do not know the CO's beliefs firsthand, you can still write about the applicant's sincerity and general good character.

A personal letter, using your own words, is more convincing than one which uses legal phrases. Details about particular conversations or events, particularly if they corroborate the written application, provide compelling evidence of the applicant's sincerity. Specific incidents and exact words are most convincing. Try to express why you believe her or him. If you have had a part in the applicant's upbringing, or have discussed their beliefs with them, mention this.

The form of the letter is up to you, but typed letters, especially on letterhead stationary, of one to three pages, are most likely to be read. Address the letter to “The Commanding Officer of [the name of the applicant, including their service number if possible].” The letter, while addressed to the commanding officer, must be delivered to the applicant to be included in their application. The applicant may ask you to revise your letter to support key evidence in their application. Make sure to keep a copy for yourself.

You may not agree with the applicant’s beliefs but still believe they are sincere. Often a letter from someone who disagrees with the applicant’s position but believes in the applicant’s sincerity, is given high consideration. If you agree with the applicant’s beliefs, avoid arguing against the military in your letter. It is the applicant’s sincerity that needs to be supported — a buttressing of their arguments is not necessary.

It is perfectly legitimate for members of the military to write a supporting letter — many high-ranking military

men and women do so every year. After all, you are writing about a friend, relative, or associate, not about yourself. If you have ever served in the military, please state that in your letter.

Begin the letter by stating who you are and your relationship to the applicant, including how long you have known them. Discuss as many of the following three topics below as you feel capable of addressing:

- The applicant’s sincerity.
- Your knowledge of the experiences, and discussions, that played a role in the development of the beliefs that are the basis of the applicant’s request for conscientious objector status.
- The point at which the applicant’s beliefs “crystallized” into a firm objection to participation in war.

The applicant may request that letter writers near their duty station appear as witnesses at a hearing with their investigating officer. Appearing at the hearing reinforces your belief in the sincerity of the applicant.

Department of Defense DIRECTIVE

NUMBER 1300.6
August 20, 1971,
thru Ch 4, September 11, 1975
ASD(M&RA)

SUBJECT: Conscientious Objectors

References:

(a) DoD Directive 1300.6, subject as above, May 10, 1968 (hereby cancelled) (b) DoD Directive 1332.14, "Administrative Discharges," December 20, 1965 (c) Section 6(j) of the Universal Military Training and Service Act, as amended (50 USC App. 456(j)) (d) Section 3103, Title 38, United States Code (e) Privacy Act Statement (enclosure 4)

I. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to update uniform Department of Defense procedures governing conscientious objectors and processing requests for discharge based on conscientious objection. Reference (a) is hereby superseded and cancelled.

II. APPLICABILITY AND SCOPE

The provisions of this Directive apply to the Military Services and govern the personnel of the Army, Navy, Air Force, and Marine Corps and all Reserve components thereof.

III. DEFINITIONS

A. Conscientious Objection:

General - A firm, fixed and sincere objection to participation in war in any form or the bearing of arms, by reason of religious training and belief.

1. Class 1-O Conscientious Objector. A member who, by reason of conscientious objection, sincerely objects to participation of any kind in war in any form.

2. 1-A-O Conscientious Objector. A member who, by reason of conscientious objection, sincerely objects to participation as a combatant in war in any form, but whose convictions are such as to permit a Military Service in a non-combatant status.

Unless otherwise specified, the term Conscientious Objector includes both 1-O and 1-A-O conscientious objectors.

B. Religious Training and Belief:

Belief in an external power or being or deeply held moral or ethical belief, to which all else is subordinate or upon which all else is ultimately dependent, and which has the power or force to affect moral-well-being. The external power or being need not be of an orthodox deity, but may be a sin-

cere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of another, or, in the case of deeply held moral or ethical beliefs, a belief held with the strength and devotion of traditional religious conviction. The term "religious training and belief" may include solely moral or ethical beliefs even though the applicant himself may not characterize these beliefs as "religious" in the traditional sense, or may expressly characterize them as not religious. The term "religious training and belief" does not include a belief which rests solely upon considerations of policy, pragmatism, expediency, or political views.

C. Non-combatant service or non-combatant duties (I-A-O) (used interchangeably herein)

1. Service in any unit of the Armed Forces which is unarmed at all times.
2. Service in the medical department of any of the Armed Forces, wherever performed.
3. Any other assignment the primary function of which does not require the use of arms in combat provided that such other assignment is acceptable to the individual concerned and does not require him to bear arms or to be trained in their use.
4. Service aboard an armed ship or aircraft or in a combat zone shall not be considered to be combatant duty unless the individual concerned is personally and directly involved in the operation of weapons.

D. Non-combatant Training. Any training which is not concerned with the study, use or handling of arms or weapons.

IV. POLICY

A. Administrative discharge prior to the completion of an obligated term of service is discretionary with the Military Service concerned, based on a judgment of the facts and circumstances in the case. However, insofar as may be consistent with the effectiveness and efficiency of the Military Services, a request for classification as a conscientious objector and relief from or restriction of military duties in consequence thereof will be approved to the extent practicable and equitable within the following limitations:

1. Except as provided in Section IV.A.2. of this Directive, no member of the Armed Forces who possessed conscientious objection beliefs before entering military service is eligible for classification as a Conscientious Objector; if

(a) (1) such beliefs satisfied the requirements for classification as a Conscientious Objector pursuant to Section 6(j) of the Universal Military Training and Service Act, as amended (50 U.S.C. App 456(j)) and other provisions of law, and (2) he failed to request classification as a Conscientious Objector by the Selective Service System; or

(b) (1) he requested classification as a Conscientious Objector before entering military service, and (2) such request was denied on the merits by the Selective Service System, and (3) his request for classification as a Conscientious Objector is based upon essentially the same grounds, or supported by essentially the same evidence, as the request which was denied by the Selective Service System.

2. Nothing contained in this Directive renders ineligible for classification as a Conscien-

tious Objector a member of the Armed Forces who possessed Conscientious Objector beliefs before entering military service if (a) such beliefs crystallized after receipt of an induction notice; and (b) he could not request classification as a Conscientious Objector by the Selective Service System because of Selective Service System regulations prohibiting the submission of such requests after receipt of induction notice.

B. Because of the personal and subjective nature of conscientious objection, the existence, honesty, and sincerity of asserted conscientious objection beliefs cannot be routinely ascertained by applying inflexible objective standards and measurements on an “across-the-board” basis. Requests for discharge or assignment to non-combatant training or service based on conscientious objection will, therefore, be handled on an individual basis with final determination made at the Headquarters of the Military Service concerned in accordance with the facts and circumstances in the particular case and the policy and procedures set forth herein.

V. CRITERIA

General. The criteria set forth herein provide policy and guidance in considering applications for separation or for assignment to non-combatant training and service based on conscientious objection.

A. Consistent with the national policy to recognize the claims of bonafide Conscientious Objectors in the military service, an application for classification as a Conscientious Objector may be approved (subject to the limitations of paragraph IV.A) for any individual:

1. who is conscientiously opposed to participation in war in any form;
2. whose opposition is found on religious training and belief; and
3. whose position is sincere and deeply held.

B. War in any form

The clause “war in any form”, should be interpreted in the following manner:

1. an individual who desires to choose the war in which he will participate is not a conscientious objector under the law. His objection must be to all wars rather than a specific war;
2. a belief in a theocratic or spiritual war between the powers of good and evil does not constitute a willingness to participate in “war” within the meaning of this Directive.

C. Religious Training and Belief

1. In order to find that an applicant’s moral and ethical beliefs are against participation in war in any form and are held with the strength of traditional religious convictions, the applicant must show that these moral and ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth and duration have directed the lives of those whose beliefs are clearly found in traditional religious convictions. In other words, the belief upon which conscientious objection is based must be the primary controlling force in the applicant’s life.

2. A primary factor to be considered is the sincerity with which the belief is held. Great care

must be exercised in seeking to determine whether asserted beliefs are honestly and genuinely held. Sincerity is determined by an impartial evaluation of the applicant's thinking and living in its totality, past and present. Care must be exercised in determining the integrity of belief and the consistency of application. Information presented by the claimant should be sufficient to convince that the claimant's personal history reveals views and actions strong enough to demonstrate that expediency or avoidance of military service is not the basis of his claim.

a. Therefore, in evaluating applications the conduct of applicants, in particular their outward manifestation of the beliefs asserted, will be carefully examined and given substantial weight.

b. Relevant factors that should be considered in determining an applicant's claim of conscientious objection include: training in the home and church; general demeanor and pattern of conduct; participation in religious activities; whether ethical or moral convictions were gained through training, study, contemplation, or other activity comparable in rigor and dedication to the processes by which traditional religious convictions are formulated; credibility of the applicant; and credibility of persons supporting the claim.

c. Particular care must be exercised not to deny the existence of bonafide beliefs simply because those beliefs are incompatible with one's own.

(1) Church-membership or adherence to particular theological tenets are not required to warrant separation or assignment to non-combatant training and service for conscientious objectors.

(2) Mere affiliation with church or other group which advocates conscientious objection as a tenet of its creed is not necessarily determinative of an applicant's position or belief.

(3) Conversely, affiliation with a church or group which does not teach conscientious objection does not necessarily rule out adherence to conscientious objection beliefs in any given case.

(4) Where an applicant is or has been a member of a church, religious organization, or religious sect, and where his claim of conscientious objection is related to such membership, inquiry may properly be made as to the fact of membership, and the teaching of the church, religious organization, or religious sect, as well as the applicant's religious activity. However, the fact that the applicant may disagree with, or not subscribe to, some of the tenets of his church does not necessarily discredit his claim. The personal convictions of each individual will be controlling so long as they derive from his moral, ethical or religious beliefs.

(5) Moreover, an applicant who is otherwise eligible for conscientious objector status may not be denied that status simply because his conscientious objection influences his views concerning the nation's domestic or foreign policies. The task is to decide whether the beliefs professed are sincerely held, and whether they govern the claimant's actions both in word and deed.

D. The burden of establishing a claim of conscientious objection as a ground for separation or assignment to non-combatant training and service is on the applicant. To this end, he must establish by clear and convincing evidence (1) that the nature or basis of his claim comes within the definition of and criteria prescribed herein for conscientious objection, and (2) that his belief in connection therewith is honest, sincere and deeply held. The claimant has the burden of determining and

setting forth the exact nature of his request, i.e., whether for separation based on conscientious objection (1-O), or, for assignment to non-combatant training and service based on conscientious objection (1-A-O).

E. An applicant claiming 1-O status shall not be granted 1-A-O status as a compromise.

F. Persons who were classified 1-A-O by Selective Service prior to induction shall upon induction be transferred to a training center, or station, for recruit training, and shall be subject to non-combatant service and training. They will be required to sign and date a statement as set forth in the form attached hereto as Enclosure 3. Thereafter, upon completion of recruit training, they shall be assigned to non-combatant duty. They may be transferred to the medical corps, or a medical department or training, provided they meet the requirements therefor. Such persons assigned to medical units will not be allowed to avoid the important or hazardous duties which are part of the responsibility of all members of the medical organization. Any person who does not meet the requirements for this training, who fails to complete the prescribed course of instruction, or who otherwise cannot be assigned to this duty will be assigned to other non-combatant duties.

G. Commanders at levels directed by the Service Headquarters are authorized to return to an applicant, without action, any second or subsequent application that is based upon essentially the same grounds, or supported by essentially the same evidence, as a previous application disapproved by the Military Service concerned.

H. The provisions of this Directive will not be used to effect the administrative separation of individuals who do not qualify as Conscientious Objectors, or in lieu of administrative separation procedures such as those provided for unsuitability or unfitness or as otherwise set forth in reference (b). Under no circumstances will administrative separation of these individuals be effected pursuant to this directive.

I. Nothing in this Directive prevents the administrative elimination, pursuant to law and regulations of the Military Services concerned, of any officer whose classification as a 1-A-O Conscientious Objector results in substandard performance of duty or other cause for elimination.

VI. PROCEDURE

A. A member of the Armed Forces who seeks either separation or assignment to non-combatant duties by reason of conscientious objection will submit an application therefor. The applicant will indicate whether he is seeking a discharge or assignment to non-combatant duties and will include the following items:

1. The personal information required by Enclosure 1.
2. Any other items which the applicant desires to submit in support of his case.

B. Prior to processing the application of the individual, he will be (1) advised of the specific provisions of section 3163 of title 38, United States Code [NOTE: 38 USC 3103 provides, in pertinent part, that the discharge of any person on the grounds that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, shall bar all rights (except government insurance) of such persons under law administered by the Veterans Administration based upon the period of service from which discharged or dismissed. The only exception is in cases in which it is established,

to the satisfaction of the Administrator, that the member was insane. END NOTE] regarding the possible effects of discharge as a conscientious objector who refuses to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, and (2) required to execute the statement attached as Enclosure 2.

C. The applicant shall be personally interviewed by a chaplain who shall submit a written opinion as to the nature and basis of the applicant's claim, and as to the applicant's sincerity and depth of conviction. The chaplain's report shall include the reasons for his conclusions. In addition, the applicant will be interviewed by a psychiatrist (or by a medical officer if a psychiatrist is not reasonably available) who shall submit a written report of psychiatric evaluation indicating the presence or absence of any psychiatric disorder which would warrant treatment or disposition through medical channels, or such character or personality disorder as to warrant recommendation for appropriate administrative action. This opinion and report will become part of the "case file". If the applicant refuses to participate or is uncooperative or unresponsive in the course of the interviews, this fact will be included in the statement and report filed by the chaplain and psychiatrist or medical officer.

D. Commanders at levels directed by the Service headquarters will appoint an officer in the grade of O-3 or higher to investigate the applicant's claim. The officer so appointed will not be an individual in the chain of command of the applicant. If the applicant is a commissioned officer, the investigating officer must be senior in both temporary and permanent grades to the applicant.

1. Upon appointment, the investigating officer will review the applicable service regulations which implement this Directive. During the course of his investigation, the investigating officer will obtain all necessarily legal advice from the local Staff Judge Advocate or legal officer.

2. The investigating officer will conduct a hearing on the application. The purpose of the hearing is to afford the applicant an opportunity to present any evidence he desires in support of his application; to enable the investigating officer to ascertain and assemble all relevant facts to create a comprehensive record; and to facilitate an informed recommendation by the investigating officer and an informed decision on the merits by higher authority. In this regard, any failure or refusal of the applicant to submit to questioning under oath or affirmation before the investigating officer may be considered by the officer making his recommendation and evaluation of the applicant's claim. If the applicant fails to appear at the hearing without good cause, the investigating officer may proceed in his absence and the applicant will be deemed to have waived his appearance.

a. If the applicant desires, he shall be entitled to be represented by counsel, at his own expense who shall be permitted to be present at the hearing, assist the applicant in the presentation of his case, and examine all items in the file.

b. The hearing will be informal in character and will not be governed by the rules of evidence employed by courts-martial except that all oral testimony presented shall be under oath or affirmation. Any relevant evidence may be received. Statements obtained from persons not present at the hearing need not be made under oath or affirmation. The hearing is not an adversary proceeding.

c. The applicant may submit any additional evidence that he desires (including sworn or unsworn statements) and present any witnesses in his own behalf, but he shall be responsible for securing their attendance. The installation or local commander will render all reasonable assistance

in making available military members of his command requested by the applicant as witnesses, further, the applicant will be permitted to question any other witnesses who appear and to examine all items in the file.

d. A verbatim record of the hearing is not required. If the applicant desires such a record and agrees to provide it at his own expense, he may do so. If he elects to provide such a record, he shall make a copy thereof available to the investigating officer, at no expense to the government, at the conclusion of the hearing. In the absence of a verbatim record, the investigating officer will summarize the testimony of witnesses and permit the applicant or his counsel to examine the summaries and note for the record their differences with the investigating officer's summary. Copies of statements and other documents received in evidence will be made a part of the hearing record.

3. At the conclusion of the investigation the investigating officer will prepare a written report which will contain the following:

a. A statement as to whether the applicant appeared, whether he was accompanied by counsel, and, if so, the latter's identity, and whether the nature and purpose of the hearing were explained to the applicant and understood by him.

b. Any documents, statements and other material received during the investigation.

c. Summaries of the testimony of the witnesses presented (or a verbatim record of the testimony if such record was made).

d. A statement of the investigating officer's conclusions as to the underlying basis of the applicant's conscientious objection and the sincerity of the applicant's beliefs, including his reasons for such conclusions.

e. Subject to Section V.E., the investigating officer's recommendations for disposition of the case, including his reasons therefor. The actions recommended will be limited to the following:

(1) Denial of any classification as a conscientious objector; or

(2) Classification as 1-A-O conscientious objector; or

(3) Classification as 1 -O conscientious objector.

f. The investigating officer's report, along with the individual's application, all interviews with chaplains or doctors, evidence received as a result of the investigating officer's hearing, and any other items submitted by the applicant in support of his case will constitute the record. The investigating officer's conclusions and recommended disposition will be based on the entire record and not merely on the evidence produced at the hearings. A copy of the record will be furnished to the applicant at the time it is forwarded to the commander who appointed the investigating officer, and the applicant will be informed that he has the right to submit a rebuttal to the report within the time prescribed by the Military Service concerned.

E. The record of the case will be forwarded to the headquarters of the officer who appointed the investigating officer, where it shall be reviewed for completeness and legal sufficiency. If necessary, the case may be returned to the investigating office for further investigation. When the record is complete, the authority who appointed the investigating officer shall forward it with his

personal recommendation for disposition, and the reasons therefor, through the appropriate chain of command to Headquarters, of the Military Service concerned.

F. The Secretary of a Military Service may delegate authority to approve applications to the commander exercising general court-martial jurisdiction (or equivalent level command for reserve organizations) over the applicant. The completed record of a case approved in the field will be forwarded to the Headquarters of the Military Service concerned for appropriate disposition.

G. When approval authority has not been delegated or when the general court-martial convening authority recommends disapproval, the Headquarters of the Military Service concerned will make a final decision based on the entire record. Any additional information other than the official service record of the applicant considered by the Headquarters of the Military Service concerned which is adverse to the applicant, and which the applicant has not had an opportunity to comment upon or refute, will be made a part of the record and the applicant shall be given an opportunity to comment upon or refute the material before a final decision is made. The reasons for an adverse decision will be made a part of the record and will be provided to the individual.

H. Processing of applications need not be abated by the unauthorized absence of the applicant subsequent to the initiation of the application, or by the institution of disciplinary action or administrative separation proceedings against him. However, an applicant whose request for classification as a conscientious objector has been approved will not be discharged until all disciplinary action has been resolved.

I. To the extent practicable under the circumstances, during the period applications are being processed and until a decision is made, every effort will be made to assign applicants to duties which will conflict as little as possible with their asserted beliefs. Unless the Military Service concerned provides otherwise, an applicant shall be required to comply with active duty or transfer orders in effect at the time of his application or subsequently issued and received. During the period applications are being processed, applicants will be expected to conform to the normal requirement of military service and to perform such duties as are assigned. Applicants may be disciplined for violations of the Uniform Code of Military Justice while awaiting action on their applications.

VII. ACTION AFTER DECISION

A. Applicants requesting discharge who are determined to be 1-O conscientious objectors by the headquarters of the Service concerned will be discharged for the convenience of the Government with entry in personnel records and discharge papers that the reason for separation is conscientious objection. The type of discharge issued will be governed by the applicant's general military record and the pertinent provisions of reference (b). The Director of the Selective Service System will be promptly notified of the discharge of those who have served less than one hundred and eighty (180) days in the Armed Forces. Pending separation, the applicant will continue to be assigned duties providing the minimum practicable conflict with his professed belief and will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which he is assigned. Applicants may be disciplined for violations under the Uniform Code of Military Justice while awaiting discharge.

B. Applicants requesting assignment to non-combatant duties who are determined to be class 1-A-O conscientious objectors by the Military Services shall be (1) assigned to non-combatant duty as defined in Section III, or (2) discharged from military service or released from active duty

at the discretion of the Military Services. Each applicant will be required to execute the statement attached as Enclosure 3.

C. Persons who are assigned to non-combatant duties, and persons who are assigned to normal military duties by reason of disapproval of their application, will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which they are assigned. Violations of the Uniform Code of Military Justice by these members will be treated as in any other situation.

VIII. CLAIMS OF ERRONEOUS INDUCTION

A. This section applies to any individual who claims that he is a Conscientious Objector and was either erroneously inducted, or erroneously assigned to combatant training or duty, for any of the following reasons:

1. Although determined to be a conscientious objector by a local board or appellate agency of the Selective Service System, his records failed to reflect classification as such.

2. He was denied a significant procedural right in the classification process by the Selective Service System.

3. Despite actual classification as a conscientious objector properly reflected in his records, he was nevertheless erroneously inducted or assigned to combatant training or duty.

Claims based on alleged erroneous determinations made on the merits of the case by the Selective Service System are not covered by this section. (See Section IV.)

B. Claims covered by subsection A will be referred to the Selective Service System without delay for investigation and ascertainment of the facts. Communication will be transmitted to the National Headquarters, Selective Service System, Washington, D.C. 20435.

1. If the Selective Service System advises that induction was in fact erroneous under subsection A.1 or A.3 of this paragraph, the claimant will be separated or assigned to non-combatant duties depending upon whether he was classified 1-O or 1-A-O.

2. If the Selective Service System advises that there was in fact a denial of a right or a significant procedural error in the evaluation of a claim under subsection A.2., the induction will be considered erroneous and the individual discharged.

3. If the Selective Service System advises that any claim under subsection A is unfounded or makes a final determination adverse to any claim, the claimant will be so informed and returned to general duty.

C. Pending investigation and resolution of all claims covered by this section, a claimant will be assigned to duties which conflict as little as practicable with his asserted beliefs, insofar as is consistent with the effectiveness and efficiency of the military forces.

IX. EFFECTIVE DATE AND IMPLEMENTATION

A. The provisions of this Directive will become effective sixty (60) days from the date of issuance.

B. Applications submitted prior to the effective date of this Directive will be processed under the provisions of reference (a).

C. Two (2) copies of implementing regulations, consistent with the provisions of this Directive, shall be forwarded to the Assistant Secretary of Defense (Manpower and Reserve Affairs) within ninety (90) days of its effective date.

Deputy Secretary of Defense

Enclosures - 4 1. Requested Information 2. Statement (Counseling concerning VA benefits) 3. Statement (Counseling concerning designation as Conscientious Objector) 4. Privacy Act Statement

REQUIRED INFORMATION TO BE SUPPLIED BY APPLICANTS FOR DISCHARGE OR NON-COMBATANT SERVICE

Each person seeking release from active service from the Armed Forces, or assignment to non-combatant duties, as a conscientious objector, will provide the information indicated below as the minimum required for consideration of his request. This in no way bars the Military Services from requiring such additional information as they desire. The individual may submit such other information as desired.

A. General Information Concerning Applicant

1. Full name
2. Military serial number; and Social Security Account number
3. Selective Service number
4. Service address
5. Permanent home address
6. Name and address of each school and college attended (after age 16) together with the dates of attendance, and the type of school (public, church, military, commercial, etc.)
7. A chronological list of all occupations, positions, jobs, or types of work, other than as a student in school or college (after age 16) whether for monetary compensation or not. Include the type of work, name of employer, address of employer and the from/to date for each position or job held.
8. All former addresses (after age 16, and dates of residence at those addresses.
9. Parent's name and addresses. Indicate whether they are living or deceased.
10. The religious denomination or sect of both parents.
11. Was application made to the Selective Service System (local board) for classification as a conscientious objector prior to entry into the Armed Forces? To which local board? What decision was made by the Board, if known?

12. When the applicant has served less than one hundred and eighty (180) days in the military service, a statement by him as to whether he is willing to perform work under the Selective Service civilian work program for conscientious objectors, if discharged as a conscientious objector. Also, a statement of the applicant as to whether he consents to the issuance of an order for such work by his local Selective Service Board.

B. Training and Belief

1. A description of the nature of the belief which requires the applicant to seek separation from the military service or assignment to non-combatant training and duty for reasons of conscience.

2. An explanation as to how his beliefs changed or developed, to include an explanation as to what factors (how, when and from whom or from what source training received and belief acquired) caused the change in or development of conscientious objection beliefs.

3. An explanation as to when these beliefs became incompatible with military service, and why.

4. An explanation as to the circumstances, if any, under which the applicant believes in the use of force, and to what extent, under any foreseeable circumstances.

5. An explanation as to how the applicant's daily life style has changed as a result of his beliefs and what future actions he plans to continue to support his beliefs.

6. An explanation as to what in applicant's opinion most conspicuously demonstrates the consistency and depth of his beliefs which gave rise to his claim.

C. Participation in Organizations

1. Information as to whether applicant has ever been a member of any military organization or establishment before entering upon his present term of service. If so, the name and address of such organization will be given together with reasons why he became a member.

2. A statement as to whether applicant is a member of a religious sect or organization. If so, the statement will show the following:

a. The name of the sect, and the name and location of its governing body or head, if known.

b. When, where, and how the applicant became a member of said sect or organization.

c. The name and location of any church, congregation or meeting which the applicant customarily attends, and the extent of the applicant's active participation therein.

d. The name, title, and present address of the pastor or leader of such church, congregation or meeting.

e. A description of the creed or official statements, if any, and if they are known to him, of said religious sect or organization in relation to participation in war.

3. A description of applicant's relationships with and activities in all organizations with

which he is or has been affiliated, other than military, political, or labor organizations.

D. References

Any additional information, such as letters of reference or official statements of organizations to which the applicant belongs or refers in his application, that the applicant desires to be considered by the authority reviewing his application. The burden is on the applicant to obtain and forward such information.

STATEMENT (COUNSELING CONCERNING VETERANS ADMINISTRATION BENEFITS)

I have been advised of the provisions of 38 U.S.C. 3103 concerning possible non-entitlement to benefits administered by the Veterans Administration due to discharge from the military service as a conscientious objector under certain conditions. I understand that a discharge as a conscientious objector, who refused to perform military duty or otherwise to comply with lawful orders of competent military authority, shall bar all rights, based upon the period of service from which discharged, under any laws administered by the Veterans Administration except my legal entitlement (if any) to any war risk, government (converted) or National Service Life Insurance.

STATEMENT (COUNSELING CONCERNING DESIGNATION AS CONSCIENTIOUS OBJECTOR)

I have been counseled concerning designation as a conscientious objector. Based on my training and belief, I consider myself to be a conscientious objector within the meaning of the statute and regulations governing conscientious objectors and am conscientiously opposed to participation in combatant training and service. I request assignment to non-combatant duties for the remainder of my term of service. I fully understand that on expiration of my current term of service I am not eligible for voluntarily enlistment, re-enlistment, extension or amendment of current enlistment, or active service in the Armed Forces by reason of my 1-A-O classification.

DATA REQUIRED BY THE PRIVACY ACT OF 1974 (5 U.S.C. 552A)

Required information from applicants for conscientious objector status.

1. AUTHORITY 50 App. U.S.C. 456J; 38 U.S.C. 3103; Executive Order 9397, 22 Nov 43 (Social Security Number)

2. PRINCIPAL PURPOSE(S) Is used by a service member to apply for conscientious objector status.

3. ROUTINE USES The recorded information upon which a decision may be made by appropriate authority to grant or deny the requested conscientious objector status.

4. MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL NOT PROVIDING INFORMATION Voluntary. If information is not furnished applicant may not be able to receive the sought for status.

Privacy Act Statement - 26 Sep 75

ADVICE FOR CONSCIENTIOUS OBJECTORS IN THE ARMED FORCES

Registration

When you register, you will receive periodic updates to keep abreast of regulatory changes. We will also let you know about workshops and other events in your area.

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Phone _____ Fax _____

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Other _____

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I am interested in: Workshops Correspondence Course *Helping Out Regulations Book*
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Have you been in the military? Yes No
Have you been trained as a draft counselor? Yes No

Return to:
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1515 Cherry Street
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