



# PROCEEDINGS

## JUST WAR THEORY, NUCLEAR WEAPONS, AND DETERRENCE

*The remarks below were delivered at a symposium on “Just War Theory, Nuclear Weapons, and Deterrence” hosted by the National Institute for Public Policy on October 29, 2024. The symposium examined various misperceptions expressed by some religious and secular scholars regarding the morality of nuclear weapons and deterrence and considered how nuclear deterrence aligns with Just War doctrine and principles.*

### **David J. Trachtenberg (moderator)**

***David J. Trachtenberg is Vice President of the National Institute for Public Policy. Previously, he served as Deputy Under Secretary of Defense for Policy.***

As noted in the invitation to this event, there has been an episodic debate in the United States regarding the morality of nuclear weapons and nuclear deterrence in general. Religious and secular scholars, and church-based studies have reached contrary conclusions on these subjects. This topic received considerable attention during the 1980s but was largely dormant following the Cold War. Yet, with numerous Russian nuclear threats, growing hostility among nuclear-armed great powers, and debate surrounding the U.N. Nuclear Ban Treaty, the morality of nuclear weapons and deterrence has once again become a prominent topic for consideration.

All of our panelists today have commented eloquently on the applicability of Just War doctrine to nuclear weapons and nuclear strategy. Keith Payne has written extensively on the logical nexus between Just War principles and nuclear deterrence.<sup>1</sup> And Rebecca Heinrichs’ new book on the subject, *Duty to Deter*, expertly dissects the arguments against nuclear deterrence raised by both religious and secular leaders who argue that the use or threatened use of nuclear weapons can never adhere to the Just War principles of proportionality, discrimination, and a reasonable chance of success.

As Rebecca states in her excellent book, “Can the United States maintain a nuclear deterrence posture that credibly meets the deterrence objectives in the modern nuclear threat environment and that is also in accordance with the Just War Doctrine? The answer is a confident yes.”<sup>2</sup>

For many people, the issue of nuclear weapons and nuclear war is understandably emotional. Yet emotion is an inadequate substitute for rational, clear-headed thinking on such an important issue. Some religious leaders, disarmament advocates, and others who question the morality of deterrence often cite the potentially devastating consequences of any nuclear weapons use. But understanding the potentially horrific consequences of an event tells us nothing about how to prevent it.

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<sup>1</sup> See, for example, Keith B. Payne, *Chasing a Grand Illusion: Replacing Deterrence With Disarmament* (Fairfax, VA: National Institute Press, 2023).

<sup>2</sup> Rebecca L. Heinrichs, *Duty to Deter: American Nuclear Deterrence and the Just War Doctrine* (Fairfax, VA: National Institute Press, 2024), p. 34.



Some argue that even limited nuclear weapons use will inevitably lead to escalation that causes massive and disproportionate casualties and the inability to “win” in any meaningful sense. Therefore, they argue, no use of nuclear weapons is consistent with Just War principles and, therefore, they cannot be used. Some argue that even their threatened use violates Just War doctrine.

As one academic argued last week, “One way to ensure that nuclear weapons are never used in battle is to talk honestly about them as the inherently unlawful, indiscriminate and inhumane weapons they are.... the rules on indiscriminate targeting do not just require the use of weapons that can be directed at military objectives only. They also require the use of weapons whose effects can be limited—that is controlled—once they are unleashed. With nuclear weapons, that level of control is simply not possible....”<sup>3</sup>

Much of the academic commentary on the morality of nuclear deterrence assumes that the Just War principle of proportionality cannot be met with nuclear weapons because even their employment in a limited way would automatically lead to escalation, and therefore, there can be no reasonable chance of success. This thinking permeates much of the discussion of this issue, even at the highest levels of government, and is reflected in the oft-repeated statement that, “A nuclear war cannot be won and must never be fought.”

Yet, if nuclear weapons cannot comply with Just War principles and, therefore, cannot be used or threatened to be used, how is deterrence to be preserved? In an international system that is anarchic and lacks any effective mechanism or global authority to enforce rules of behavior universally and equitably on all states, abandoning the deterrent effect that nuclear weapons provide potentially means increasing the risk of aggression by adversaries, which is likely to cause excessive suffering to innocents, in contravention of Just War doctrine and the Law of Armed Conflict which flows from it. Consequently, nuclear weapons arguably do more to protect the innocent—in accordance with Just War principles—than abandoning them would do.

I would also note that Just War principles reflect a Western way of thinking about warfare based on Judeo-Christian values and a belief that even the most destructive of human activities should be conducted according to a set of rules that places primacy on protecting innocent human life. The fact that others may operate in contravention of these moral strictures does not absolve us of our responsibility to strictly abide by them.

Today’s discussion looks at this issue as it applies to nuclear weapons and nuclear deterrence. And I believe our panelists will help sift through the various misperceptions that often seem to dominate the debate over the morality of nuclear deterrence.

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<sup>3</sup> Charli Carpenter, “There’s No Such Thing as ‘Limited’ Nuclear Weapons,” *World Politics Review*, October 22, 2024, available at <https://www.worldpoliticsreview.com/nuclear-weapons-international-law/>.

**Keith B. Payne**

***Keith B. Payne is President of the National Institute for Public Policy and served as Deputy Assistant Secretary of Defense for Forces Policy.***

Thank you Dave, it's a pleasure to address this subject today with my fellow panelists. The occasional public debate about *the morality* of nuclear deterrence and weapons over the past five decades is a mixed bag. At *every* level, commentaries on this arcane subject often reflect a barely disguised political agenda, or little familiarity with moral analysis, nuclear forces, deterrence policy, or international threats. Readers must carefully distinguish between that which is coherent and informed, and that which is unbalanced political advocacy.

Fortunately, Rebeccah Heinrichs' new book, *Duty to Deter*, has successfully accomplished what fewer than a dozen American scholars have accomplished in the past half century—she has given us a book that reflects understanding of moral analysis, nuclear deterrence policy, and international threats. Rebeccah examines the morality of nuclear deterrence within the framework of the Just War Doctrine and in recognition of the enduring harsh realities of international relations.

The result is a uniquely valuable contemporary moral assessment of nuclear deterrence and possible nuclear employment options.

To appreciate the value of Rebeccah's new book and today's seminar, it is necessary to understand the historic backdrop to this subject, beginning in the 1980s. That decade saw a flowering of commentary by numerous church-based authors and institutions. This commentary received enormous attention at the time, but often demonstrated a woeful lack of familiarity with U.S. deterrence policy or practice, or recognition of the Soviet threat.

The majority of these 1980s works reached one of two conclusions regarding deterrence—both based on the principles of distinction and proportionality, and a presumption of unlimited escalation. These conclusions were directly opposed to long-standing U.S. nuclear deterrence policy. So they got our attention. The first of these conclusions was that neither the *possession nor employment* of nuclear weapons can be deemed morally acceptable, and policies of nuclear deterrence *must be rejected*. I call this the *nuclear pacifist* position. This was the position of the Methodist Bishops' 1986 report on the subject.

The second basic conclusion was that the possession of nuclear weapons *for deterrence purposes is morally acceptable*, pending global nuclear disarmament under a global authority. However, the *actual employment* of nuclear weapons *cannot* be morally acceptable. I call this position *nuclear deterrence by bluff until the impossible happens*. This essentially was the position of the 1983 Catholic Bishops' report on the subject.

In contrast, a minority of the 1980s analyses concluded that U.S. *possession* of nuclear weapons for deterrence purposes and *some* prospective nuclear employment options can be compatible with the Just War Doctrine, including the principles of distinction and proportionality. This argument in support of nuclear deterrence generally came *not* from government or church leaders, but from a handful of prominent scholars of the day, including Colin Gray, Herman Kahn, William O'Brien, and Albert Wohlstetter.

Fashionable moral criticism of U.S. nuclear weapons and deterrence policy came to an end with the close of the Reagan Administration—which gives you a clue as to the political agenda behind much of the criticism in the first place. There was a subsequent, decades-long quiet on the subject. This quiet came to an end when a coalition of activist organizations began lobbying for the United Nations’ nuclear ban treaty. The International Campaign to Abolish Nuclear Weapons, or ICAN, began its expressions of *moral outrage* against nuclear weapons and deterrence. This contemporary advocacy, which is even more banal than much of the 1980s criticism of deterrence, declares nuclear weapons and deterrence to be inherently immoral.

Missing from this contemporary advocacy, of course, is any recognition of the nuclear threats posed by aggressive, authoritarian powers seeking to reorder the world, and the corresponding need for Western nuclear deterrence strategies and weapons. In 2017, the Nobel Prize Committee actually awarded the Peace Prize to ICAN for its credulous expressions of moral outrage on behalf of the nuclear ban treaty.

Geopolitical developments have coincided with ICAN advocacy and contributed to the revival of interest in the moral analysis of nuclear weapons and deterrence. Moscow and North Korea increasingly engage in reckless, explicit nuclear threats and China is expanding its nuclear capabilities at a breathtaking pace, likely for coercive purposes.

In this darkening international context, the public debate about the morality of nuclear weapons and deterrence has resumed. I should note here that, along with Rebeccah’s outstanding new book, Brad Roberts has contributed excellent analyses to this resumed public discussion.

As this debate proceeds, it is important to recognize that useful moral analysis on the subject demands an understanding of the international threat context and the stakes at risk: if the grave threats confronting the United States and allies are conveniently *dismissed—or worse, blamed on* the United States—it is a simple matter to conclude that U.S. nuclear weapons and deterrence policies pose *only* deadly risks, and therefore serve no purpose and *cannot be* morally condoned. Presuming the absence of any serious threat often is the idealistic framework for expressions of moral outrage—but never the reality.

Rebeccah’s new book rightly acknowledges the risks of nuclear deterrence, but ultimately reaches a conclusion that is contrary to most of the 1980s church-based analyses and to ICAN’s moralistic outrage in favor of the contemporary nuclear ban treaty. Her conclusions are: 1) that sustaining nuclear deterrence is Washington’s duty and can be done in a morally acceptable way, and 2) for decades, U.S. nuclear policy has been moving in the direction required by the Just War Doctrine as DoD has sought to establish credible deterrence strategies. These conclusions are spot on and in line with the minority of scholars writing in the 1980s; they essentially call out the shallowness of ICAN’s contemporary lobbying on behalf of the nuclear ban treaty.

In summary, Rebeccah’s new book runs profoundly counter to most of the past and contemporary church-based and secular commentary on the subject. Perhaps most importantly, this timely, thoughtful analysis elaborates *why* those working to *help sustain*

U.S. nuclear deterrence strategies and capabilities can do so *confident* in the moral integrity of their work.

I will conclude on a related personal note: when I give a public presentation along these lines to civic groups, active-duty personnel and veterans inevitably approach me afterwards and say something like, “thanks very much, it’s so good to *finally* hear that what I do is alright.” Highlighting the fundamental morality of sustaining nuclear deterrence, as Rebecca’s new book does so well, is *much more important* to civilian and military personnel than is suggested by the *limited attention* Uncle Sam devotes to such concerns. People *care very much, and their concerns can be satisfied with honesty and without pretense*. Doing so deserves more DoD and the uniformed services’ attention; there is an important lesson here for professional military education.

With that, I thank you for listening; I look forward to the other panelists’ remarks.

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### **Rebecca L. Heinrichs**

***Rebecca L. Heinrichs is Senior Fellow at the Hudson Institute and Director of its Keystone Defense Initiative.***

I wrote the book thinking primarily about those who operate the nuclear triad. Why? Because we are so far from the days of the Second World War and the Cold War, and we should not presume that we share the same moral clarity for the mission. Protecting those operators from moral injury is good and protecting them from moral bruising as they carry out the deterrence mission is necessary, because if they have the confidence that what they are doing is right, it will have the effect of bolstering the credibility of the deterrent mission. Those conducting planning, policy, strategy, and carrying out the training, exercises, and operations, should be confident in the mission and willing and able to execute the plan if the nation requires it. Ensuring that those carrying out the deterrence mission do not experience moral bruising helps to prevent moral injury if those operators are one day required to carry out orders to employ a nuclear weapon.

And I also wrote it for the everyday American who is the “lesser magistrate.” He should know why the United States has nuclear weapons and how we use them to deter major war and preserve the peace. And he should know that we do it in a way that he can morally defend. Now that the United States is facing two major nuclear powers that are determined to break U.S. alliances and undermine U.S. influence, and must deter both, the American people should be convinced that U.S. nuclear deterrence is necessary and good. It is necessary and good, and the United States must adapt it to meet the changing security environment. New, different, differently postured capabilities, or some combination of the three, may be required. Adapting the deterrent, adding possibly new capabilities, or complementary defenses, will require national leadership, political capital, and money. The American people should know why this is so important to earn their support, especially when there are so many demands on national resources.

Among the several conclusions in the book, I'll list just two.

One, since the Cold War, U.S. efforts to adapt the U.S. deterrent to ensure it remains credible have hewed closer to the principles of the Just War Doctrine (JWD). Credibly deterring adversaries and the principles of the JWD have been reinforcing. A tailored deterrence strategy seeks to hold at risk what the adversary values most and does not intentionally target its civilian and societal populations. Active defenses have also gone through changes and have contributed to deterrence by complicating the adversary's calculations; at the same time, active defenses protect the defender and could, if deployed, defend its innocent societal populations. Indeed, one of the recommendations that I make in the book is to further expand U.S. homeland defense to provide greater protection of the American people from enemy missile threats.

And the second point relates to proportionality. Proportionality is a very commonly misunderstood concept, and we can see how badly people understand it by watching reactions to the Israeli effort to destroy the Iranian proxies that surround it. Proportionality is not "tit for tat." And sometimes escalating is required for a just defender to compel an adversary to back down; that is not necessarily in violation of the JWD principle of proportionality. Proportionality requires an assessment of the possible and even anticipated civilian loss of life measured against the good of destroying an adversary target that will further the objectives of the just military campaign. The JWD is not merely consequentialist—but it must consider the consequences. It also places restrictions on the just defender. It cannot intentionally seek harm to civilians or maximize civilian suffering. It is therefore neither purely consequentialist nor deontologically rigid.

There is much more, and I regret that we don't have more time, but I do look forward to the discussion.

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### **Marc LiVecche**

***Marc LiVecche is the McDonald Distinguished Scholar of Ethics, War, and Public Life at Providence: A Journal of Christianity and American Foreign Policy and a non-resident research scholar at the US Naval War College. He is the author of The Good Kill: Just War and Moral Injury.***

My regard for Rebeccah Heinrichs' fine book begins at the threshold, before even cracking the cover. I note, with great appreciation, a pair of titular assertions that not only link—relink really—the concept of deterrence with the tradition of just war but that also establishes deterrence as a *duty*. Given the normative presumptions of just war reasoning, this is morally essential.

Among much else, it reminds us that the just war tradition does not simply commend *restrictions* to the use of force but, under certain conditions, commends the use of force itself. This is to say that just war tradition serves as both a limit and a *spur* to war or, as Heinrichs



reminds us in the case of deterrence, as a spur toward preparing for war in the hope of not actually having to enter it.

The assertion that deterrence is a duty also does remedial service. Much of contemporary just war scholarship—perhaps especially within the theological discourse—is divided over the basic moral presumption that grounds just war. By “presumption” I mean a foundational idea that serves as a basis for generating and judging other ideas and for guiding behavior. The basic presumptions that ground our moral actions carry extraordinary weight as we contemplate what to do in a particular situation, especially in morally complex circumstances in which there appears to be a clash of goods or a conflict of duties. Some insist, as epitomized—and popularized—by the U.S. Catholic Bishops in their 1983 pastoral letter, *The Challenge of Peace*, that just war reasoning begins with a “presumption against war.” This has been recast in a variety of ways, including as a “presumption against violence” or a “presumption against harm.” According to this logic, the just war tradition’s primary function is to identify those rare—and morally catastrophic—exceptions that compel Christians to override fundamental moral obligations.

Particularly relevant to Heinrichs’ work, this presumption against war was supercharged by the advent of modern war’s heightened destructiveness—including, and especially, the specter of nuclear war, which hung like heavy haze in the Cold War climate in which the Bishops’ letter was written. The impact of nuclear weapons on just war reasoning was so significant so that the presumption against war position goes under the sobriquet “modern war—or nuclear—pacifism.”

This is *not* the presumption that characterizes the stream of just war reasoning in which Heinrichs stands. As a guide for responsible government, the classic just war tradition provides a moral framework for thinking about the ethics of war that draws upon the intellectual patrimony of the classical and Hebraic traditions. Flowing from its headwaters in Augustinian and Thomistic political thought, the just war framework helps identify both when it is right to fight (*jus ad bellum*) and how to rightly fight the fight that’s right to fight (*jus in bello*).

Taken together, these distinct but overlapping *jab* and *jib* criteria counsel both duty and prudence of sovereign authority—that political sovereign, or sovereign body, over whom there is no one greater charged with the care of the political community and on whom rests the responsibility to determine when, in the last resort and with the aim of peace, discriminate and proportionate force is necessary to restore justice through punishing a sufficiently grave evil, taking back something of sufficient worth that has wrongly been taken, or protecting the sufficiently threatened innocent. In such cases, and only such, war may be required to restore order, justice, and, thereby, peace—political goods without which no other good—such as health or life—can long endure and which together characterize the good society. Within the just war conception of good politics, therefore, a ruler’s right to rule is confirmed by his meeting this responsibility to establish and maintain the just order—and therefore the peace—of, first, his own political community and, by extension, to contribute to orderly, just, and peaceful relationships with other political communities.

With these responsibilities in mind, the logic that grounds a sovereign's deliberation about going to war can be understood by comparing it with the deliberation over less contentious questions, such as, say, whether one ought to perform a life-saving medical procedure. Imagine the sad scenario in which a highly capable surgeon is confronted with a child whose injured leg has become severely gangrened and who must now make the decision whether to remove the diseased limb. What kind of presumption would guide the surgeon's decision to proceed with the amputation? Surely not, in the first degree some kind of presumption against surgery but, rather, something like a presumption to recover the health of the child and to save his life. Correlative with this is a corresponding presumption against those things that threaten the child's health and life.

A similar logic guides just war. Focused on the responsibility to respond appropriately to wrongdoing, just war's basic moral motivation is grounded in a presumption *for justice*. The just warrior does not even begin to contemplate the prospect of going to war until and unless there is a sufficiently grave *injustice* already—or imminently—occurring.

Going back to our surgeon, it is only the presence of a sufficiently grave injury presenting a sufficiently grave threat that the benevolent doctor would even consider harming a child by hobbling him. To be sure, the surgeon, in some general sense, begins with something that appears like a presumption against harm. That's to say, he does not walk down the street contemplating lopping off the legs of the children around him and waiting for any excuse to do so. In the same way, just warriors do not think about initiating conflict unilaterally, they only ever permit *responding* to conflict already engaged.

The problem with the presumption against harm logic is that it only works in a world in which the one person I need to be concerned about is me and the preservation of *my* piety. But according to the moral tradition Heinrichs champions—which she identifies as Christian realism—proper responsibility understands that morality isn't only concerned with what I—or “my team”—do but also about how I—or we—react to what others do. My adhering to the presumption against harm might well keep me from deciding, with no provocation, to kick in the face of my neighbor. But it's the presumption for justice that spurs my moral resolve to rescue that neighbor when someone *else* is unjustly kicking in his face.

It seems obvious to me that if one presumption overrules another, then it is that presumption—not the one overruled—that is the primary ground of action. Heinrichs does her readers a tremendous service in reminding them that deterrence is a part of a just war tradition that insists that the duty to protect the innocent, to take back what has been wrongly taken, and to punish evil trumps the duty not to fight. In doing so, she makes us realize that we do not, in fact, have a duty not to harm, *tout court*. Rather, we have a duty not to *unjustly* or *unnecessarily* harm. This is a different thing altogether.

Why is this lengthy disquisition on just war tradition relevant to Heinrichs' book? In part, because one reason Heinrichs wrote *Duty to Deter* is to fortify, as she writes, “the consciences of those policymakers, military strategists, and operators charged with the responsibility to design and carry out plans for deterrence and to protect and prevail in a war if deterrence fails.” By grounding her defense of deterrence in the classic just war tradition—and its presumption for justice—Heinrichs gives those responsible for our nuclear triad the



confidence of knowing that the just maintenance and deployment of that triad does not violate duties against harm but instead manifests the duty to champion justice.

This confidence, Heinrichs notes, is important for at least two reasons. First, doubts about the morality of our nuclear arsenal can undermine our ability to successfully deter our adversaries. To be sure, deterrence—essentially the practice of convincing adversaries that you have the capability and will to make your enemy regret aggression by identifying what he loves and credibly threatening to kill it—is, on the surface, an ethically difficult thing to square with our conscience. But, this lack of confidence in whether nuclear deterrence is licit, Heinrichs cautions, risks “conveying a shaky political resolve to adversaries, allies, and the American people.” Errors in how we think about deterrence can lead to policymakers making unnecessary concessions in our deterrence posture, thereby inviting aggression from adversary nations who share few of our moral scruples.

Second, moral confidence in our nuclear deterrent is essential in a Western cultural milieu that is increasingly uncertain about the morality of force. This uncertainty is manifest, in part, by the large numbers of psychiatric battle casualties suffered during operations in Iraq and Afghanistan; indeed, which have attended military activity throughout history. Too often, veterans stagger home from battle suffering not necessarily from physical injuries as classically perceived but injured all the same. While Post-Traumatic Stress Disorder (PTSD) has long been recognized as a psychiatric wound among warfighters, there is an increasing recognition that something else is at play as well. Many combat veterans suffer symptoms atypical to their PTSD diagnosis. Many do not present—or do not only present—the paranoia, hyper-vigilance, or other typical responses to life-threat ordeals. Instead—or additionally—they display what is best described as soul wounds: crippling degrees of guilt, shame, sorrow, or remorse. These soul wounds have come to be termed “moral injury,” and, by one definition, designate a psychic trauma resulting from doing, allowing to be done, or having done to you something that goes against deeply held normative beliefs.<sup>4</sup> This definition illuminates Vietnam combat veteran Karl Marlantes’ observation—in his extraordinary *What It Is Like To Go To War*—that “The violence of combat assaults psyches, confuses ethics, and tests souls. This is not only a result of the violence suffered. It is also a result of the violence inflicted.”

If doing something that goes against deeply held normative beliefs leads to moral injury, it should be unsurprising—frankly, even welcomed—that a warfighter would be morally injured following the commitment of an atrocity. This is appropriate, and there are ways to work toward the moral reclamation of that warfighter. However, large numbers of warfighters are suffering from having done the most basic business of war: killing the lawful enemy even under conditions commensurate with the rules of armed conflict and the guidance of moral frameworks such as the just war tradition. Why this a problem is revealed

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<sup>4</sup> This definition emerges from two sources, first, and primarily: Brett T. Litz et al., “Moral Injury and Moral Repair in War Veterans: A Preliminary Model and Intervention Strategy,” *Clinical Psychology Review* 29, no. 8 (December 2009): 697. It is also the primary definition I use in my *The Good Kill: Just War & Moral Injury*. The critical addition that moral injury can occur from something “done to you” comes from the important essay by US Army Europe command chaplain Col. Timothy Mallard in: “The (Twin) Wounds of War,” *Providence: A Journal of Christianity & American Foreign Policy*, no. 5 (Fall, 2016).

by clinical studies that identify having killed in combat—no matter the circumstances—to be a chief predictor of moral injury. Moreover, moral injury has proved to be a chief predictor of combat veteran suicide.<sup>5</sup> While other issues such as PTSD, Traumatic Brain Injuries, and increased operational tempos can be contributing factors—not least because that they can wreak havoc on servicemembers’ relationships to the very people they most depend on for holistic support and emotional stability—it remains that moral trauma is a major catalyst behind the troubling uptick of warfighters dying by their own hands, casualties of war even after battle has long-ended. Much of the shame that warfighters feel—the doubt they have over whether their martial vocation is morally honorable—is, strictly speaking, entirely unnecessary. Fighting right fights rightly ought not to lead to moral injury because fighting right fights rightly ought not to go against deeply held moral norms. By speaking to the moral probity of deterrence, Heinrichs helps our warfighters square their military service with their moral commitments. She provides them with a kind of Kevlar for their souls.

In each of these ways, *Duty to Deter* serves as both a force protection mechanism as well as a combat multiplier. It puts steel in the spine and conscience of those who work to deter those wars we really hope we do not have to fight as well as in those who will have to fight them if those who mean us harm dash our hopes. Rebecca Heinrichs has provided a tremendous service to those who serve.

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<sup>5</sup> See, for example: Shira Maguen et al., “Killing in Combat May Be Independently Associated with Suicidal Ideation,” *Depression & Anxiety* (1091-4269) 29, no. 11 (November 2012): 918, and: Shira Maguen et al., “Veterans’ Perspectives on the Psychosocial Impact of Killing in War,” *The Counseling Psychologist* 44, no. 7 (2016).