HALLOWED GROUND: WAR IS [NOT] SAFER THAN LIVING IN THE UNITED STATES†

INTRODUCTION

In 2012, President Barack Obama signed into law an act which provided several benefits to military service members. Partially in response to protests at military funerals, President Obama stated that the United States has “a moral sacred duty to our men and women in uniform. . . The graves of our veterans are hallowed ground.”1 By enacting strong restrictions on the methods used by Westboro Baptist Church, the President and Congress made one thing clear: disrespect of America’s fallen soldiers is not excusable, regardless of political or religious views. This message apparently has not been received by all. Recently, a tenured professor (“the Professor”) at Emory Law published a piece in the Emory Corporate Governance and Accountability Review (“ECGAR”).2 The article, entitled “On Your First Day, President Trump, Please Repeal the Immunization of Gun Sellers Act,” (“the Piece”) aimed to address both firearm legislation within the United States, as well as recent local legislation on that topic. A hodge-podge of legal analysis and logical reasoning, the piece made several unfounded claims. However, perhaps the most outrageous statement within the essay is that “War is safer than living in the United States.”3

† This article is a response to the essay entitled, Frank J. Vandall, On Your First Day, President Trump, Please Repeal the Immunization of Gun Sellers Act, 4 EMORY CORP. GOVERNANCE & ACCOUNTABILITY REV. 281 (2017) (available online at http://law.emory.edu/ecgar/content/volume-4/issue-special/essays-interviews/first-day-trump-repeal-gun-immunization-act.html). At this time, I am not taking issue with the Professor’s political stance on the issue of gun control. A response to the entirety of the Piece would require a much higher word-count cap than is appropriate for an article such as this. Nor am I advocating for censorship of political views.


2 Vandall, supra note 1.

3 Id. This article’s analysis is limited to the following statement (“the Statement”):

In terms of the numbers of deaths from gun violence, it is as if we are at war. War is safer than living in the United States. About 15,000 people die from gun violence each year. That amounts to 150,000 gun deaths every 10 years. In comparison about 60,000 American military personnel were killed in Vietnam, about 4,000 in Iraq over 10 years, and 132 American soldiers were killed in Afghanistan in 2013.(emphasis added).
This responsive article is divided into two sections. The first section will analyze whether it is appropriate to utilize war-time casualties in a discussion of domestic civilian safety. I contend that it is almost never appropriate to utilize the deaths of American soldiers in order to promote a personal political theory. Regardless, as the Professor has already made his argument, the second section will address whether the Statement comes close to factual accuracy. This will be accomplished using three distinct arguments, which will each address the accuracy of the Statement. First, the Professor fails to calculate the actual, per-capita ratios of firearm deaths domestic and abroad. When two, drastically different populations are compared, keeping statistics to a per-capita basis allows for more accurate comparison. Second, the Statement fails to recognize the impact of long-term casualties resulting from exposure to war. Finally, the Professor assumes a vitally flawed correlation between wartime deaths and gun-control. In summary, this argument maintains that drawing comparisons between firearm deaths in the military and civilian sectors is not only an unnecessary slight towards American veterans, but is a horribly inefficient method of approaching the Professor’s theory.

I. ASSERTING THAT “WAR IS SAFER THAN LIVING IN THE UNITED STATES” IS INAPPROPRIATE

Certainly, the Statement might be intended to mean that ‘war takes fewer lives than gun violence in the United States.’ However, it simply was not written that way. The sentence stands independent and ultimately, the specific syntax used is irrelevant. It is clear that, from the Professor’s point-of-view, war is preferable to living in the United States, at least in one way. A veteran’s family may take the Statement to mean that, when their loved ones are deployed to a combat situation, that family ought to be more concerned with their own safety rather than that of their military relative.

As a result, it is almost never appropriate to draw a comparison between veteran deaths and domestic public policy on a non-veteran issue, especially when that contrast is highly disingenuous and overtly sensationalized. The argument that war is safer than living in the United States takes for granted the lives of American heroes and manipulates tragedy in a distasteful way. While

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4 Is it sufficiently appropriate for this sentiment to be made by an esteemed professor of tort law, without any military experience? If not this particular professor, might it be more appropriate coming from a professor of military law, who is more closely connected to veteran issues? A professor that served in the military herself? None of the above?
dramatizing an argument is often beneficial for radio “shock jocks” or uninformed protestors, it is a method of persuasion that ought to be rebuked within legal academia. Moreover, by drawing inaccurate comparisons, a grave disservice is done to those for whom one wishes to advocate. It is reckless and self-indulgent to use misleading opinions when arguing on behalf of those who have lost loved ones as a result of a firearm.

This is not to say that it is impossible to illustrate the high numbers of domestic firearm-related deaths by referring to war. In fact, if one were to exclude the language, “war is safer than living in the United States,” the Professor’s idea would lose no value and offend no conventions. In that case, the preceding sentence, that “it is as if we are at war” would be purely descriptive and a way to shock the reader into a new perspective on the numbers involved. Authors often use well-known events, tragic or otherwise, to frame the impact of an unconnected issue. In fact, a similar belief was posed by then-Republican nominee Donald Trump when he said that there are “war zones. . . [that are] safer than living in some [American] inner cities,” which Mr. Trump attributed only to “cities that are run by the Democrats.” The mistake of comparing the domestic sphere to combat is not a partisan-issue. Here, however, as the Professor directly addresses the alleged safety of a warzone, it is clear that such an assertion was meant to be more than illustrative. Instead, the Statement should be taken as an attempt to persuade reader’s into believing its truth. It takes nothing more than a cursory look to the statistics of the paragraph to discover the holes in its attempt at comparison.

II. IT IS INEFFECTIVE TO COMPARE WAR CASUALTIES WITH DOMESTIC GUN VIOLENCE

The Statement is faulty and ineffective because it fails to address: (a) true ratio-based comparisons; (b) an understanding of long-term casualties; and most importantly (c) a faulty correlation argument. Even if the former two missteps were absent and the Professor was factually correct in his assessment, the third error would still undermine the Professor’s argument. While any one of these failures would sufficiently destabilize the over-arching argument put forward in larger Piece, the abundance of logical slips uncovers a fundamental

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5 Vandall, supra note 1.

unfamiliarity with the military experience, the threats of war, and the reverence typically shown to our nation’s fallen warriors.

A. Comparing True Ratios

The Professor asserts that approximately “15,000 people die from gun violence each year.” This number seems to come relatively close to the actual average number of firearm deaths per year from 2014 (12,554 deaths), 2015 (13,485 deaths), and 2016 (15,070 deaths). That number is then placed against the war-time service member deaths to show how unexpectedly high those numbers are. Again, if this were the sole purpose of the Statement, that would seem to make sense. One can hear a reader muttering, “Wow, I didn’t realize gun violence was so prevalent.” However, the Professor goes too far by including these statistics immediately after the assertion that “War is safer than living in the United States,” indisputably altering the meaning of the statistics.

In 2016, the U.S. Census Bureau estimated a national population of 323 million. Using the aforementioned number of gun deaths and some simple arithmetic, this means that approximately 1 in every 21,000 American citizens lost their life due to an incident with a firearm. That number is certainly frightening, but was it best illustrated by comparing it to war-time deaths? The total enrollment at my alma mater, Kennesaw State University, is around 35,000. Statistically, it is likely that one student per year will be the victim of a fatal shot from a firearm. That is a shocking comparison and would well serve an argument in favor of gun control, but how do these numbers stack up to war-time deaths?

In American history, there have been nearly 42 million patriots to serve during wartime. The total number of American military deaths during wartime is 1,189,285. Approximately 1 out of every 42 military members that have served during America’s wars have given their lives in service of their

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7 Vandall, supra note 1.
9 Vandall, supra note 1.
13 Id.
country. By far, this number doesn’t come close to 1:21,000. Perhaps that ratio is unfair to the Professor’s argument as he specifically singled out the conflicts in Vietnam, Iraq, and Afghanistan. While many Americans opted out of participating in the conflict, 3.4 million military personnel deployed to Southeast Asia during the conflict in Vietnam. Of those, approximately 58,000 gave their lives. The per-capita deaths in Vietnam were 1 in 59. In 2010, the troop presence in Afghanistan peaked at around 140,000. That year, there were 499 American fatalities. A quick calculation reveals that 1 out of every 280 troops lost their life in Afghanistan that year.

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<td>Deaths</td>
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<td>1 : 21,000</td>
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Analyzing other significant conflicts will undoubtedly result in similar numbers. Thus, while it may be shock-inducing to compare the number of domestic firearm deaths to the casualties of American heroes at war, the statement is wholly ineffective and misleading. Using data without proper context does a disservice not only to American veterans, but to those civilian families who have lost a loved one to a firearm incident and who ought to be represented fairly and accurately. War is not safer than living in the United States. For further evidence of this, we need only look to the long-term effects of war.

14 Id.
15 Id.
17 Coalition Military Fatalities by Year, ICASUALTIES.ORG, http://icasualties.org/ocf/.
18 National Population Totals, supra note 12.
19 America’s Wars, supra note 14.
20 Id.
21 Lederman, supra note 18.
22 Past Summary Ledger, supra note 10.
23 America’s Wars, supra note 14.
24 Id.
25 Coalition Military Fatalities, supra note 19.
B. Considering Long-Term Casualties

In 2014, 42,773 Americans committed suicide. Tragically, that amounts to almost 120 lives lost per day. American veterans constitute roughly 9% of the U.S. population, but at a rate of 20 suicides per day, make up 18% of all suicides. Veterans are twice as likely to commit suicide than their civilian counterparts. This dramatic difference is due in part to mental health issues such as post-traumatic stress disorder which plagues the veteran population. Furthermore, with more complete data, those veteran suicides are likely to decrease the number of civilian deaths, substantially altering the ratios. Whether the Professor considered the long-term effects of war when making his assertion is unknown at this time. However, when drawing a comparison between those that have lost their lives in war and those that have lost their lives in the civilian sphere, it is once again a disservice to base an argument on faulty evidence. Nevertheless, in the following section, we will consider the implications if those numbers were different. That is, what if the Professor’s assertion was correct and facts were on his side?

C. Faulty Correlations

Surprisingly, even if a reader were to ignore any counter-arguments and accepted the Statement as truth, the implications of this assertion flies in the face of advocacy for increased control. There is a glaring omission in the premise that war is safer than living in the United States and it undermines the entire argument. Namely, that nearly every individual serving in a combat zone is equipped with the same item: a firearm. Whether it is a holstered Baretta pistol, a selective-fire M-16 rifle, or a M249 light machine gun, firearms are everywhere in a combat zone. If we ignore factual data and accept the premise that war is safer than living in the United States, it appears that there is a positive, direct correlation between gun possession and safety. If the Professor wishes to assert that war is safer than domestic life, should he not concede that there are far higher numbers of armed individuals in war than otherwise? By this logic, one would assume that the author was advocating for

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the presence of more firearms in the domestic sphere, not less. Here, a gun control advocate has pointed to the most heavily armed population in America as having the safest lifestyle. Did the Professor mean to imply that more guns equal more safety when he said that war is safer than living in the United States?

Furthermore, there are fundamental differences between civilian firearm deaths and casualties of war. Even if war is indeed safer than living in the United States, what other differences could contribute to that hypothetical? As part of combat training, infantrymen of all ranks are required to attend medical care classes aimed at keeping casualties responsive, administering immediate field care to wounds, and quickly contacting higher medical care in an efficient manner. Compare the following: (1) a young man is shot outside of a pub. His friend flees from the danger and races home. Perhaps a nearby resident hears the commotion and investigates briefly before picking up the phone to dial 911. In the meantime, the victim lays on the street bleeding out. Unsure of

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what response is needed, the police arrive without an ambulance and the victim
dies shortly after; and (2) a rifleman is shot in the stomach during a combat
patrol. Instantaneously, a corpsman is beside the wounded warrior providing
immediate care, treating for shock and stopping the bleeding. At the same time,
the radio operator has begun using a standardized form (i.e. a CASEVAC 9-
line, an example can be seen above) to request an immediate airborne
evacuation at the appropriate location and with all necessary equipment on
board.30 Within a few minutes, a helicopter has landed and the warrior begins
receiving life-saving treatment while airborne. In 2009, the average length of
medical evacuation missions (from treatment-under-fire to full medical
facilities) in Afghanistan was less than 45 minutes.31 In the United States, just
waiting for an ambulance to arrive can take an hour, which doesn’t include
time spent on scene and then driving to the nearest hospital.32

Even if one accepted the premise of the Statement, it would lend itself most
strongly to arguments such as: increased firearm presence, a reform of the 911
emergency response system, or mandatory medical training for all American
citizens. Instead, the Statement diminishes the sacrifices of American veterans,
discounts the true costs of war, fails to accurately represent the threats gun
pose to the American public, and completely ignores the potential correlation
between gun possession and safety. If one were truly passionate about gun
control and best-serving the victims of gun violence, there ought to be a higher
duty imposed on that individual to make coherent arguments.

CONCLUSION

The modern veteran community at large is not one with a penchant for
protest. Despite major failures within the Department of Veterans Affairs33 and
the very real struggles of adapting to civilian life34, veterans are more likely to
accept contempt with the honor of silent professionalism rather than flee to the

30 Sample MEDEVAC 9-Line, http://cdn.slidesharecdn.com/ss_thumbnails/medevac-131009164321-
31 Gregg Zoroya, Medevacs for Troops Get Faster in Afghanistan, USA TODAY (Dec. 9, 2009, 11:27
32 Aungelique Proctor, Fulton County Homeowner Upset Over Ambulance Response Time, FOX 5 (Sep.
33 Dave Boyer, VA Still Plagued by Problems Two Years after Scandal, WASH. TIMES (Apr. 3, 2016),
34 Jonathan McConnell, A Look Inside a Combat Veteran’s Transition to Civilian Life, THE FEDERALIST
safe arms of higher administrations. However, the present issue has struck a personal chord with veterans and law students alike.

According to a study from Harvard, Emory Law is among neither the most liberal nor conservative law schools in the country, perhaps suggesting that Emory Law is relatively moderate in its political leanings. On the other hand, recent occurrences within Gambrell Hall seem to suggest that the student population is more politically divided than the national statistics seem to suggest. Following a heated classroom discussion, the Dean of Emory Law stated that the school encouraged “open expression and dialogue” but that “when that dialogue makes members... feel marginalized, [Emory Law] must step in to mediate meaningful communication.” The Dean made it clear that Emory Law “must oppose discrimination in all of its manifestations” and that he would “provide concrete action steps” as a result. Yet, there is an important distinction between what is offensive and what is disrespectful. To take offense at something is subjective, i.e. what offends one may not offend another who is similarly situated. On the other hand, disrespect is objective, easily identified by any reasonable person. Importantly, both offense and disrespect may be the result of a lack of understanding on an issue, i.e. a naivety of social mores. Nevertheless, despite Emory Law’s quick action to mitigate offensive language, no “concrete action steps” have been taken surrounding the disrespect of veterans evidenced by the Statement. While the national statistics may show otherwise, it is apparent to many students with Gambrell Hall that Emory Law is not a place in which both sides of the political spectrum are treated equally.

However, many of my fellow students and I refuse to accept the notion that Emory Law is an entity which accepts the complete lack of respect towards American veterans. As private-citizens, we have the privilege of leaving our homes without being equipped with Kevlar armor and tourniquets. Despite local crimes, we find relief in the idea that there is no single individual purposefully training to end our lives. There can be no doubt that American servicemen and women who are currently serving in warzones are counting

37 E-mail from Robert A. Schapiro, Dean, Emory Law School, to lawstudents@listserv.cc.emory.edu (Feb. 29, 2016) (on file with author).
38 Id.
down the days until they can return to the safety of home. For these reasons and more, we contend that there is disrespect, negligence and perhaps even contempt in the statement that war is safer than living in the United States.

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* Currently a student at Emory University School of Law, Corporal Benjamin Stahl served as a rifleman in the United States Marine Corps from 2008 to 2012. During his service, Cpl. Stahl completed two combat tours to southern Afghanistan in support of Operation Enduring Freedom. The first deployment, to Marjah, Afghanistan, led to seventeen members of his battalion being killed in combat, and 220 fellow Marines received purple hearts for grievous injury. Due to a unique perspective as both a veteran and a law student, Cpl. Stahl felt well-suited to addressing the troubling statements made by the Professor.