

DANIEL MAURER

Ohio Northern University, Pettit College of Law
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ACADEMIC APPOINTMENTS

Ohio Northern University, Pettit College of Law

Aug. 2024 – Present

Associate Professor

Courses: Criminal Law, Criminal Procedure: Adjudication, National Security Law, White Collar Crime

College Committee Service: Personnel, Assessments, Exam Accommodations

Faculty Advisor: American Constitution Society

The Judge Advocate General's Legal Center & School

2022 – 2024

Associate Professor

Courses taught: International Human Rights Law, War Crimes and Atrocity Law, Command Responsibility, Advanced National Security Law, Legal Planning

Service: Founder and Lead Organizer, Faculty Scholarship Workshop series, Faculty director for “Emerging Topics in International and Operational Law” annual course, Faculty co-facilitator of the Graduate Course (LL.M.) “Leadership Development Program” seminar

United States Military Academy (West Point)

2019 - 2022

Assistant Professor

Fellow, Modern War Institute at West Point, 2018-21

Courses taught: Constitutional and Military Law; Criminal Law; Military Justice: Foundations and Legitimacy; Senior Honors Thesis (department of law thesis program director)

Service: Ethical Reasoning Academic Program Goal working group, Faculty Associate for Graduate Scholarship Program, Executive Committee for West Point Writing Program, Faculty Advisor for USMA Mock Trial team

PUBLICATIONS

[SSRN page](#)

Books, Monographs

RECONSIDERING AMERICAN CIVIL-MILITARY RELATIONS: THE MILITARY, SOCIETY, POLITICS, AND MODERN WAR, ed., with Lionel Beehner and Risa Brooks (Oxford University Press, 2020)

CRISIS, AGENCY, AND LAW IN U.S. CIVIL-MILITARY RELATIONS (Palgrave Macmillan, 2017)

THE CLASH OF THE TRINITIES: A NEW THEORETICAL ANALYSIS OF THE GENERAL NATURE OF WAR (Strategic Studies Institute Press, 2017)

- Highlighted on *Legal Theory Blog* (Nov. 29, 2017)

Law Review Articles, Refereed or Peer-Reviewed Journal Articles, Book Chapters

Congress and the Operational Disciplining of the Use of Armed Force, Part II: Rules of Engagement and a “Military Agency Test” for the Separation of War Powers, 85 OHIO STATE LAW JOURNAL ____ (forthcoming Fall 2024)

Congress and the Operational Disciplining of the Use of Armed Force: Are Rules of Engagement Within the Preclusive Core of the President’s War Powers?, 84 OHIO STATE LAW JOURNAL 1393 (2024) (invited symposium contribution)

Meta-Law of Armed Conflict Principles, 56 TEXAS TECH LAW REVIEW 113 (invited symposium contribution) (2023)

- “Highly Recommended” by *Legal Theory Blog* (Mar. 14, 2024)

Sovereign, Employer, Community: A Theory of Military Justice Beyond Discipline, Obedience, and Efficiency, 107 MARQUETTE LAW REVIEW 399 (2023)

- “Highly recommended. A pathbreaking article on an important topic. Download it while it’s hot!” by *Legal Theory Blog* (May 30, 2022) (linked to earlier version of the article posted to SSRN)
- Featured on *CrimProfBlog* (June 14, 2022) (linked to earlier version of the article posted to SSRN)

War Crime Clemency: The President’s Self- (Defeating) Pardon, 82 MARYLAND LAW REVIEW 581 (2023)

- Presented at 12th Annual Constitutional Law Colloquium, George Washington University Law School (Nov. 12, 2021)

Why are Non-Unanimous (Court-Martial) Guilty Verdicts Still Alive After Ramos?, 60 AMERICAN CRIMINAL LAW REVIEW 127 (2023)

Toward a Post Bellum Lieber Code, in HOW TO END A WAR: ESSAYS ON JUSTICE, PEACE, AND REPAIR 170-93 (Graham D. Parsons & Mark Wilson eds., Cambridge University Press, 2023)

Cross-Examining Convention: A Hypothetical Test of Pro-Convening Authority Discretion, THE ARMY LAWYER 66 (2021) (peer reviewed)

Martial Misconduct and Weak Defenses: A History Repeating Itself (Except When it Doesn’t), 54 UNIVERSITY OF ILLINOIS - CHICAGO LAW REVIEW 867 (2021)

- Featured on *CrimProfBlog* (Apr. 26, 2022)

War Crime Pardons and Presidential (Self) Restraint, 33 FEDERAL SENTENCING REPORTER 313 (2021) (peer reviewed)

A Logic of Military Justice?, 53 TEXAS TECH LAW REVIEW 669 (2021)

- Featured on *CrimProfBlog* (Aug. 24, 2021)

The Veil (or Helmet) of Ignorance – a Rawlsian Thought Experiment About a Military’s Criminal Law, 55 UNIVERSITY OF RICHMOND LAW REVIEW 945 (2021)

- Featured on *CrimProfBlog* (Mar. 16, 2021)

Larrabee at the District Court: Misunderstanding Military Criminal Law by the Article III Judiciary is Far From Retired, 2021 UNIVERSITY OF ILLINOIS LAW REVIEW ONLINE 23 (February 22, 2021)

- “Recommended” by *Legal Theory Blog* (Mar. 10, 2021)
- Kevin J. Barry Award – National Institute of Military Justice (2022)

Is Demilitarizing Military Justice an Ethical Imperative for Congress, the Courts, and the Commander-in-Chief?, 49 HOFSTRA LAW REVIEW 1 (2020) (Symposium introduction)

- Featured on *CrimProfBlog* (Mar. 16, 2021)

Paved with Good Intentions?: Civil-Military Norms, Breaches, and Why Mindset Matters, 11 JOURNAL OF NATIONAL SECURITY LAW & POLICY 343 (2021) (peer reviewed)

Fiduciary Duty, Honor, Country: Legislating a Theory of Agency into Strategic Civil-Military Relations, 10 HARVARD NATIONAL SECURITY JOURNAL 259 (2019)

Not Your Grandfather’s Zone of Twilight: Civil Military Relationships in Debatably Legal Precision Strikes, HARVARD NATIONAL SECURITY JOURNAL ONLINE (August 27, 2018)

Cross-eyed: Planning When Host-Nation and Intervener Rule of Law Strategies are Unaligned, HARVARD NATIONAL SECURITY JOURNAL ONLINE (September 16, 2015)

Going on the Offensive: Legitimacy and Fairness Inside the Military Justice ‘Trinity’ of Interests, 11 OHIO STATE JOURNAL OF CRIMINAL LAW 311 (2014) (Invited Guest Editor, Foreword to Symposium on Military Criminal Justice)

Military Mediation as Military Justice? Conjectures on Repairing Unit Cohesion in the Wake of Relational Misconduct, 28 OHIO STATE JOURNAL ON DISPUTE RESOLUTION 419 (2013)

Working with Proximate Cause: an ‘Elements’ Approach, THE ARMY LAWYER 16 (December 2011) (peer reviewed)

The Unrepresentative Military Jury: Deliberate Inclusion of Combat Veterans in the Military’s Venire for Combat-Incidental Crimes, 6 OHIO STATE JOURNAL OF CRIMINAL LAW 803 (2009) (note) (Faculty Editor Selected)

Additional Publications

[*Governing Military Norm-Defiance in a Norm-Defying Presidency*](#), LAWFARE (Aug. 8, 2024)

[*Can the Military Disobey Orders in the SEAL Team 6 Hypothetical?*](#), LAWFARE (July 8, 2024)

[*The Department of Defense’s in Extremis Legal Challenges During Modern Warfare*](#), ARTICLES OF WAR (Apr. 24, 2024)

[The DoD's New Civilian Harm Mitigation and Response Policy and "Harm Resulting From" Military Operations](#), ARTICLES OF WAR (Jan. 5, 2024)

[The Law of Truce](#), ARTICLES OF WAR (Nov. 21, 2023)

[A State's Legal Duty to Warn its Own Civilians on Consequences of Direct Participation in Hostilities](#), ARTICLES OF WAR (Feb. 21, 2023)

[Talking About "War Crimes."](#) ARTICLES OF WAR (Aug. 31, 2022)

[A U.N. Security Council Permanent Member's De Facto Immunity From Article 6 Expulsion: Russia's Fact or Fiction?](#), LAWFARE (Apr. 15, 2022)

[The Division of Authority Between the Special Trial Counsel and Commanders Under the Uniform Code of Military Justice: Planning Now for the Next Phase of Reform](#), LAWFARE (with Philip D. Cave, Don Christensen, Eugene R. Fidell, & Brenner M. Fissell) (Feb. 22, 2022)

[What the FY 2022 NDAA Does, and Does Not Do, to Military Justice](#), LAWFARE (Dec. 30, 2021)

[The Rhetoric of Retaliation](#), ARTICLES OF WAR (Sept. 17, 2021)

[What To Do About Lt. General \(retired\) Flynn: Military Justice and Civil-Military Relations Considerations](#), JUST SECURITY (with Yevgeny Vindman) (June 11, 2021)

[Comparative Analysis of UCMJ Reform Proposals](#), CAAFLOG (June 4, 2021)

[The Military Waiver Requirement for Secretary of Defense Shouldn't Substitute Individuation](#), LAWFARE (Dec. 22, 2020)

[The Larrabee Decision is a Missed Opportunity for the D.C. District Court to Criticize, and for the Military to Justify](#), UCMJ Retiree Jurisdiction on Principled Grounds, CAAFLOG (Nov. 28, 2020)

[An Open, but Difficult, Challenge: Finding the Rationale for a Commander's GCMCA for all Offenses](#), CAAFLOG (Oct. 2, 2020)

[Breaking Ranks in a Civil-Military Crisis: Strategic Communication to Register Dissent](#), JUST SECURITY (Aug. 26, 2020)

[The Generals' Constitution](#), JUST SECURITY (June 9, 2020)

[The 'Shadow Report' on Commanders' Prosecutorial Powers Raises More Questions Than Answers](#), LAWFARE (May 11, 2020)

[Should There Be a War Crime Pardon Exception?](#), LAWFARE (Dec. 3, 2019)

[What Lt. Col. Vindman's Testimony Says About Civil-Military Relations and Military Justice](#), LAWFARE (Nov. 18, 2019)

[*It's Time to Crowd-Source Questions About Civil-Military Relationships*](#), WAR ON THE ROCKS (July 29, 2019)

[*Trump's Intervention in the Golsteyn Case: Judicial Independence, Military Justice or Both?*](#), LAWFARE (Jan. 3, 2019)

[*Moral Culpability and Autonomous Military Systems: Is Human Responsibility Accentuated or Attenuated by a Reliance on AI?*](#), MODERN WAR INSTITUTE, U.S. Military Academy at West Point (Nov. 19, 2018) (edited remarks from invited presentation at Royal United Services Institute, Lethal AI and Autonomy Conference, Nov. 7, 2018)

[*Are Military Courts Really Just Like Civilian Criminal Courts?*](#), LAWFARE (July 13, 2018)

Civil-Military Relationships in Star Wars, in STRATEGY STRIKES BACK: HOW STAR WARS EXPLAINS MODERN MILITARY CONFLICT (John Amble, Max Brooks, et al. eds., Potomac Books, 2018)

[*Does K-2SO Deserve a Medal?: Warrior Ethos, Human Judgment, and our \(Possible\) Machine Colleagues*](#), MODERN WAR INSTITUTE, U.S. Military Academy at West Point (August 17, 2017) (edited remarks from invited presentation at Royal United Services Institute, Technology and Future Combat Roundtable, London, Aug. 2, 2017)

[*Meeting of the Minds: How Presidents and Generals Stake out their Territory*](#), LAWFARE (May 18, 2017)

[*Does K-2SO Deserve a Medal?*](#), SMALL WARS JOURNAL (May 12, 2017)

[*On Failure*](#), MODERN WAR INSTITUTE, U.S. Military Academy (Apr. 4, 2017)

[*The Staff Officer's Paintbrush: the Art of Advising Commanders*](#), MODERN WAR INSTITUTE, U.S. Military Academy (Mar. 2, 2017)

[*The Judge Advocate as Strategist*](#), SMALL WARS JOURNAL (Jan. 28, 2017)

[*A Civil War Vignette that Explains Modern Civ-Mil Relations*](#), MODERN WAR INSTITUTE, U.S. Military Academy (Aug. 22, 2016)

[*The 'Inception' Theory of Military Innovation*](#), MODERN WAR INSTITUTE, U.S. Military Academy (Mar. 29, 2016)

[*Why Percentages Matter—And Why We Should Ignore Them*](#), MODERN WAR INSTITUTE, U.S. Military Academy (Jan. 24, 2016)

[*The Future Fallacy: A Conversation About the 'Certainty Principle'*](#), SMALL WARS JOURNAL (Mar. 12, 2015)

Entanglement: Using Social Network Analysis for Military Justice Applications, MILITARY REVIEW 87 (Nov-Dec 2014)

[*Looking to the Stars: Imagining a Constellation of Capabilities*](#), SMALL WARS JOURNAL (July 17, 2014)

Thinking About Thinking About the Army's Future: Paradigms and the Wicked Problem of Landpower, SMALL WARS JOURNAL (with Paul Thomas) (June 9, 2014)

Investigations: Why Official Inquiries Are Needed (Part II), 41 ENGINEER: THE PROFESSIONAL BULLETIN OF ARMY ENGINEERS 34 (2011)

Investigations: Why Official Inquiries Are Needed (Part I), 40 ENGINEER: THE PROFESSIONAL BULLETIN OF ARMY ENGINEERS 47 (2010)

INVITED PRESENTATIONS

Presenter, “Right to Use Force Under International Law: Are Provocation and Retaliation Meaningful, Helpful, or Accurate Legal Terms?,” **United Nations Command/Combined Forces Command/U.S. Forces Korea International and Operational Law Conference**, Seoul, Republic of Korea (May 8, 2024)

Panel Member, “Russia, Ukraine, and the Challenge of Wartime Accountability,” **Texas Tech Law Review Symposium**, Texas Tech School of Law (Apr. 14, 2023)

Guest Lecturer, “War Crimes and Accountability,” International Criminal Law course, **Georgetown University Law Center** (Mar. 20, 2023)

Panel Member, “The Ukraine War and its Legal Ramifications,” **Ohio State Law Journal Symposium**, The Ohio State University Moritz College of Law (Feb. 24, 2023)

Panel Member, “Justice in War: Accountability for Battlefield Misconduct,” **National Institute for Military Justice**, University of Virginia School of Law (Apr. 8, 2022)

Panel Member, “Disinformation and Political Violence,” **The Mershon Center for International Security Studies**, The Ohio State University (Apr. 2022, virtual)

Presenter, “War Crime Clemency: The President’s Self-Defeating Pardon,” **12th Annual Constitutional Law Colloquium**, George Washington University Law School (Nov. 13, 2021)

Presenter, “*Martial Misconduct*,” **International Military Justice Forum, Research Centre of the French Military Academy Saint-Cyr Coëtquidan (CREC)**, Paris (Nov. 2021, virtual)

Panel Member, “Foreign Policy and Civil-Military Relations in the Biden Administration,” **Modern War Institute**, West Point (Feb. 24, 2021)

Presenter, “Going Deeper than the ‘Purpose’ of Military Justice: Determining its Logic, After *Ortiz*,” **USMA Department of Law Faculty Scholarship Workshop**, West Point (Sep. 30, 2020)

Invited Speaker, “Going Deeper than the ‘Purpose’ of Military Justice: Determining its Logic, After *Ortiz*,” **Global Military Justice Reform “Town Hall”** (Sep. 15, 2020, virtual)

Invited Speaker, “The Ballot and the Sword: the 2020 Election and the U.S. Military,” **The Mershon Center for International Security Studies and Election Law @Moritz**, Ohio State Moritz College of Law (July 27, 2020, virtual)

Presenter, “A Logic of Military Justice,” **Criminal Law Works-in-Progress (CrimWip) faculty workshop**, hosted by Northern Illinois University College of Law (July 8, 2020, virtual)

Panel Member, “Understanding US-Iran Tensions,” **Modern War Institute**, U.S. Military Academy at West Point (Jan. 2020)

Invited Presenter, “Toward a Post Bellum Lieber Code?: 7 Principles of Prosecution – of Crime and (Post) War,” **2019 Conference on the Ethics of War and Peace**, U.S. Military Academy at West Point (Oct. 12, 2019)

Invited Speaker, “Moral Culpability and Autonomous Military Systems: Is Human Responsibility Accentuated or Attenuated by a Reliance on AI?,” **Royal United Services Institute, Lethal AI and Autonomy Conference, London (RUSI – Whitehall)** (Nov. 7, 2018)

Invited Speaker, “Crisis, Agency, and Law in US Civil-Military Relations,” **Army Strategist Association**, Vicenza, Italy (July 2018)

Invited Speaker, “Does K-2SO Deserve a Medal?,” **Royal United Services Institute, Technology and Future Combat Roundtable, London (RUSI – Whitehall)** (Aug. 2, 2017)

OTHER LEGAL EXPERIENCE

Senior Counsel – National Security Law

Headquarters, U.S. Army Africa/Southern European Task Force, Vicenza, Italy (2017-19); senior legal advisor to staff planners and senior executive leadership with responsibility for conventional operations in Africa on matters relating to the Law of Armed Conflict/International Humanitarian Law, security cooperation among partner nation military forces, and fiscal law; responsible for team of three junior attorneys

Senior Prosecutor

Fort Sill, Oklahoma (2015-17); roughly analogous to an executive district attorney or principal assistant district attorney, supervised 6 prosecutors and advised senior executive leadership of city-scale installation on all matters within military criminal law; primary liaison with both civilian and military law enforcement communities

Strategist

Pentagon (2013-14); competitively hand-selected by the Army’s chief operating officer (the four-star “Chief of Staff,” a member of the Joint Chiefs of Staff) to serve as strategist fellow on the Army Headquarters Strategic Studies Group; first judge advocate to be selected as a Fellow; part of a twenty-member cohort of junior and senior military officers from all services, DoD civilian scientists and researchers, commercial industry, and academia to

provide researched strategic advice and insight on long-term institutional planning dilemmas and forecasted national security challenges facing the Army

Government Appellate Counsel

U.S. Army Legal Services Agency, Fort Belvoir, Virginia (2011-13); represented United States before the Army Court of Criminal Appeals and the U.S. Court of Appeals for the Armed Forces in cases arising from convictions under the Uniform Code of Military Justice; principal author of more than 30 appellate briefs; lead counsel for 11 oral arguments

General Counsel

Fort Hood, Texas and Balad, Iraq (2009-11); served as senior legal advisor to senior executive leaders and staff, responsible for supervising junior prosecutors and paralegal support staff; advised in areas of criminal law, administrative and civil law, fiscal law, policy, contracting, rules of engagement, and international law

Prosecutor

Fort Hood, Texas (2008-09); served as first- and second-chair prosecutor for all felony-level misconduct committed within a 2,500-soldier brigade, including investigation, discovery, motions practice, plea negotiation, jury (“panel”) selection, and litigation, culminating in federal courts-martial under 10 U.S.C. § 801-946a; crimes included domestic abuse, drug distribution, financial fraud, sexual violence, and traditional military offenses like desertion, disobeying lawful orders, and absence without leave

EDUCATION

The Judge Advocate General’s Legal Center & School
LL.M., 2015

- Award for Best Thesis (*Fiduciary Duty, Honor, Country: Diagnosing the Health of Strategic Civil-Military Relations with the Law of Agency*)
- Specialty: Administrative and Civil Law

The Ohio State University, Moritz College of Law
J.D., 2008

- Executive Editor, *Ohio State Journal of Criminal Law*
- *Dressler Award for Excellence in Criminal Law*; *CALI Award* for Multi-Party Mediation Practicum
- Department of the Army, Funded Legal Education Program (full-tuition scholarship while remaining on active duty as commissioned officer)

James Madison University
B.A., 2002

- Military Science Award, James Madison University, College of Education (highest academic performance over four-year course of study in Department of Military Science)
- Department of the Army Distinguished Military Graduate (top 20% of graduating cadets in nationwide order-of-merit list)

- Member, later committee chair, University Honor Council; Member, Golden Key Honor National Honor Society; Member, later Director and instructor, Scabbard & Blade ROTC Honor Society
- Staff writer (op-ed), *The Breeze* (James Madison University's twice-weekly newspaper) (2000-2002)

OTHER ACADEMIC AWARDS & HONORS

- Diploma, *with honors*, U.S. Army Command and General Staff Officers Course (2018): Book Award for best research essay, Department of Military History
- Staff editor (2006-07), later Executive Editor (2007-08), *Ohio State Journal of Criminal Law* (Staff Editor of the Year award, selected by peers and senior editorial board; Executive Board Member of the Year, selected by editorial board and faculty editors)
- James Madison University student representative to the 2002 U.S. Naval Academy Conference on Foreign Affairs (selected by Chair, Department of Political Science, James Madison University)
- Army Reserve Officer Training Corps (ROTC) scholarship recipient (various leadership positions, including chief training and plans officer, and executive officer) (1998-2002)
- Department of the Army Citation for the Superior Cadet Decoration Award (rated first in cadet order-of-merit list within undergraduate ROTC program) and Professor of Military Science Outstanding Cadet Award (2002)

PROFESSIONAL AWARDS & HONORS

- One of 12 Non-Resident Fellows with the Modern War Institute at West Point (2018-19 Academic year) (one of four Active Duty military Fellows); selected to continue as a 2019-20 Academic year Non-Resident Fellow; selected to continue as a 2020-21 Fellow
- One of 14 Active Duty Army officers competitively selected as a Fellow for the 2013-14 Chief of Staff of the Army's Strategic Studies Group (first Judge Advocate selected)
- Award for Excellence in Advocacy, Criminal Law Advocacy Course, Army Judge Advocate General's Legal Center and School (2009) (top 10% of class, consisting of prosecutors and defense counsel across the Army)
- One of 24 officers selected Army-wide for the Funded Legal Education Program (2005)
- Distinguished Graduate, Army Engineer Officer Basic Course (2002)
- Legion of Merit, Humanitarian Service Medal, Bronze Star, Meritorious Service Medal (x5), Army Commendation Medal (x4), Army Achievement Medal (x2), Humanitarian Service Medal, Parachutist Badge, Combat Action Badge, Army Staff Identification Badge

- Top Secret (TS/SCI) security clearance (since 2018)

Additional professional experience and military education available upon request (Active duty 2002 – 2024; Retired in the rank Lieutenant Colonel)

TEACHING & RESEARCH INTERESTS

Criminal Law & Criminal Procedure, National Security Law, Human Rights Law, Constitutional Law, Separation of Powers, Law of Armed Conflict/International Humanitarian Law, Civil-Military Relations, Military Criminal Law, Legislation/Regulation, Mediation practice & system design, Leadership in the Law

MEMBERSHIPS & AFFILIATIONS

Editorial Advisory Board, <i>Forces Law Review</i>	2024 – Present
Fellow, National Institute of Military Justice	2024 – Present
Advisor, Center for Military Law & Policy, Texas Tech School of Law	2024 – Present
Fellow, Modern War Institute at West Point	2018 – 2021
Admitted to practice law in State of Ohio	2008 – Present
Bar of the Army Court of Criminal Appeals	2011 – Present
Bar of the Court of Appeals for the Armed Forces	2011 – Present
Bar of the United States Supreme Court	2013 – Present