

# Notes from the Field

## Judge Advocate “Firsts”

### Introduction

Last year, The Judge Advocate General directed the writing of the history of Army lawyers in combat operations since Vietnam. The theme of the book, titled *Judge Advocates in Combat*, is the developing role of Army lawyers in military operations and how that development enhances the ability of commanders to succeed. Because the way judge advocates enhance the capabilities of commanders has evolved dramatically over the past thirty years, *Judge Advocates in Combat* explores how soldier-lawyers have adjusted from their Vietnam-era responsibility simply to provide traditional services—military justice, claims, legal assistance, administrative law—to today’s integration into operational issues at all levels. Judge advocate integration into operations, particularly in the last ten years, has enhanced the ability of commanders to achieve mission success.

In researching and writing *Judge Advocates in Combat*, much has been learned, including the following “firsts” in the history of The Judge Advocate General’s Corps. Since 29 July marks the anniversary of Mr. William Tudor’s appointment as the first Judge Advocate of the Army in 1775, this article presents an excellent and timely opportunity to illustrate that the Judge Advocate General’s Corps has a rich and fascinating history and that Army lawyers have always been an integral part of our Army.

### Generally

#### *Judge Advocate Insignia*

Army regulations first authorized the wearing of distinguishing judge advocate insignia in 1857, when Army lawyers were permitted to wear a “white pompon.” This was a tuft of cloth material that looked like an undersized tennis ball and protruded from the hat. Today’s familiar *sword and pen crossed and wreathed* device was not created until 1890. Judge advocates have worn this distinguishing insignia since that time, although a *Roman sword and balance* insignia was worn briefly in the 1920s.

#### *The Title “The Judge Advocate General”*

In 1775, the 2d Continental Congress elected Mr. William Tudor as the “Judge Advocate of the Army of the United Colonies.” In 1776, Congress accorded Mr. Tudor the title of “Judge Advocate General” and the rank of lieutenant colonel in the new Army of the United States. Tudor’s successors continued to be known as the “Judge Advocate General” until 1792, when the American army was reorganized as the “Legion of the United States” and the top lawyer was given the title “Judge Marshal and Advocate General.”

In 1801, the Legion of the United States was abolished, and the senior judge advocate in the reorganized Army of the United States was the “Judge Advocate of the Army.” This title continued to be used until 1862, when Congress revived the title “Judge Advocate General.” Not until 1884, however, did the Judge Advocate General have “flag” rank, when Congress authorized the senior Army lawyer to serve in the rank of brigadier general.

Finally, in 1917, Congress gave the Judge Advocate General the rank and pay of a major general. But not until 1924 did the Judge Advocate General become The Judge Advocate General (TJAG), when War Department General Orders No. 2, published on 31 January, added the capitalized “The” to the title.

#### *Air Judge Advocate*

The Office of the Air Judge Advocate was created in March 1942, with the Air Judge Advocate as the chief legal officer of the Army Air Forces. The first Air Judge Advocate was Brigadier General Lawrence H. Hedrick. By the summer of 1945, he had overall responsibility for the roughly 1500 legal officers serving in the Army Air Forces in the United States and overseas.

With the creation of a separate United States Air Force in 1949, the title and position of Air Judge Advocate disappeared along with the Army Air Forces.

#### *Chief Judge of the United States Army Court of Military Review (now the Army Court of Criminal Appeals)*

After retiring as TJAG in 1971, Major General Kenneth J. Hodson was immediately recalled to active duty to become the first Chief Judge of the United States Army Court of Military Review. At the same time, General Hodson became the first chief of the newly created U.S. Army Legal Services Agency. He ended his recall period in 1974 and reverted to his retired status.

### Personnel Milestones

The first female judge advocate was Captain Phyllis L. Propp. Appointed as a Second Lieutenant in the Women’s Army Corps in 1942, Propp transferred as a captain to the Judge Advocate General’s Department in 1944. She was assigned as the Staff Judge Advocate, Fort Des Moines, Iowa.

Major A.E. Patterson was the first black judge advocate, and served in the Judge Advocate General’s Department during World War I.

On 1 April 1991, Kenneth D. Gray was promoted to brigadier general, becoming the first black general officer in the Judge Advocate General's Corps. He was promoted to major general on 1 October 1993 and retired as The Assistant Judge Advocate General on 30 April 1997.

Major Berryman Green received the first direct appointment from civilian life when he was commissioned as a major in February 1942. He was immediately assigned to the Office of The Judge Advocate General to handle "taxation problems."

While serving as an enlisted soldier at Camp Beauregard, Louisiana, in July 1942, Theodore F. Cangelosi became the first enlisted soldier to receive a direct appointment. Cangelosi, who had graduated from law school at Louisiana State University in 1934, was appointed a judge advocate at the rank of First Lieutenant. He had also served as a member of the Louisiana State Legislature from 1940 until he enlisted in the Army.

First Lieutenant John E. Park was the first enlisted soldier selected for, and the first applicant to, The Judge Advocate General Officer Candidate School (OCS). He served as an enlisted soldier from 1942 until 1944, when he graduated from the first OCS class.

### **Government Office**

Captain John Marshall served as a judge advocate during the Revolutionary War and was the first judge advocate to serve on the United States Supreme Court. In 1801, he was appointed as the fourth chief justice of the United States Supreme Court. He served as chief justice until 1835 and authored numerous landmark decisions.

The first judge advocate to serve as the Secretary of War was Major Henry L. Stimson. During World War I, Major Stimson served as a judge advocate, but he served as President Roosevelt's Secretary of War during World War II.

In the 1970s, Captain Togo D. West, Jr. served as a judge advocate. He is now the Secretary of the Army and is the first judge advocate to serve in that position.

### **Deployments**

In every military operation, judge advocates deploy with the units they support. Throughout the history of the United States Army, many of these soldier-lawyers have distinguished themselves by being the first judge advocates deployed in particular operations or certain parts of the world. The first judge advocate ashore in combat operations against Mexico at Vera Cruz was Arthur W. Brown, who served as acting judge advocate of the United States Expeditionary Forces assaulting Vera Cruz in 1914. The first judge advocate in Russia was Lieutenant Colonel Edward S. Thurston, who served as Judge Advocate, United States Troops, Archangel, Russia, from 1918-1919. Thurston was the lone Army lawyer accompanying the "Murmansk

Expedition"—part of the American Expeditionary Force that intervened in Russia in the aftermath of World War I.

At the request of Lieutenant General Joseph Stilwell, The Judge Advocate General activated a branch office for the China, Burma, and India (CBI) Theater in October 1942. In December 1942, Colonel Robert W. Brown, accompanied by four Army lawyers, arrived for duty in New Delhi as the Assistant Judge Advocate General. By 1945, the CBI Theater had split into a Burma India (BI) Theater and a China Theater. Brigadier General Clarence C. Fenn was the Judge Advocate of the BI Theater. The China Theater Judge Advocate was Colonel Edward H. Young, former Commandant of the Judge Advocate General's School, Ann Arbor, Michigan. Young and eleven judge advocates worked at Theater headquarters in Chungking, China.

Lieutenant Colonel Paul J. Durbin was the first judge advocate in Vietnam. He served as the Staff Judge Advocate for the United States Military Assistance Advisory Group, Vietnam. Durbin, who served in Saigon from 1959 to 1961, was also the first judge advocate ashore in the amphibious landings at Inchon, Korea in 1950.

In October 1983, Lieutenant Colonel Quentin Richardson airlanded as part of the Assault Command Post on the first day of Operation Urgent Fury in Grenada. Richardson, who was the Staff Judge Advocate for the 82d Airborne Division, was the first judge advocate in Grenada during the operation.

The first judge advocate in Saudi Arabia as part of Operation Desert Shield was Captain Mark C. Prugh. Captain Prugh arrived at Dhahran, Saudi Arabia in July 1990, as part of the XVIII Airborne Corps Assault Command Post forces.

The first judge advocate in command during combat operations was Colonel Blanton Winship, who commanded the 110th and 118th Infantry Regiments of the 28th Division while simultaneously serving as Judge Advocate for the 1st Army in France in 1918. For his gallantry in action, Colonel Winship was awarded the Silver Star. He was also awarded the Distinguished Service Cross for "extraordinary heroism in action" near Lachausee, France, on 9 November 1918.

### **Honors**

As mentioned above, Colonel Blanton Winship was awarded the Distinguished Service Cross (DSC) for his actions in World War I. Although a number of Army officers who have been awarded the DSC later served as judge advocates, only Colonel Winship received the DSC while serving as an Army lawyer. Along with being the first judge advocate to receive the DSC, Colonel Winship was the first judge advocate to receive the Silver Star.

The highest gallantry award to a judge advocate in World War II was the Silver Star, which was awarded to First Lieutenant Samuel Spitzer. Lieutenant Spitzer served as a judge advo-

cate attached for duty with the 4th Armored Division. On 31 July 1944, Spitzer laid aside his personal weapons and openly walked down the center of a small French town occupied by the enemy, calling out loudly in German that the town was surrounded by American forces and demanding that the Germans surrender. As a result of his courage, 508 German soldiers laid down their arms and were taken prisoner.

The most highly decorated judge advocate was Captain Donald E. Grant. Captain Grant entered the Judge Advocate General's Department in 1944. For combat in France during World War I, he had already been awarded the DSC, two Silver Stars, and the Purple Heart.

### **Specialty Badges**

Over the years, judge advocates have stayed in step with other soldiers by attending and completing various courses such as Airborne School. Judge advocate participation in these courses highlights once again that there are two aspects to being a judge advocate—soldier and attorney.

The first “jumping” judge advocate was Lieutenant Colonel Nicholas E. Allen, who completed a ten-day jump school con-

ducted by the 82d Airborne Division in the European Theater in 1945. Allen was the judge advocate for the division. His parachutist badge was pinned on his chest by the Division Commander, Major General James M. Gavin.

Lieutenant Colonel James J. Smith became the first judge advocate credited with a combat parachute jump. Smith was the Staff Judge Advocate, 82d Airborne Division, and participated in the airborne assault onto Torrijos during Operation Just Cause in December 1989.

In addition to the Airborne-related firsts mentioned above, judge advocates have completed other qualification courses. In 1977, Captain John D. Altenburg, Jr., who was assigned as a judge advocate with the Special Forces, successfully completed the scuba diver course and became the first scuba qualified judge advocate. In 1983, Captain Fred L. Borch completed the Pathfinder course while assigned as a judge advocate at the Infantry School, Fort Benning, Georgia, and he became the first Pathfinder qualified judge advocate. Lieutenant Colonel Frederic L. Borch, III, Special Assistant to The Judge Advocate General.