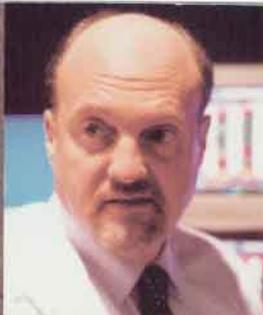


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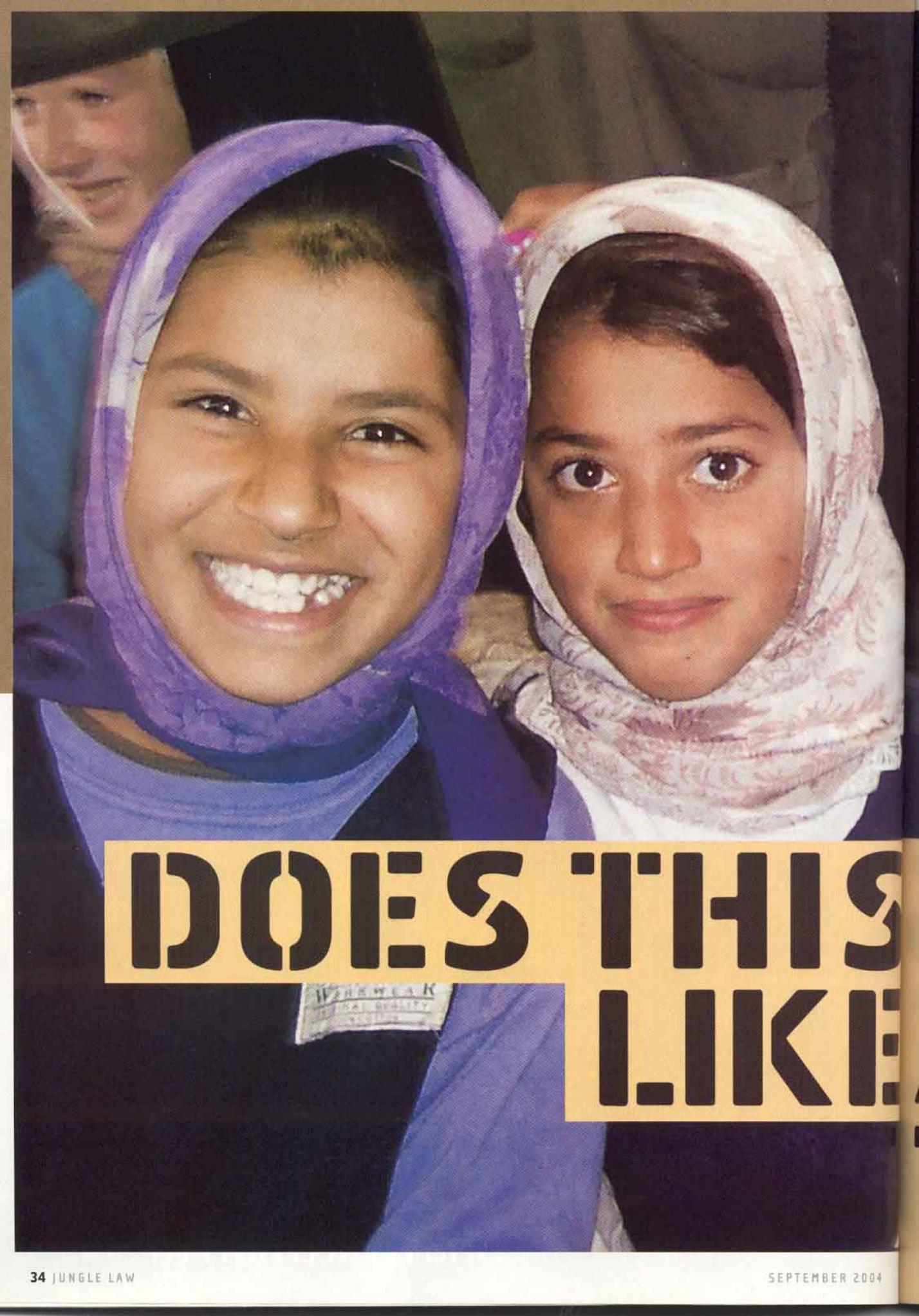


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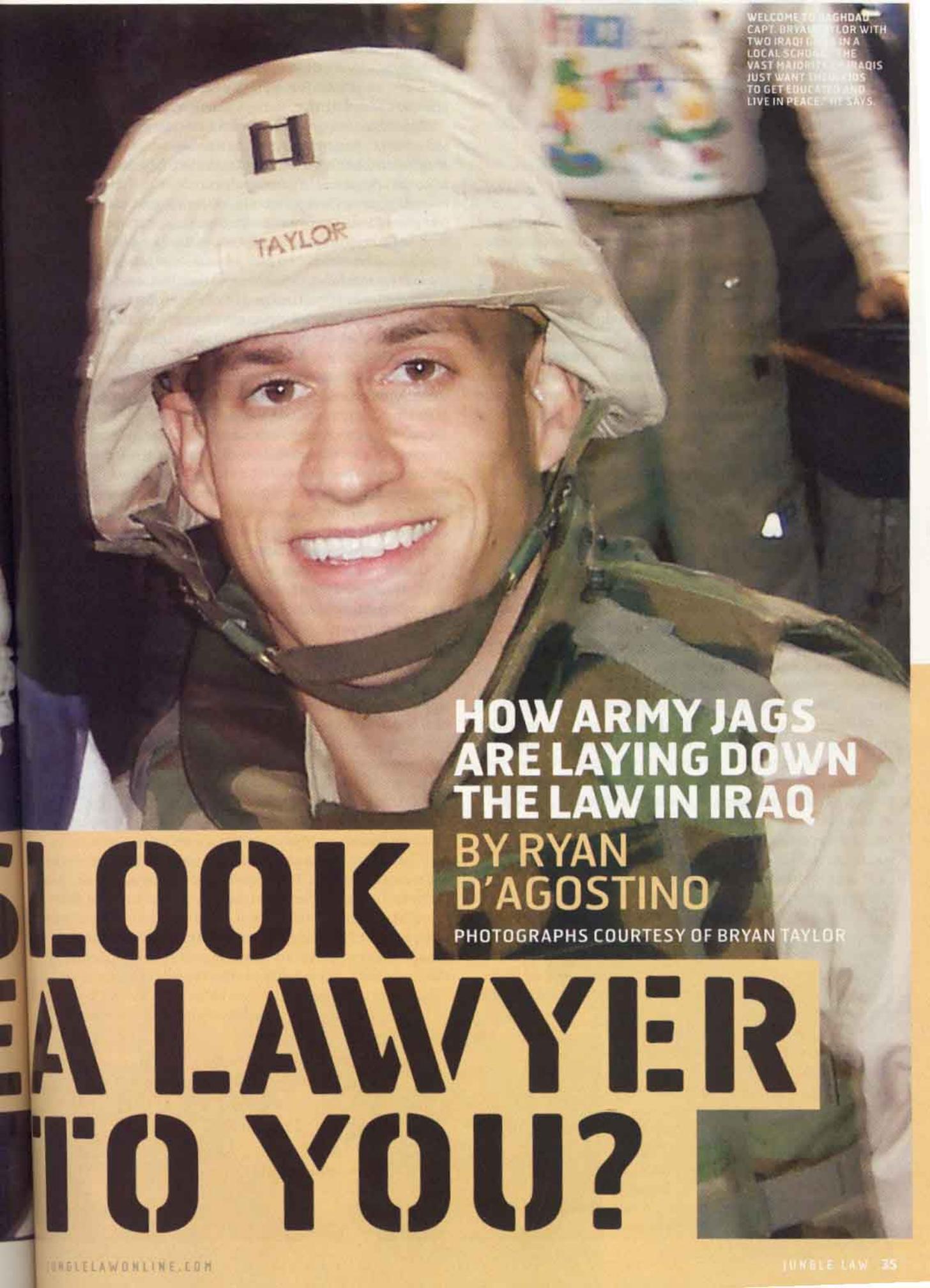
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WELCOME TO BAGHDAD. CAPT. BRYAN TAYLOR WITH TWO IRAQI GIRLS IN A LOCAL SCHOOL. THE VAST MAJORITY OF IRAQIS JUST WANT THEIR KIDS TO GET EDUCATED AND LIVE IN PEACE, HE SAYS.

HOW ARMY JAGS ARE LAYING DOWN THE LAW IN IRAQ

BY RYAN D'AGOSTINO

PHOTOGRAPHS COURTESY OF BRYAN TAYLOR

LOOK EA LAWYER TO YOU?

A I

a former Iraqi air force base in the Sunni Triangle, about 60 kilometers from Baghdad, is a United States Army post called Camp Anaconda. One evening there this past spring, at dusk, an Army judge advocate named Bryan Taylor was reviewing a labor contract in the back of a five-ton military expando-van—an expansible, accordion-like vehicle used as a mobile office—when a shower of Chinese-made 107-millimeter rockets poured over the high barbed-wire fence and dirt berms that surrounded Anaconda, rocking the van. Taylor had been in Iraq for about five months, and this was the first time he came under fire. He threw on his Kevlar helmet and flak vest and ran to a concrete building nearby to wait out the attack.

"Have you ever been in a really, really bad thunderstorm, where it thunders real bad and it shakes you, and you think the lightning strikes right near you? That's what it sounded like," he said months later, home safely at Fort Sill, in Lawton, Oklahoma, where except for his deployment he has been stationed since August 2002. "I believe there were three wounded that night—nobody killed and nobody wounded very seriously, but one of our soldiers had to get some intestines cut out or something like that." Whoever fired those rockets—Taylor brushes them off as "jokers," like the men who routinely shot mortars into the Baghdad night, injuring no one—were part of a minority in Iraq, Taylor says. "The vast majority of Iraqis are extremely, extremely grateful," he told me. "They loved the American forces. They just want to be farmers and they want their kids to get educated and they want to live their lives in peace."

Of the 250 Army judge advocates deployed right now, about 170 are in Iraq. Often, their job calls for improvisation by adapting American legal principles to situations in Iraq. They've learned the law of war as set forth by the Geneva Convention, they know the Pentagon's rules of engagement, and they've practiced decision-making in hypothetical situations. But that training takes place back at their post, or during the 14 weeks they all spend at Judge Advocate General School in Charlottesville, Virginia. In Iraq, lawyers don't carry the handbooks brimming with hypotheticals or the CD-ROM versions of the Geneva rules that the Army prepares for them. They carry an M16 and a 9-millimeter sidearm, a flak vest, and a helmet. And they improvise. Plans are made and troop movements are calculated, but execution is perhaps inevitably imprecise. As U.S. forces attempt to carry out their stated mission of preparing Iraq for democracy, there's a lot to figure out as they go along. To make sure they know the rules, they need lawyers.

Capt. Taylor, 28, is one of them. He is short and muscular, with piercing eyes and a strong, angular nose. His voice is a twangy mix of Alabama (where he was born and attended the University of Alabama) and Texas (where he attended high school and the University of Texas law school), and he smiles easily. When I visited him at his yellow two-story home in Lawton, he wore shorts and sandals—he had the day off, and central Oklahoma was hot and dry. As I passed over Medicine Bluff Creek on I-

44, barbed-wire fences sprung up that surrounded the post and, it seemed, most of the town. Alongside Fort Sill Boulevard, near where Taylor lives, a plywood billboard stuck in the dirt reads, "Christian Center—Your Sins Paid in Full—Pray for Our President and Our Leaders," and underneath that, "Indian Casino—All You Can Eat Steak."

Taylor has been stationed at Fort Sill since he graduated from JAG school. In August of last year, he was deployed to Iraq as the JAG assigned to the 17th field artillery brigade, a kind of in-house counsel to the brigade and its commander, Col. Nathan Slate. Almost every day during the eight months he spent at Anaconda, Taylor accompanied Slate's convoys into the community, where they attempted to keep the peace, built schools, fixed long-broken water pumps, and kept a constant lookout for anyone who might be trying to drive a car full of explosives into their motorcade.

One of Taylor's finest moments came when Slate had the idea of organizing a neighborhood cleanup. Much of Iraq is strewn with scrap metal—debris from overturned tanks and burned-out military trucks. Slate assembled two local leaders—Sheik Abid (sheiks are traditional tribal leaders) and a man Taylor knew only as Mr. Fakr, a former governing official of the town of Taji, the equivalent of a mayor (former appointees of Saddam Hussein who, while not necessarily loyal to him, have maintained their standing in the community after Hussein's removal from power)—and assigned them to gather people to collect metal so it could be sold; each man could then invest the profits in rebuilding schools and roads in his part of the community. Local elections were approaching, and Fakr appeared to Taylor to have his eye on running. A high-profile public works project would be a useful political tool for him.

One morning while Slate was visiting an ammunition supply point, an interpreter told him that Fakr, convinced that Abid was keeping more money than the deal allowed, was planning to have Abid arrested. The only reason he hadn't yet was that he didn't want to risk angering Slate, who controlled a pot of money for reconstruction projects.

Taylor's legal improv exercise began. "Col. Slate came to me and said, 'What are we going to do?'" says Taylor. "I said, 'Well, in the States we might do this under binding arbitration, where you go to an arbitrator and he decides.' So we pretended like it was binding arbitration." Slate called Fakr and Abid to a meeting in a makeshift brigade conference room in a small building at Anaconda. A long table had been covered with a cheap red felt tablecloth. Abid came in first, a frail, elderly man with thick gray eyebrows, piercing dark eyes, and a coarse gray mustache. He seemed to Slate to genuinely misunderstand the agreement. Next came Fakr, a round man, Taylor says, with "jet-black hair slicked back Mafia-style, a thin black mustache, and smooth, olive skin." He wore a dark suit, maroon shirt, and dark tie. He said he had studied law at the University of Baghdad. Slate asked Fakr why he wanted to arrest Abid. He's not fulfilling his part of the contract, Fakr said. Slate and Taylor explained that Abid couldn't be arrested over a contractual dispute. Fakr replied testily that under Saddam, yes, he could order the police to arrest Abid. "Well, you're not going to arrest him today," Slate shot back.

In a city where the balance of power is delicate and memories of



indiscriminate torture still hang in the desert air, it was a tense and potentially fractious standoff. Abid's arrest could have caused upheaval and instability, Taylor says, and Fakr was not accustomed to having his authority to control local police undermined. Still, he knew the importance of Slate's alliance.

"We talked about legal principles—what was the original agreement? At the time the contract was made, did they both have the same understanding? If they didn't have the same understanding, then there wasn't really a contract, under American legal principles," Taylor says. For Abid and Fakr, it was like the first day of Contracts class. Many Iraqis, though, remember what it was like to have a fair system of justice. "Prior to Saddam, there were a lot of lawyers and judges who were very well educated, many of them in the West. So it's not really new to them," Taylor says. "It's ancient now, because they've been under 20 years of Saddam, and they've had a new concept of what justice is—might makes right. But it's not new to them. When we were in southern Iraq, there was a drive-by shooting in one of the villages, Iraqi on Iraqi. Col. Slate called in the sheik from the area and said, 'Do we need to come in and take control of this?' And the sheik said no, the tribal elders would get together and listen to both sides of the dispute and would make a decision about who was right and who was wrong. And whoever was wrong would have to pay damages, or what they call blood money. And as we're listening to this, we're saying, 'They get it. They're talking about a jury, and they're talking about awarding compensation for damages. They get it.' Now we've just got to make that a more formal process."

Taylor's deployment to Iraq was no surprise. Ever since September 11, 2001, and especially in the months leading up to the Iraq war, he'd assumed he eventually would be sent to the Middle East. "Nobody I knew believed Saddam would suddenly have what we in the South call a 'come-to-Jesus moment'—that he would fully repent of his sins and repudiate his deceitful and dilatory tactics," Taylor says. "Saddam was behaving like a crook with something to hide, and the military was getting ready for the call. I was never really scared about

it. The main war was over at that point, and we didn't realize how significant the post-major war effort difficulties were going to be; I was thinking I was going to go over there and it was going to be relatively easy. I figured I'd be working way behind enemy lines."

Taylor's father was a Navy doctor, and since childhood Taylor assumed he would see military action in his life. "It was just something I always—I always wanted to give some time. I don't know if I want to make a career out of it, but I always wanted to give some time as an officer. I don't think I'm cut out for infantry, so I thought, well, where are my strengths? And my strengths are in more academic pursuits: reasoning, teaching, giving advice," he says.

That there are teams of lawyers in Iraq advising U.S. colonels about their every move may surprise many Americans, who seem to perceive the situation as being in disarray. According to polls by the Gallup Organization, the number of Americans who said they thought things in Iraq were going "moderately to very well" dropped from 86 percent in May 2003 to 45 percent in August 2004, while those who said the situation was going "moderately to very badly" rose from 13 percent to 53 percent over the same period. But to listen to JAGs like Taylor, any apparent chaos is a reflection of the fact that no precedent exists for the current situation in Iraq. Everything from the terrain to the theistic fervor of the insurgents is different than in any previous U.S. action. That's why it's more important than ever for U.S. forces to review every move, says Col. John Kent, the staff judge advocate at Fort Sill and Taylor's supervisor when he's in Oklahoma.

In 2000 and 2001, Kent went to Kosovo where his role was similar to Taylor's in Iraq. "We had a team of attorneys supporting about 5,000 soldiers," says Kent. "In that team we had a major who served as the officer in charge, and working for that major was someone who specialized in legal assistance; we had a trial counsel, who was designated to work the criminal law issues; and we had an administrative law attorney, who worked all the miscellaneous stuff including detainee questions. But a lot of it is just, Oh shit, what do I do with this [situation]? And no one knows, so like an [associate] you start researching where you can, you seek advice from more senior members of the firm who might have some insights. The attorney at the

LOCAL COLOR (FROM LEFT)
TYPICAL HIGHWAY TRAFFIC;
TAYLOR VISITS WITH
A GROUP OF IRAQI CHILDREN
AT A REBUILT SCHOOL;
ON PATROL IN BAGHDAD.



lowest echelon often will coordinate with the attorney at the next level of command hierarchy to get guidance or instruction, and that can go all the way up to the chairman of the joint chiefs of staff. It's trial and error sometimes—what we think is right initially may evolve into a slightly different answer."

In Baghdad, Taylor once helped Slate enlist a security force made up mostly of former Iraqi soldiers and Republican Guard members, who, the hope was, could one day take over as the police. This entailed negotiating pay, devising a payroll structure, getting U.S. authority to pay the men, setting up a training program, and detailing a formal system for hiring and firing. "Quite frankly, none of us had really thought about all that before Bryan deployed," says Kent. "I can't emphasize enough that a lot of it is just, we rely on the enthusiasm and initiative of our attorneys that they're just going to roll up their sleeves and dig into it as best they can."

Taylor was the lawyer for the entire 17th brigade, some 1,200 soldiers. When the unit needed to order 250 air conditioners for the tents at Anaconda, Taylor reviewed the contract to make sure the expenditure was authorized by Congress. When a tent fire claimed soldiers' portable DVD players and GameBoys, he helped them file claims. When a soldier received divorce papers from his wife back in Oklahoma—"It unfortunately happened quite a bit," Taylor says—he counseled the soldier about his legal options (and then promptly referred him to the unit's chaplain). "The legal world doesn't stop spinning just because soldiers are deployed," Taylor says.

But some of the mundane work felt different to Taylor simply because he was doing it in Iraq. Once, the Army had to pay a claim to an Iraqi whose property had been damaged during a raid, and Taylor himself delivered a suitcase containing \$2,000 in cash. Another time, when Taylor prosecuted a case in which a soldier tried to steal \$20,000 worth of electronics and CDs from the post exchange, or PX, the trial was held in a makeshift courtroom in one of Saddam Hussein's lakeside chalets.

To help him with day-to-day work, Taylor had the luxury of three paralegals, enlisted men who were deemed capable of an administrative legal assignment. "Sometimes they'll help me investigate and help me question witnesses," says Taylor. "But those enlisted guys also can be tasked out to do soldier duties. One of my guys was also a driver of a gun truck—a Humvee with a 50-caliber machine gun mounted on top that escorts convoys. So when he wasn't doing legal stuff, he was out on a gun truck doing soldier stuff."

The military is relying on its attorneys to shoulder another responsibility that has become increasingly important in the months since the world learned of the abuses at Abu Ghraib prison: teaching soldiers what they can and can't do. Judge advocates like Taylor brief soldiers at length before they deploy, and again in Iraq, about what the international law of war permits and prohibits. They explain the rules of engagement, which are, in effect, the Pentagon's way of interpreting the law of war. Today when Taylor briefs soldiers, he draws upon his own experiences, like this one: Several men in his unit were securing a police station. One of the guards noticed an Iraqi man standing across the street with a camcorder, filming the comings and goings at the station. After a couple of days, the commander wanted to know if anything could be done about the man. Taylor quizzed the men. Some shouted out that the man could be shot right away. (Wrong.) Taylor's answer: "What's the least amount of force necessary to neutralize the threat? If you can detain him, detain him. But if you tell him to stop and he jumps in a car and tries to speed away, you can probably shoot."

Another time, a battery commander had another tricky question. "He came back from a convoy and said, 'Sir, we had a car coming at us head-on, at full speed. Can we engage that vehicle as a hostile target?'" says Taylor. "Now the Iraqis drive crazy. They'll drive on the wrong side of the road, they'll drive down the median. So I said, well, certainly it could be a guy with explosives in his trunk who just wants to ram head-on into a convoy. But we talked about, well, what other kinds of things are you looking at? Is there a traffic jam in his lane? Because if there is, it's perfectly normal for an Iraqi to go into the other lane. So we talked about firing a warning shot first, slowing down your convoy and seeing if he responds—other things a command can do before opening fire. Sometimes soldiers just have to make the judgment call, and sometimes they do, and they turn out to be wrong. But hindsight's 20/20. You've got to protect your forces first."

Abu Ghraib raised questions about the Army's command structure and training of soldiers, but Taylor is confident that the briefings all soldiers receive—the kinds of briefings he himself gives—are adequate. Plus, he says, no one should require a briefing to understand that some of the soldiers' actions weren't exactly part of the rules of engagement. "The rule is, you're obligated to disobey an unlawful order, but you're also obligated to obey a lawful order, and at what point do you make the decision?" he says. "The defense I was just following orders' has never won. There's a line in *A Few Good Men* where [Lt. Weinberg] says, 'It didn't work at Nuremberg, and it didn't work at My Lai.' They're going to have a real hard time proving that they were ordered to do some of those things. All I can tell you is that the JAG corps' mission is to provide that training, and in my experience, we have done it." In the briefings, JAGs outline a procedure for dealing with unlawful orders, using as an example the massacre at My Lai, where superior officers led by Lt. William Calley ordered the killing of some 300 apparently unarmed Vietnamese civilians, a classic case study on the question of unlawful orders. Step one is to ask the commander to clarify the order by repeating it with no ambiguous language. Step two is to suggest an alternative (how about capturing them instead of killing them?). The final step is to disobey the order and risk a court martial. The problem, of course, is that the soldier must be certain that

4 THINGS YOU DIDN'T KNOW ABOUT JAG

1. The JAG Corps was created on July 29, 1775, when Congress elected prominent Boston counselor William Tudor, one of John Adams's law pupils, to be the judge advocate of the Army at a salary of \$20 a month.
2. The Army, Navy, Air Force, Marines, and Coast Guard all have their own JAG Corps. In the Army, there are 1,480 active-duty judge advocates and about 3,000 in the Army Reserve and Army National Guard.
3. The ranks of the JAG Corps skyrocketed from 426 officers during the First World War to 2,800 during World War II. After that war, judge advocates led the first international war crimes tribunals, prosecuting cases in Germany and Japan.
4. After Hurricane Mitch struck five countries in Central America in 1998, the JAG Corps played a crucial role in the relief effort by guiding the U.S. government swiftly through red tape so that the government could offer aid quickly.

4 THINGS YOU DIDN'T KNOW ABOUT JAG

1. *JAG* first aired on NBC in the fall of 1995. After one season, it moved to CBS and is currently a staple for the network, with a total of nine years on the air.
2. Catherine Bell, the actress who plays female lead Lt. Col. Sarah "Mac" MacKenzie, played a different character—a Navy lieutenant—in the first season on NBC. That character was murdered, but the show's creator and executive producer brought Bell back in her current role when the show moved to CBS in 1997.
3. The show's technical advisors are usually retired Navy and Marine Corps members, including Navy admiral Paul Gillcrist, who served for 33 years, and Marine Matt Sigloch, who served for 22 years.
4. During the 2003–2004 season, *JAG* was the most watched of all network, broadcast and cable shows on Friday nights, averaging 11.8 million viewers. —SUE JEAN JHUN

DESERT POSTCARDS
A VEHICLE FROM
THE CONVOY TAKES
A BREAK: A LOCAL BOY
WELCOMES COL. NATHAN
SLATE, TAYLOR'S
BRIGADE COMMANDER.



THE MAYOR REPLIED TESTILY THAT UNDER SADDAM, HE COULD HAVE THE SHEIK ARRESTED. "WELL, YOU'RE NOT GOING TO ARREST HIM TODAY," COL. SLATE SHOT BACK.

his superior officer's order is unlawful—and have the guts to say so. Any member of the Army who is accused of a crime is entitled to a JAG defense attorney, a fact Taylor says is often forgotten. JAG defense lawyers (Taylor's roommate is one) are part of the Trial Defense Service, which answers, essentially, to itself. Its members are fiercely proud of the work they do and are irked by the misconception that the Army encourages them not to defend clients vigorously. "They zealously defend their clients," Taylor says. "They will do anything and everything they can to win their cases. Most Americans probably have the perception that that they wear the uniform, they're really just go-to guys for the military. That's not the case. They're professional lawyers, and they take their obligations very, very seriously."

Currently, Taylor is on a six-month deployment to Honduras (his girlfriend lives in Costa Rica, and he requested an assignment nearby). In August, shortly before he left, the Young Lawyer Division of the American Bar Association honored him with the 2004 Outstanding Young Military Service Lawyer Award at the ABA's annual meeting in Atlanta. He says if when he returns to Fort Sill the United States is still deeply involved in Iraq, he would go back if asked. In fact, he would volunteer. "I think a lot of people say, What does our planting a democracy in Iraq have to do with stopping global terrorism?" he says. "People don't realize, when we got to Iraq, and we went into the schools and opened the textbooks, every page is Saddam talking about destruction of Israel and destruction of the West and the infidels. So going over there and planting a democracy in the middle of the Middle East—and I'm telling you this because this is what justifies my feeling that this was such a rewarding experience—you realize when we replace those textbooks with regular textbooks that teach math and science and reading and writing, that's a huge hit to the terrorism recruiting effort. It's just like fighting the Nazis in World War II. You're fighting against an ideology, and you've got to go to the roots. We can't fight the war on terror one hijacking at a time. I won't get into the disagreement about whether there was proper planning or not, but the vision I think is right on target."

On September 8, the thousandth United States soldier was killed in Iraq. Yet Taylor, who traversed the country for much of the time he spent there, believes the media's reportage from Iraq is misleading—just like the local news in the U.S. "A couple of those incidents happen a week, and it's heart wrenching, and you feel for the families. But, you know, Iraq is a big place. It's a huge place," Taylor said in July, shortly before he left for Honduras. "I was just thinking today as I was driving to work, there was another story that came on the air about a teenager being kidnapped in some state somewhere. And with all the news we hear everyday, if all you got was Laci Peterson, the Hacking woman that's been kidnapped, and now this new girl in some other state that's been kidnapped, you'd think that the same shit was going on [all over] America. The only reason we don't think that is because we all live here and it's not everybody's common experience that people are getting kidnapped left and right. The same thing is true in Iraq. It's a much different situation and obviously it's worse in Iraq—the security situation is worse, there's just not the same kind of law enforcement or social order in place—but, you know, I still believe—I was over there for eight months and I did not see any of the types of things that I see on the news here [from Iraq]. Part of that is because I wasn't with a unit that was actively kicking down doors, but even those units are operating in a very narrow capacity over there."

After he returned to Fort Sill, Taylor created a Web site, bryantaylor.com, called "From the Brighter Side of Iraq." It included "personal notes and observations" about his experience, plus an album of photos (he has thousands more on his laptop). The site is an exuberant attempt by Taylor to add to the story of Iraq that is being told in the United States, a story he says is not complete. "Unfortunately they've got this minority—this very strong minority of extremist wackos that don't want peace. Like this [al-]Sadr guy, the Shiite that's got this militia. I'm not sure what he's fighting for. Bush has said again and again, We don't intend to stay in Iraq, we don't intend to occupy. And Sadr is now saying, Okay, I'll withdraw my militia from Najaf if the Americans withdraw from Najaf and let the Iraqi security forces take over. Well, duh, that's all we wanted all along, you know? There's almost a sense that the enemy doesn't really understand what they're fighting against." ©