

## Lore of the Corps

### Legal Education for Commanders: The History of the General Officer Legal Orientation and Senior Officer Legal Orientation Courses

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Any judge advocate advising a general court-martial convening authority soon learns that this commander has attended the one-day General Officer Legal Orientation (GOLO) Course held at The Judge Advocate General's Legal Center and School (TJAGLCS). Similarly, any Army lawyer advising a brigade commander knows that most of these men and women have been students in the Senior Officer Legal Orientation (SOLO) Course conducted at TJAGLCS. How the GOLO and SOLO courses originated, and why this legal education for Army commanders continues to be important for the Corps and the Army, is a story worth telling.

As the war in Vietnam ended and the Army re-organized, Major General George S. Prugh, who had become The Judge Advocate General (TJAG) in July 1971, looked for ways to increase the visibility of the Corps. For Prugh, this was especially important because judge advocates were not popular with commanders. Rightly or wrongly, they were seen as “naysayers” who did not support the mission, but instead seemed more interested in telling commanders what they could not do. Prugh called this a “Crisis in Credibility” and he tasked Colonel (COL) John Jay Douglass, who had been the Commandant at The Judge Advocate General's School (TJAGSA) since June 1970, “to look at the problem and come up with a solution;”<sup>1</sup> or, as COL Douglass put it in a recent interview: “Commanders were very negative about lawyers and Prugh wanted us to be more loved.”<sup>2</sup>

Douglass decided that one way to achieve Prugh's goal of improving the image of judge advocates in the Army would be to create a legal education program for lieutenant colonels and colonels about to assume duties as special court-martial (SPCM) convening authorities, and brigadier generals and major generals programmed to serve as general court-martial (GCM) convening authorities.

At that time in Army history, it was not unusual for officers to reach the rank of colonel and higher without having anything other than brief (and informal) contact with a uniformed lawyer. This was because the Uniform Code of Military Justice (UCMJ) did not require any judge advocate involvement at SPCMs until 1969, which meant that an

Army one-or two-star general assuming duties as a GCM convening authority for the first time in the early 1970s, having been a battalion and brigade commander in the 1960s, had handled virtually all military justice matters without the assistance of an Army lawyer. Additionally, since a division in the 1960s was authorized only five judge advocates,<sup>3</sup> all of whom focused their efforts on delivering legal services to the GCM convening authority, uniformed lawyers simply did not have much contact with brigade or battalion commanders or their staffs, much less provide legal advice to them.

Colonel Douglass saw that it would be helpful to these newly promoted brigadier and major generals—about to fulfill duties as GCM convening authorities—if they were given a two-day program of instruction at TJAGSA. He also saw that it would be helpful if lieutenant colonels and colonels about to assume duties as SPCM convening authorities likewise had a similar course of instruction.

Apparently, the GOLO program was established first. Douglass's idea was that general officers assuming duties as GCM convening authorities not only would receive education on the newly enacted Military Justice Act of 1968, which had greatly altered the UCMJ,<sup>4</sup> but also be briefed on administrative and contract law issues that might arise while they were in command.<sup>5</sup> As retired TJAG Hugh R. Overholt, who was then serving at The Judge Advocate General's School, U.S. Army (TJAGSA) as a lieutenant colonel and the Chief, Criminal Law Division, remembers it, the focus was on areas where “GOs [General Officers] had gotten into trouble,” such as the Anti-Deficiency Act.<sup>6</sup> One

<sup>3</sup> By contrast, today's division is authorized thirteen judge advocates, along with one legal administrator and twelve paralegals.

<sup>4</sup> The Military Justice Act of 1968 radically altered the manner in which military justice was administered in the Army. For the first time in history, a military judge presided over courts-martial, and an accused had the option to elect trial by judge alone. The new legislation also required that an accused “be afforded the opportunity to be represented at trial” by a lawyer. As a result of this and other legislative changes, judge advocates began appearing regularly as both trial and defense counsel at special courts-martial. Uniformed lawyers also began advising special court-martial convening authorities on military justice—and other legal issues—as a matter of routine.

<sup>5</sup> Apparently, there was little to no international law instruction, since legal concepts such as “rules of engagement” and “operational law” did not yet exist, and judge advocates did not advise commanders on the conduct of military operations.

<sup>6</sup> Telephone Interview with Major General (Retired) Hugh R. Overholt (Oct. 21, 2013).

<sup>1</sup> JOHN JAY DOUGLASS, MEMOIRS OF AN ARMY LAWYER: THE LIFE OF JOHN JAY DOUGLASS 180 (2013).

<sup>2</sup> Telephone Interview with Colonel (Retired) John Jay Douglass (Aug. 9, 2010) [hereinafter Douglass Telephone Interview].

high-profile case that Overholt remembered being discussed in the GOLO involved Quartermaster Corps officials at Fort Lee, Virginia. In the late 1950s, after being denied military construction program funds, senior leaders on that installation had constructed an airstrip “using funds appropriated for operation and maintenance and labor of troops.” This illegal construction project had been uncovered and House Hearings held into the matter had harshly criticized Major General Alfred B. Denniston and other Army officers at Fort Lee for having “willfully violated the law of the land.”<sup>7</sup> After the Fort Lee airfield fiasco, no senior commander wanted to run afoul of the Anti-Deficiency Act, much less be called to testify before the House of Representatives for fiscal wrongdoing.

Today, the GOLO continues to be an important part of the curriculum at TJAGLCS. The Department of the Army’s General Officer Management Office notifies TJAGLCS when it has a general officer (including a colonel selected for promotion to brigadier general) who is either deploying as an individual or is going to a unit where she will serve as a GCMCA. These men and women then come to Charlottesville for a one-day GOLO.

During their day-long visit to Charlottesville, each officer receives briefings tailored to his particular needs based on his orders and upcoming assignment. For example, when Brigadier General Maria R. Gervais, the new Deputy Commanding General, U.S. Army Cadet Command, came for her GOLO, she received briefings on sexual harassment, the proper handling of sex assault allegations and cases, administrative investigations, standards of conduct, fiscal law, unlawful command influence, improper relationships and fraternization, non-judicial punishment, government contracting, adverse administrative actions, and the law of federal employment.<sup>8</sup>

Within months of initiating the GOLO course of instruction, Douglass began putting together the SOLO program. The idea was to teach “senior non-JAG officers at the special court-martial level [about] the legal problems they [would] face with suggested solutions.”<sup>9</sup> After the TJAGSA faculty put together a program of instruction,

selected faculty members took the classes “on the road to Fort Sill [Oklahoma] and Fort Lewis [Washington] as field tests for courses to be presented in Charlottesville.”<sup>10</sup>

After receiving positive feed-back from these two “road shows,” COL Douglass and Lieutenant Colonel David A. Fontanella, the Chief, Civil Law Division, flew in Fontanella’s private airplane to Carlisle Barracks, Pennsylvania, for a meeting with the Army War College (AWC) commandant.<sup>11</sup> After Douglass and Fontanella explained what the SOLO course was and how it could enhance the educational experience of AWC students, the commandant agreed to have TJAGSA faculty travel to Carlisle Barracks to present the SOLO course. The first course was conducted in May 1972, and the second in April 1973. Senior Officer Legal Orientation instruction was also conducted in the field. Courses were held at Fort Sill in December 1971, Fort Hood in March 1972, and Fort Lewis in April 1972; these were not “road shows,” but the full SOLO program of instruction.<sup>12</sup>

The goal, however, was to have the program of instruction done exclusively at TJAGSA, and the *first* three-day SOLO course held in Charlottesville was on 15–17 November 1971; the second SOLO class at TJAGSA was held 6–8 March 1972.<sup>13</sup> Instruction in the field ceased shortly thereafter.

The first course offered at TJAGSA in 1971 was described as follows:

A three-day course for commanding officers in the grade of Lieutenant Colonel and above designed to acquaint these senior commanders with legal problems they are likely to encounter in the areas of both criminal and civil law. Civil law instruction will include installation management, labor-management relations, military personnel law, nonappropriated funds, investigations, legal assistance and claims and litigation. Criminal law instruction will include options available to commanders, search and seizure, confessions and convening authorities’ duties before and after trial. The course will be presented using seminar techniques, and outlines and textual material suitable for future use will be

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<sup>7</sup> *Illegal Actions in the Construction of the Airfield at Fort Lee, Va.: Hearings by the House Committee on Government Operations*, 87th Cong., 2d Sess. 36 (1962).

<sup>8</sup> Compare Gen. Officer Legal Orientation Schedule, Brigadier Gen. Maria R. Gervais, 26 Sept. 2013 (25 Sept. 2013), with Gen. Officer Legal Orientation Schedule, Major General Leslie C. Smith, 19 Aug. 2013 (14 Aug. 2013). Major General Leslie received briefings on sexual harassment, the proper handling of sexual assault allegations and cases, administrative investigations, standards of conduct, fiscal law, unlawful command influence, improper relationships and fraternization, law of federal employment, domestic support to civil authorities, freedom of information and privacy act, and federal labor-management relations. Major General Smith, at the time of his GOLO, had just taken command of Mission Support Center of Excellence & Fort Leonard Wood, MO. *Id.*

<sup>9</sup> DOUGLASS, *supra* note 1, at 180.

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*; Douglass Telephone Interview, *supra* note 2.

<sup>12</sup> THE JUDGE ADVOCATE GEN.’S SCH., U.S. ARMY, ANNUAL REPORT, 1971–1972, at 56 (1972) [hereinafter ANNUAL REPORT].

<sup>13</sup> *The Judge Advocate Gen.’s School, U.S. Army, TJAGSA Schedule of Courses*, ARMY LAW., Nov. 1971, at 24.

utilized. Staff Judge Advocates are urged to make this course availability and utility known to commanders they serve and advise.<sup>14</sup>

More than forty years later, very little has changed about the SOLO, in the sense that the course continues to be designed for lieutenant colonels and colonels going into assignments where they will perform duties as special court-martial convening authorities. The SOLO course is four-and-one-half days long and is held four times a year (March, June, August, and November). In the 229th SOLO course held at TJAGLCS from 4 to 8 November 2013, the students received instruction on more than twenty subjects, including: fiscal law; consumer law; improper superior/subordinate relationships and fraternization; the commander's role in military justice and unlawful command influence; handling sexual harassment complaints; sexual assault investigations and cases; administrative investigations, nonjudicial punishment and summary courts; means and methods of warfare; the law of federal employment; and military personnel law.<sup>15</sup>

So have the GOLO and SOLO courses achieved their goals? As COL Douglass might ask, do commanders in the Army "love" judge advocates more today as a result of these two legal education programs? This is difficult to know, but it is certainly correct to say that commanders appreciate what Army lawyers bring to a command and routinely seek out judge advocates for advice and counsel. In any event,

given the demonstrated success of GOLO and SOLO for more than forty years, there is no doubt that the programs of instruction will continue. This is particularly true given today's increasingly complex legal issues facing commanders deployed overseas or in garrison at home or abroad.

In fact, the GOLO and SOLO courses so impressed Sergeant Major of the Army Raymond F. Chandler III that he requested that TJAGLCS establish a legal education course for senior Army non-commissioned officers. Lieutenant General Dana K. Chipman, then serving as TJAG, supported this request and the result was a new course: the Command Sergeant Major Legal Orientation (CSMLO).<sup>16</sup> It seems that senior leaders at all levels in the Army have a desire for legal education—which Army judge advocates will be more than willing to deliver.

*More historical information can be found at*

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<https://www.jagcnet.army.mil/History>

<sup>14</sup> ANNUAL REPORT, *supra* note 12, at 25.

<sup>15</sup> 229th SOLO Course Schedule, 4–8 Nov. 2013 (17 Oct. 2013).

<sup>16</sup> The first Command Sergeant Major Legal Orientation was held at The Judge Advocate General's School 29–31 January 2013; the second course was held 16–19 September 2013. The Command Sergeants Major (CMSs) who attend are selected by Sergeant Major of the Army Chandler, and the subjects taught reflect what he believes that CSMs operating at the general-officer level and higher level in the Army need to know.